# PARLIAMENTARY DEBATES

(HANSARD)

**SIXTH SERIES—VOLUME 430 (Part 1)**

# HOUSE OF COMMONS

OFFICIAL REPORT

FOURTH SESSION OF THE FIFTY-THIRD PARLIAMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
FIFTY-THIRD YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II

**SESSION 2004–05**

COMPRISING PERIOD
24 January—10 February 2005

CAMBRIDGESHIRE
LIBRARIES

Cam 1 Ref
C04(06)

# HER MAJESTY'S GOVERNMENT

## MEMBERS OF THE CABINET

(FORMED BY THE RT. HON. TONY BLAIR, MP, JUNE 2001)

PRIME MINISTER, FIRST LORD OF THE TREASURY AND MINISTER FOR THE CIVIL SERVICE—The Rt. Hon. Tony Blair, MP
DEPUTY PRIME MINISTER AND FIRST SECRETARY OF STATE—The Rt. Hon. John Prescott, MP
CHANCELLOR OF THE EXCHEQUER—The Rt. Hon. Gordon Brown, MP
SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS—The Rt. Hon. Jack Straw, MP
SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS—The Rt. Hon. Margaret Beckett, MP
SECRETARY OF STATE FOR TRANSPORT AND SECRETARY OF STATE FOR SCOTLAND—The Rt. Hon. Alistair Darling, MP
SECRETARY OF STATE FOR HEALTH— The Rt. Hon. Dr. John Reid, MP
CHANCELLOR OF THE DUCHY OF LANCASTER— The Rt. Hon. Alan Milburn, MP
SECRETARY OF STATE FOR NORTHERN IRELAND—The Rt. Hon. Paul Murphy, MP
SECRETARY OF STATE FOR DEFENCE—The Rt. Hon. Geoffrey Hoon, MP
SECRETARY OF STATE FOR TRADE AND INDUSTRY—The Rt. Hon. Patricia Hewitt, MP
SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT—The Rt. Hon. Tessa Jowell, MP
PARLIAMENTARY SECRETARY TO THE TREASURY—The Rt. Hon. Hilary Armstrong, MP
SECRETARY OF STATE FOR THE HOME DEPARTMENT—The Rt. Hon. Charles Clarke, MP
CHIEF SECRETARY TO THE TREASURY—The Rt. Hon. Paul Boateng, MP
LEADER OF THE HOUSE OF COMMONS, SECRETARY OF STATE FOR WALES AND LORD PRIVY SEAL—The Rt. Hon. Peter Hain, MP
MINISTER WITHOUT PORTFOLIO—The Rt. Hon. Ian McCartney, MP
LEADER OF THE HOUSE OF LORDS AND PRESIDENT OF THE COUNCIL—The Rt. Hon. The Baroness Amos
SECRETARY OF STATE FOR CONSTITUTIONAL AFFAIRS AND LORD CHANCELLOR (FOR THE TRANSITIONAL PERIOD) —The Rt. Hon. The Lord Falconer of Thoroton, QC
SECRETARY OF STATE FOR INTERNATIONAL DEVELOPMENT—The Rt. Hon. Hilary Benn, MP
SECRETARY OF STATE FOR WORK AND PENSIONS—The Rt. Hon. Alan Johnson, MP
SECRETARY OF STATE FOR EDUCATION AND SKILLS—The Rt. Hon. Ruth Kelly, MP

## DEPARTMENTS OF STATE AND MINISTERS

**Office of the Deputy Prime Minister**—
DEPUTY PRIME MINISTER AND FIRST SECRETARY OF STATE—The Rt. Hon. John Prescott, MP
MINISTERS OF STATE—
Minister for Local and Regional Government—The Rt. Hon. Nick Raynsford, MP
Minister for Regeneration and the Regions—The Rt. Hon. The Lord Rooker
Minister for Housing and Planning— The Rt. Hon. Keith Hill, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
Yvette Cooper, MP
Phil Hope, Esq, MP

**Cabinet Office**—
CHANCELLOR OF THE DUCHY OF LANCASTER—The Rt. Hon. Alan Milburn, MP
MINISTER WITHOUT PORTFOLIO—The Rt. Hon. Ian McCartney, MP
MINISTER FOR THE CABINET OFFICE —David Miliband, Esq, MP

**Constitutional Affairs**—
SECRETARY OF STATE FOR CONSTITUTIONAL AFFAIRS—The Rt. Hon. The Lord Falconer of Thoroton, QC
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
Christopher Leslie, Esq, MP
David Lammy, Esq, MP
The Baroness Ashton of Upholland
Anne McGuire, MP (Parliamentary Under-Secretary of State for Scotland)
Don Touhig, Esq, MP (Parliamentary Under-Secretary of State for Wales)

**Culture, Media and Sport**—
SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT—The Rt. Hon. Tessa Jowell, MP
MINISTERS OF STATE—
Minister for Sport and Tourism—The Rt. Hon. Richard Caborn, MP
Minister for the Arts—The Rt. Hon. Estelle Morris, MP
PARLIAMENTARY UNDER-SECRETARY OF STATE—
The Rt. Hon. The Lord McIntosh of Haringey (Minister for Media and Heritage)

**Defence**—
SECRETARY OF STATE—The Rt. Hon. Geoffrey Hoon, MP
MINISTER OF STATE—
The Rt. Hon. Adam Ingram, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
The Lord Bach (Minister for Defence Procurement)
Ivor Caplin, Esq, MP

**Education and Skills**—
SECRETARY OF STATE—The Rt. Hon. Ruth Kelly, MP
MINISTERS OF STATE—
Minister for School Standards—Stephen Twigg, Esq, MP
Minister for Children, Young People and Families—The Rt. Hon. Margaret Hodge, MP
Minister for Lifelong Learning, Further and Higher Education—Dr. Kim Howells, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
The Lord Filkin, CBE
Ivan Lewis, Esq, MP
Derek Twigg, Esq, MP

**Environment, Food and Rural Affairs**—
SECRETARY OF STATE—The Rt. Hon. Margaret Beckett, MP
MINISTERS OF STATE—
Minister for Rural Affairs and Local Environmental Quality—The Rt. Hon. Alun Michael, MP
Minister for the Environment and Agri-environment— Elliot Morley, Esq, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
The Lord Whitty
Ben Bradshaw, Esq, MP

**Foreign and Commonwealth Affairs**—
SECRETARY OF STATE—The Rt. Hon. Jack Straw, MP
MINISTERS OF STATE—
Minister for the Middle East—The Rt. Hon. The Baroness Symons of Vernham Dean
Minister for Europe— Denis MacShane, Esq, MP
Minister for Trade and Investment— Douglas Alexander, Esq, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
Bill Rammell, Esq, MP
Chris Mullin, Esq, MP

**Health**—
SECRETARY OF STATE—The Rt. Hon. Dr. John Reid, MP
MINISTERS OF STATE—
The Rt. Hon. John Hutton, MP
Rosie Winterton, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
Miss Melanie Johnson, MP (Minister for Public Health)
Dr. Stephen Ladyman, MP
The Lord Warner

**Home Office**—
SECRETARY OF STATE—The Rt. Hon. Charles Clarke, MP
MINISTERS OF STATE—
Minister for Crime Reduction, Policing and Community Safety— Ms Hazel Blears, MP
Minister for Criminal Justice System and Law Reform—The Rt. Hon. Baroness Scotland of Asthal, QC
Minister for Citizenship and Immigration— Desmond Browne, Esq, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
Paul Goggins, Esq, MP
Caroline Flint, MP
Fiona Mactaggart, MP

**International Development**—
SECRETARY OF STATE—The Rt. Hon. Hilary Benn, MP
PARLIAMENTARY UNDER-SECRETARY OF STATE—Gareth Thomas, Esq, MP

**Law Officers' Department**—
ATTORNEY-GENERAL—The Rt. Hon. Lord Goldsmith, QC
SOLICITOR-GENERAL—The Rt. Hon. Harriet Harman, QC, MP
ADVOCATE-GENERAL FOR SCOTLAND—Dr. Lynda Clark, QC, MP

**Leader of the House of Commons**—
LEADER OF THE HOUSE OF COMMONS—The Rt. Hon. Peter Hain, MP
DEPUTY LEADER OF THE HOUSE OF COMMONS—Phil Woolas, Esq, MP

**Northern Ireland Office**—
SECRETARY OF STATE—The Rt. Hon. Paul Murphy, MP
MINISTER OF STATE—
The Rt. Hon. John Spellar, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
Ian Pearson, Esq, MP
Angela Smith, MP
Barry Gardiner, Esq, MP

**Paymaster General's Office**—
PAYMASTER GENERAL—The Rt. Hon. Dawn Primarolo, MP

**Privy Council Office**—
LORD PRESIDENT OF THE COUNCIL AND LEADER OF THE HOUSE OF LORDS— The Rt. Hon. The Baroness Amos

**Trade and Industry**—
SECRETARY OF STATE AND MINISTER FOR WOMEN AND EQUALITY—The Rt. Hon. Patricia Hewitt, MP
MINISTERS OF STATE—
Minister for Energy and E-Commerce —Mike O'Brien, Esq, MP
Minister for Trade and Investment—Douglas Alexander, Esq, MP
Minister for Industry and the Regions and Deputy Minister for Women and Equality— The Rt. Hon. Jacqui Smith, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
The Lord Sainsbury of Turville (Minister for Science and Innovation)
Nigel Griffiths, Esq, MP (Minister for Small Business and Enterprise)
Gerry Sutcliffe, Esq, MP (Minister for Employment Relations, Consumers and Postal Services)

**Transport**—
SECRETARY OF STATE—The Rt. Hon. Alistair Darling, MP
MINISTER OF STATE—
Tony McNulty, Esq, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
David Jamieson, Esq, MP
Charlotte Atkins, MP

**Treasury**—
PRIME MINISTER, FIRST LORD OF THE TREASURY AND MINISTER FOR THE CIVIL SERVICE—The Rt. Hon. Tony Blair, MP
CHANCELLOR OF THE EXCHEQUER—The Rt. Hon. Gordon Brown, MP
CHIEF SECRETARY—The Rt. Hon. Paul Boateng, MP
PAYMASTER GENERAL—The Rt. Hon. Dawn Primarolo, MP
FINANCIAL SECRETARY—Stephen Timms, Esq, MP
ECONOMIC SECRETARY—John Healey, Esq, MP
PARLIAMENTARY SECRETARY—The Rt. Hon. Hilary Armstrong, MP
LORDS COMMISSIONERS—
Jim Murphy, Esq, MP
John Heppell, Esq, MP
Joan Ryan, MP
Nick Ainger, Esq, MP
James Purnell, Esq, MP
ASSISTANT WHIPS—
Fraser Kemp, Esq, MP
Gillian Merron, MP
Paul Clark, Esq, MP
Vernon Coaker, Esq, MP
Margaret Moran, MP
Bridget Prentice, MP
Tom Watson, Esq, MP

**Work and Pensions**—
SECRETARY OF STATE— The Rt. Hon. Alan Johnson, MP
MINISTERS OF STATE—
Minister for Pensions—Malcolm Wicks, Esq, MP
Minister for Work—The Rt. Hon. Jane Kennedy, MP
PARLIAMENTARY UNDER-SECRETARIES OF STATE—
The Rt. Hon. The Baroness Hollis of Heigham, DL
Maria Eagle, MP
Chris Pond, Esq, MP

**Her Majesty's Household**—
LORD CHAMBERLAIN—The Rt. Hon. The Lord Luce, GCVO, DL
LORD STEWARD—The Duke of Abercorn, KG
MASTER OF THE HORSE—The Lord Vestey
TREASURER—Bob Ainsworth, Esq, MP
COMPTROLLER—The Rt. Hon. Thomas McAvoy, MP
VICE-CHAMBERLAIN—Jim Fitzpatrick, Esq, MP
CAPTAIN OF THE HONOURABLE CORPS OF GENTLEMEN-AT-ARMS—The Rt. Hon. The Lord Grocott
CAPTAIN OF THE QUEEN'S BODYGUARD OF THE YEOMAN OF THE GUARD—The Lord Davies of Oldham
LORDS IN WAITING—The Lord Bassam of Brighton, The Lord Evans of Temple Guiting CBE, The Lord Triesman
BARONESSES IN WAITING—The Baroness Farrington of Ribbleton, The Baroness Andrews, OBE, The Baroness Crawley

---

SECOND CHURCH ESTATES COMMISSIONER, REPRESENTING CHURCH COMMISSIONERS— Sir Stuart Bell, MP

---

# HOUSE OF COMMONS

THE SPEAKER—The Rt. Hon. Michael J. Martin, MP

CHAIRMAN OF WAYS AND MEANS—The Rt. Hon. Sir Alan Haselhurst, MP

FIRST DEPUTY CHAIRMAN OF WAYS AND MEANS—Mrs. Sylvia Heal, MP

SECOND DEPUTY CHAIRMAN OF WAYS AND MEANS—Sir Michael Lord, MP

CHAIRMEN'S PANEL—
Mrs. Irene Adams, MP, David Amess, Esq, MP, Janet Anderson, MP, Nigel Beard, Esq, MP, Miss Anne Begg, MP, Joe Benton, Esq, MP, Sir John Butterfill, MP, Martin Caton, Esq, MP, David Chidgey, Esq, MP, Derek Conway, Esq, MP, Frank Cook, Esq, MP, James Cran, Esq, MP, John Cummings, Esq, MP, The Rt. Hon. Eric Forth, MP, Roger Gale, Esq, MP, Win Griffiths, Esq, MP, Mike Hancock, Esq, MP, Jimmy Hood, Esq, MP, Kevin Hughes, Esq, MP, Alan Hurst, Esq, MP, Eric Illsley, Esq, MP, John McWilliam, Esq, MP, Bill O'Brien, Esq, MP, Edward O'Hara, Esq, MP, Bill Olner, Esq, MP, Peter Pike, Esq, MP, Dame Marion Roe, MP, Jonathan Sayeed, Esq, MP, George Stevenson, Esq, MP, David Taylor, Esq, MP, The Rt. Hon. Ann Widdecombe MP, Sir Nicholas Winterton, MP

HOUSE OF COMMONS COMMISSION—
The Rt. Hon. The Speaker (Chairman), The Rt. Hon. Peter Hain, MP, Oliver Heald, Esq, MP, Sir Archy Kirkwood, MP, Sir Stuart Bell, MP, Sir Patrick Cormack, FSA, MP

SECRETARY OF THE COMMISSION—David Natzler

ASSISTANT SECRETARY—Tom Goldsmith

ADMINISTRATION ESTIMATE AUDIT COMMITTEE—
Oliver Heald, Esq, MP (Chairman), Sir Archy Kirkwood, MP, Sir Thomas S. Legg, KCB, QC, David Taylor, FCA

SECRETARY OF THE AUDIT COMMITTEE—Dr. Mark Egan

BOARD OF MANAGEMENT—
Roger Sands, (Chief Executive), George Cubie, CB (Clerk of Committees, Department of the Clerk of the House), Peter Grant Peterkin, CB, OBE (Serjeant at Arms), John Pullinger (Librarian), Andrew Walker (Director of Finance and Administration), Bill Garland (Editor of the Official Report), Sue Harrison (Director of Catering Services)

SECRETARY OF THE BOARD OF MANAGEMENT—Robert Twigger

SPEAKER'S SECRETARY—Peter F. Barratt (Acting)

SPEAKER'S COUNSEL—John Vaux

SPEAKER'S CHAPLAIN—Rev. Canon Robert Wright

MEDICAL ADVISER TO THE SPEAKER—Dr. Ron Zeegen, OBE, FRCP, MRCS, DObst, RCOG

PARLIAMENTARY COMMISSIONER FOR STANDARDS—Sir Philip Mawer

PARLIAMENTARY SECURITY CO-ORDINATOR—Peter Mason

# THE PARLIAMENTARY DEBATES

## OFFICIAL REPORT

IN THE FOURTH SESSION OF THE FIFTY-THIRD PARLIAMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
[WHICH OPENED 13 JUNE 2001]

FIFTY-THIRD YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II

**SIXTH SERIES** **VOLUME 430**

**THIRD VOLUME OF SESSION 2004–2005**


# House of Commons

*Monday 24 January 2005*

*The House met at half-past Two o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## WORK AND PENSIONS

*The Secretary of State was asked*

### Employment

1. **Ms Meg Munn** (Sheffield, Heeley) (Lab/Co-op): If he will make a statement on progress with his Department's measures towards full employment.

[209971]

**The Secretary of State for Work and Pensions (Alan Johnson):** Since 1997, employment is up by more than 2 million to a record level of 28.5 million, with more than 250,000 more people in work in the last year alone. Those extra 2 million people in jobs are not just about the strength of the economy, but about the Government's active labour market measures to help people off benefit and into work and to help them with training, child care and all the things that often stand between them and a decent job. That is why is it is important that the successful new deal programme be maintained and developed.

**Ms Munn:** May I thank my right hon. Friend for his reply? I am sure that he is aware of the report that came out last week that identified the fact that more women than ever before are now starting their own businesses. What is in the programmes that his Department runs that encourages people, particularly women who have spent time at home looking after children, to start their own businesses?

**Alan Johnson:** My hon. Friend is right; the report last week was very encouraging. My Department works very closely with the Department of Trade and Industry and others to ensure that we get as many people as possible starting their own businesses while recognising that the success of the economy very much depends on what is charmingly called the business birth rate. We will continue to encourage that and women, in particular, to start their own businesses.

**Sir Archy Kirkwood** (Roxburgh and Berwickshire) (LD): Although I acknowledge that a lot has been done in employment zones to contribute to the active labour market policies that have been successful to date, does the Secretary of State accept that it is harder to do that because the client groups with whom the trainers work are further from the labour market? Will he look carefully at how that problem can be addressed in future and, in particular, at the flexibility that is available in the employment zones? Although there is funding, much of it is in silos and it is sometimes difficult to access it.

**Alan Johnson:** The hon. Gentleman makes a very important point, and we will look at it. It is absolutely true, as he says, that the success of our efforts to get people back into work will inevitably hit up against those who are the most difficult to place into work. We need the flexibility that there is in the employment zones.

In this situation, with the problem of the individuals mentioned by the hon. Gentleman, the last thing to do is to pretend that some kind of laissez-faire policy would work and to withdraw the programmes and assistance that we provide and which the Conservative party plans to privatise or scrap.

**Mr. Tim Boswell** (Daventry) (Con): We welcome it when people get into work, but will the Secretary of State not acknowledge that the number of people of working age, who are still economically inactive is stuck at almost 7.9 million and the number of unemployed young people—the subject of Labour's flagship new deal programme—has risen from just under 30 per cent. to 42 per cent. as a proportion of the total unemployed? Is it really any longer plausible, as the Secretary of State has argued today after £5 billion worth of investment on the new deal, to say that just because the new deal and falls in unemployment are consecutive, one caused the other—any more than night causes day?

**Alan Johnson:** Let me address a couple of those points. First, the point about young people is a consistent theme from the Opposition, and they are wrong because they do not take into account the growth in population. Unemployment among those not in education, employment or training as a proportion of the population has fallen by 1.5 per cent. Those figures apply only to those in full-time education or training, and if we look at those in part-time education and training, we see an even more dramatic fall. Only 6,000 young people are now long-term unemployed; the figure was 300,000 in the mid-1980s.

May I say to the hon. Member for Daventry (Mr. Boswell) that today is supposed to be the most miserable day of the year? I understand that has nothing to do with the fact that Department for Work and Pensions questions fall on this day, but we all in the House have a duty to try to cheer the nation up. Let us be absolutely clear. Unemployment is at its lowest level for 30 years; employment is at its highest level ever; and the number of lone parents and disabled people in work has crossed 50 per cent. for the first time. This is good news for the economy and good news for Britain.

**Lawrie Quinn** (Scarborough and Whitby) (Lab): I join my right hon. Friend in warming up the spirit of the House. From the perspective of Scarborough and Whitby, never before have we had so many people in work. However, he will know that the east coast, like his constituency, faces problems in terms of access and transportation. We are on the periphery. Will he explain to the House and my constituents how Jobcentre Plus, other similar schemes and the new deal can help the people who have access problems to get to where the jobs are?

**Alan Johnson:** My hon. Friend hits upon an important reason why we need to speak to the individuals concerned, particularly those who have a history of being out of work, to find out what the problems are and seek ways of overcoming them. Jobcentre Plus personal advisers have at their discretion funding to help in such situations, as well as to provide transport in rural areas. It is important for us to recognise that it is no good simply hoping that some process of serendipity will get people into work. Of course, the vast majority of people do not need assistance, but many have problems that can only be tackled by a concerted approach, using Jobcentre Plus and the programmes that we have developed with such success since 1997.

## Private Pensions

2. **Bob Spink** (Castle Point) (Con): what plans he has to encourage the take-up of private pension provision. [209972]

6. **Angela Watkinson** (Upminster) (Con): what plans he has to encourage an increase in private pension provision. [209976]

**The Minister for Pensions (Malcolm Wicks):** We are keen to increase private pension provision. That is why we introduced stakeholder pensions and are taking forward our radical programme of pension reform.

Measures in the Pensions Act 2004 will increase confidence in pensions, will make it easier for employers to run pension schemes and, along with our programme of informed choice, will help people to plan and save for their retirement.

Adair Turner and the Pensions Commission will also advise us on the future of private pension provision when they report later this year.

**Bob Spink:** I am grateful to the Minister for his response and for what he is doing on pensions, but it is still far too little. Does he recall the words of the former Minister for Welfare Reform, the right hon. Member for Birkenhead (Mr. Field), who said that the big issue worrying voters

"is that when Labour came to power we had one of the strongest pension provisions in Europe and now probably we have some of the weakest"?

When will the Government start to reverse the trend towards more means-testing, and when will they scrap the £5 billion pensions tax which is doing so much damage?

**Malcolm Wicks:** That was a broad question. I shall give the hon. Gentleman two reasons to be cheerful. One is that pension credit income testing is helping the poorest elderly people, two thirds of them women who often do not have occupational pensions or the full national insurance pension. The second is that the pension protection fund is not just about rhetoric; it is about making sure that all those hardworking Britons, decent people, who are in final salary company pension schemes will have their pension protected should—we hope that this will not happen too often—their company go bust and the scheme not have enough money to pay out. That is action, not talk.

**Angela Watkinson:** Many savers are reluctant to be involved in private pension schemes now, because so many of them have lost out so badly when their schemes have wound up. The Conservative Government will utilise balances in dormant accounts to give real

compensation to those people. Is not that another good policy that the Labour Government would like to plagiarise?

**Malcolm Wicks:** I normally save my fiction input until the summer holidays, so I will not dwell on the conjecture about a future Conservative Government. The fact is that 10 million active employees—a very considerable number—are members of occupational pension schemes. We are taking action with the new regulator, the pension protection fund, to give those people added security. Surely the hon. Lady would agree that that is a step in the right direction.

**Mr. John McFall** (Dumbarton) (Lab/Co-op): Given the flight from defined benefit to defined contribution schemes by a number of employers, will the Government encourage employers to look at schemes such as the one introduced by Sainsbury's, in which the pension is based on average earnings over a lifetime? In that vein, does the Minister consider the recent articulation of longevity bonds by the Governor of the Bank of England something worth considering?

**Malcolm Wicks:** I am sure that the Treasury will look at that and other suggestions. The crucial thing is the percentage of contribution going into a scheme—the combined percentage from the employer and the employee—rather than the particular mechanism, whether it is final salary, defined benefit, defined contribution or a hybrid. The final salary scheme has not always been the best friend of many women and others with caring responsibilities. However, it is the level of contribution that we should be focusing on, and we look forward to the report of the Turner Commission.

**Rob Marris** (Wolverhampton, South-West) (Lab): Evidence from my hon. Friend's Department shows that tax relief on pension contributions has almost no effect on pension saving yet it costs £14 billion a year in forgone tax revenue. It is intensely regressive because 50 per cent. of that £14 billion is claimed by the top 10 per cent. of earners. Will my hon. Friend agree to consider abolishing tax relief on pension contributions, which could lead to each pensioner household having a £35 per week non-means-tested increase in their pensions? Will he consider also introducing compulsion along the Australian lines?

**Malcolm Wicks:** The Adair Turner commission will of course advise us on the merits of compulsion vis-à-vis an energised voluntary approach. Tax relief is one method by which we help pension schemes. Its future is a matter for the Treasury and not for my Department.

**Mr. Steve Webb** (Northavon) (LD): The Minister is aware of the APW case, where the company is still solvent but the scheme is being wound up. Members on both sides of the House have recently come from a meeting with APW workers. I have two questions for the Minister. First, when will the workers be put out of their misery and know whether or not they will come within the scope of the financial assistance scheme? Secondly, is the Minister confident that there are not other APWs—companies that will go to the trustees and say, "You can have a very small amount of money or nothing at all."? Firms will allow their pension funds to wind up, grossly underfunded. Is the hon. Gentleman confident that that is not happening more widely?

**Malcolm Wicks:** I have met APW workers and the Members who are concerned. It is a serious situation that we are considering extremely carefully. We must be very careful before we can embrace schemes where the employer is solvent, as opposed to insolvent. The pension protection fund is about insolvency. We have said that we are still considering issues involving the solvent employer. Surely the obligation to fund a pension scheme should rest primarily on the company? We shall be careful to ensure that it does not, through the financial assistance scheme, rest on the taxpayer; otherwise there will be a slippery slope leading to where Government and Parliament are expected to nationalise all financial risk. Of course it is not the fault of, and I am concerned about and sympathetic to, the group concerned. We are considering the matter.

**Mr. John Denham** (Southampton, Itchen) (Lab): Will my hon. Friend recognise that the trustees of APW were in a position of accepting a compromise on their scheme because they did not know of the Government's change of policy on the financial assistance scheme? There cannot be many schemes in that position. Will my hon. Friend look again at whether the APW scheme can be brought within the financial assistance scheme? I understand his general concerns about the taxpayer underwriting failing companies, but the APW case is specific.

**Malcolm Wicks:** Indeed, but not unique. There are several similar schemes and we are considering the matter carefully. I give my right hon. Friend that assurance. I met him and his colleagues to discuss the matter only a few weeks ago.

**Mr. Nigel Waterson** (Eastbourne) (Con): I too met APW workers today. They were far from cheerful about the fact that many of them will be facing an 80 per cent. pension loss and be excluded from both the financial assistance scheme and the pension protection fund. Does the Minister accept that the continuing uncertainty over the scope of the FAS and the PPF does little to encourage private pension provision? Is not the National Association of Pension Funds right when it says:

> "We have had enough experience of policies which appear to promise something but do not deliver and which have served to undermine confidence in retirement saving"?

**Malcolm Wicks:** The NAPF is wrong about that. We are on course to establish the pension protection fund in April despite the Conservative party's declining to give the Pensions Bill a Second Reading. We take no lectures from the hon. Gentleman. The financial assistance scheme will be established in the spring and the first payments to those coming up for retirement, or who are already retired, will be made as soon as possible thereafter.

## Payment Mechanisms

3. **Andrew Selous** (South-West Bedfordshire) (Con): if he will make a statement on the payment mechanisms for state benefits and pensions. [209973]

**The Minister for Pensions (Malcolm Wicks):** Direct payment into an account is now the normal way that we pay benefits and pensions, and over four out of five people are paid by this method. Indeed it is proving to be popular with customers, with nine out of 10 saying that they like being paid this way.

We have exceeded our target of 85 per cent. of benefit and pensions customers having an account by 2005. We have already hit that target ahead of 2005. I add—this is of concern to us all—that the small number of customers who cannot have their pensions or benefit paid into an account will be paid via a cheque, which can be cashed at the Post Office. I think that these customers will be a small minority.

**Andrew Selous:** The Government rejected Conservative demands that pensioners be allowed to keep their order books if they chose. The Select Committee on Trade and Industry has criticised the Government's plans for the exception service. Given the widespread postal delays that affect many of our constituents, will the Government consider sending out batches of four girocheques at a time as part of the exception service routine, so that if there are postal delays pensioners will not go without their weekly pension?

**Malcolm Wicks:** We will obviously monitor what happens to the cheque-based system, but the hon. Gentleman should not be in any doubt that the most effective means of payment is transferring money electronically into a bank or post office card account. We should not look back to the days of the pension book as a golden age, as that was not the case. There was £80 million of fraud, and it was an expensive system for the taxpayer. We are being sensitive, and listening to the needs of pensioners, particularly the frail elderly, people with disabilities and their carers, and we are doing our best to make sure that the system meets their needs. We are very concerned that that should happen.

**Mr. Owen Paterson** (North Shropshire) (Con): Perhaps the Minister would listen to my constituent, Miss Amanda James, from Trimpley in Ellesmere, who did not receive any money at all from April until December? We eventually sorted that out, so that she would be paid that sum before Christmas. However, she was on the phone again to my office this morning, saying that she has not received any money. We received a letter from the Inland Revenue, in which they said:

"Our aim is a speedy, accurate and professional service to all our customers".

When?

**Malcolm Wicks:** As soon as we have clarified whether this is a question for the Inland Revenue. Is it about pension credit or about child tax credit? I should be grateful if the hon. Gentleman wrote to me, but I also advise him to write to the relevant Department, not the irrelevant one.

**Dr. Jenny Tonge** (Richmond Park) (LD): Does the Minister recognise that a great number of people, perhaps of a particular generation, still wish to go to a post office to receive their pension or benefit? Will he put pressure on his colleagues in the Department of Trade and Industry to stop the closure of many post offices up and down the country?

**Malcolm Wicks:** Government are providing some £2 billion, including £450 million for the rural post office network, to try to safeguard the local post office system. That is a considerable amount of money. Meanwhile, in response to people who say that it is difficult to open a post office card account, about half of all pensioners will receive their money in future through such an account. In total, 4 million people will have their money paid in that way, so the post office is alive and well, and many people will still draw their pension or benefit in that way.

## Public Inquiry Services

4. **Dr. Vincent Cable** (Twickenham) (LD): If he will make a statement on telephone response times for public inquiry services within his Department, with particular reference to Jobcentre Plus. [209974]

**The Minister for Work (Jane Kennedy):** Jobcentre Plus aims to answer telephone calls within 30 seconds. A recent market research survey showed that about 80 per cent. of calls were answered in that time frame.

**Dr. Cable:** Does the Minister recall that I wrote to her in November about the fact that 1 million people in south London have to telephone for an appointment for a national insurance number, but the telephone number they are given is uncontactable? I heard yesterday from the citizens advice bureau not only that that number is uncontactable but that alternative numbers given to those people are uncontactable too. Since thousands of people have been prevented from working legally by inefficiency in the Department, can the Minister explain precisely what they are supposed to do?

**Jane Kennedy:** I am not aware of the problem to which the hon. Gentleman referred. I will look into his allegations, but the aim of Jobcentre Plus contact centres, as opposed to Jobcentre Plus, is to answer 80 per cent. of calls within 20 seconds. For one typical week in November 2004—the precise month in which the hon. Gentleman says that he wrote to me—contact centres handling new and repeat claims answered on average 80 per cent. of calls within 20 seconds, which is inside the target time frame.

I will look into the difficulties that the hon. Gentleman says some his constituents have experienced, but without his drawing it specifically to my attention—*[Interruption.]* Well, I will look into what he said, but unless he is specific about the problem it is hard to respond.

**Mr. Tam Dalyell** (Linlithgow) (Lab): For all I know, the position in London may be exactly as the hon. Member for Twickenham (Dr. Cable) makes out, but may some of the rest of us say that never in our parliamentary lifetime have the responses been so quick and so helpful as they are at present? Anecdote suggests that huge improvements seem to have been made.

**Jane Kennedy:** I am grateful to my hon. Friend. That is precisely the experience that my constituents have had, and from around the country those are the reports that I get. Jobcentre Plus is not just about new offices. It is about changing the service that we provide day in, day out to thousands of people. I will look into the specific complaint that has been made today, but by and large the service is superb and most constituents throughout the country acknowledge that fact.

**Mr. David Willetts** (Havant) (Con): While we are on the subject of telephone helplines, did the Minister see the sad little article in her departmental newsletter, "Touch Base", last month, which stated:

"In October, following a review of the service, the Welfare Reform Order Line was closed. The line was set up in the late 1990s to make available green papers and other welfare reform documents. In recent times, the number of calls had fallen to around 25 per week, making it no longer cost effective to operate"?

As we are about to get the Department's five-year plan, is not the sad decline of its welfare reform helpline a warning of how one can go from grand aspirations to complete failure to deliver? Is it not typical of the Government that instead of ordering welfare reform, they give people the opportunity of phoning a number where they can order a consultation document on the possibility of welfare reform? When are we to have real welfare reform?

**Jane Kennedy:** There is a clear stretch of blue water between the Front Benches on this subject. We are committed to active labour market intervention with the unemployed. We are committed to reforming the service that is delivered to people who are in need of welfare support, and to enabling people who are looking for work to find the work that is out there. That is quite different from the hon. Gentleman's party, with its tired old ideology of privatisation and on-yer-bike advice to the workless.

**Mrs. Gwyneth Dunwoody** (Crewe and Nantwich) (Lab): When my right hon. Friend examines the system, will she look carefully at the training of the people in the telephone centres, who are not benefits advisers and frequently ask a series of questions that have no relevance to any of the people involved? That is not a way to engender support for a very good system, and I am sure she will be able to remedy the problem speedily.

**Jane Kennedy:** I keep the quality and level of training and support being delivered to the staff of Jobcentre Plus under close and constant review. By and large it is of excellent quality and the service that the staff deliver is excellent. Jobcentre Plus will be changing the way it communicates with customers and delivers its services over the coming years, but the closure of 600 Jobcentre Plus offices, which would happen if the Conservative party ever came to power, would not improve the service to my hon. Friend's constituents or mine.

## Employment Advisers

5. **Miss Anne Begg** (Aberdeen, South) (Lab): What assessment he has made of the effects of placing employment advisers within general practitioners' surgeries on encouraging people into work. [209975]

**The Secretary of State for Work and Pensions (Alan Johnson):** The Government's vision of supporting more people in the move from incapacity benefit back to work can be delivered only in close collaboration with general practitioners. We believe that giving GPs access to employment support in their surgeries will help them to deliver this role more effectively. As announced in the pre-Budget report, the Department will be piloting the placement of employment adviser support in GPs' surgeries, building upon a number of initiatives currently in operation.

**Miss Begg:** Did my right hon. Friend see an article in *The Scotsman* last Friday, 21 January, which gives the impression—wrongly, I believe—that the Government have been moving people off the unemployment register on to the incapacity register to massage the unemployment figures? The article is written with a particular skew. Will my right hon. Friend take the opportunity to rebut the allegations in the article, and tell the House how the Government are developing policies that will get people who are on incapacity benefit back into work, including the innovative approach of putting employment advisers into GPs' surgeries?

**Alan Johnson:** I did not see the article in *The Scotsman*, but that part of it is patently ridiculous. The simple facts are that in Scotland the claimant count has fallen by 71,000 and over the same period the number on incapacity benefit has fallen by 1,000, so it cannot be the case that people are being moved from one to the other. That is why in 1979 there were 700,000 people on incapacity benefit and by the time we came to government there were 2.6 million. If I may just add to the gaiety of the nation, the inactivity figures in last week's labour market statistics also showed a reduction, so we have not only cut the number of people coming on to incapacity benefit by a third; we have also, virtually for the first time, reduced the number of people who have been on incapacity benefit for many years: a small amount—9,000—but we are heading in the right direction. That is mainly as a result of the pathways to work project that is operating in one part of Scotland and will soon be extended to a third of the country.

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): I recently had a complaint from one of my constituents who had found a copy of the Government's pre-Budget report in the doctor's surgery. No doubt if she had been pestered by one of these employment advisers she would also have complained about that. My constituents go to

their GP because they are sick, not to be pestered with a plethora of Government propaganda and advice. Will the Secretary of State please put a stop to that?

**Alan Johnson:** I did not know that the pre-Budget report had replaced *Punch* in surgery waiting rooms all over the country. I advise the hon. Gentleman to lie down in a darkened room and take a tablet with a glass of water. His constituents will not walk into a surgery to find an employment adviser lurking behind the curtains when they are asked to take their clothes off, or sitting on the desk swinging a stethoscope. They will be placed outside the surgery. The hon. Gentleman may have seen the article in last Thursday's *Financial Times* on an important project called the James Wigg practice in north-west London, where this has been happening for quite a while, and it is very successful. We should do whatever we can to try to help people on incapacity benefit back into work. This is one part of it and, linked with the Department of Health's White Paper, it has the opportunity to be very successful. I hope that the hon. Gentleman is reassured.

**Ms Dari Taylor** (Stockton, South) (Lab): Will my right hon. Friend accept that the evidence shows that over 90 per cent. of people who are in receipt of incapacity benefit want and expect to go back to work? They state clearly in the evidence that getting appropriate advice is not easy. Placing an employment adviser in a GP's surgery to give that advice would be innovatory, and I would support that. What else is the Department considering doing?

**Alan Johnson:** First, on that important point, chapter 7 of the Department of Health White Paper is devoted to how the NHS can work much more closely with the employment services to get away from the concept that work is bad for one. The advice from the medical profession has changed. Four years ago, if one had a bad back, the advice was to lie down in a darkened room. Now that is considered to be the worst thing one could do. As a form of tackling depression, to tell people to disconnect from society and sit down in a room on their own is just about the worst advice that anyone could possibly give. The medical profession and the Department of Health recognise that.

This is one of a number of initiatives being taken to stem the flow of people on to incapacity benefit. These are people who want to work. The statistic that says that if one is on incapacity benefit for a year, one will be on it for six years, and if one is on it for two years, one will be on it for the rest of one's life, requires politicians to tackle one of the most serious political issues that we face in this country.

**Mr. Paul Goodman** (Wycombe) (Con): Talking of what the Department may be planning, the Institute for Public Policy Research, in a recent pamphlet that the Secretary of State will have read, suggested that incapacity benefit should be paid at a single fixed rate to new claimants. Has the Secretary of State ruled that out?

**Alan Johnson:** No, and when the hon. Gentleman sees our five-year plan he will see what kind of ideas we are developing to progress the issue. The fact that the longer one is on incapacity benefit, the more one gets, and that there are all kinds of complications to it, is one reason why the whole matter needs a radical overhaul.

**Kali Mountford** (Colne Valley) (Lab): As my right hon. Friend points out, the longer people are in receipt of incapacity benefit, the more difficult it is to regain entry to the labour market, particularly as attitudes towards work harden over time. When he is monitoring this particularly innovative and useful way of introducing people back to the labour market, will he also monitor its effects in rural constituencies such as my own, which have particular problems when they are so isolated from all the resources that people in urban areas enjoy?

**Alan Johnson:** I will give my hon. Friend that reassurance. We are covering only 10 per cent. of the country at the moment with the pathways to work pilots, which are producing some extraordinary results. I do not think that we have really tackled rural areas yet, but we will do so in the expansion to a third of the country. I give her the reassurance that she is seeking: we will look at the specific issues that she mentions, especially for those in rural parts of the country.

## Carers

7. **Mr. Lindsay Hoyle** (Chorley) (Lab): If he will make a statement on financial support for carers. [209977]

**The Parliamentary Under-Secretary of State for Work and Pensions (Maria Eagle):** Depending on their personal circumstances, carers have access to the full range of social security benefits. Those who provide regular and substantial care of at least 35 hours a week for a severely disabled person receiving attendance allowance or the equivalent rates of the disability living allowance care component can be entitled to a carer's allowance and, if they are on a low income, to the carer premium in the income-related benefits or the carer's additional amount in pension credit. Support for carers is also available through the carer's grant arrangements, which enable them to take a break from caring.

**Mr. Hoyle:** I thank my hon. Friend for reiterating the benefits that are available to carers, but I point out that the problem that we face is that millions of pounds each week go unclaimed, because the money and entitlements are unfortunately not getting to the carers. Does she agree that carers are the unsung heroes and that we should try to explain how and when they can claim any moneys that are due to them, and get that money to them? Without them, the pressure will come back to the health service and social services. I wonder whether we can ensure that the money is there and that we get it to those people, and ensure that respite is made available to them to give that much needed break to their families.

**Maria Eagle:** I know that my hon. Friend takes a close interest in this matter as president of Chorley Mencap. I agree that carers do a fantastic job, and they do not do it for money; they do it out of love for the person whom they are caring for. The number of recipients of the carer's allowance has increased by 14 per cent. in the

past five years. We are now encouraging those who may be eligible to apply to do so and are succeeding in ensuring that more people get the money to which they are entitled. He may be referring to a Carers UK report setting a figure on unclaimed carer's allowance. For reasons that I shall not go into now, but which I can explain—they are rather lengthy—we do not agree with the figures because of the methodology and assumptions that are used, but the essential point is correct: we need to ensure that those who are entitled to benefits get them, and this Government do just that.

**Sir Nicholas Winterton** (Macclesfield) (Con): The Minister has given a good reply so far to this very important question, but as patron of the Macclesfield and district Crossroads association, I am particularly interested in how we look after carers. The hon. Member for Chorley (Mr. Hoyle) mentioned respite. Does the Minister agree that carers, many of whom are not given anything for the care that they give to the relation or friend whom they are looking after, require more attention than they have been getting? These people save the taxpayer of this country hundreds of millions of pounds a year. Will the Government look more closely at the availability of respite care for carers and also at the funding of the Crossroads organisation?

**Maria Eagle:** On the latter point, one suspects that this would be a matter for the Department of Health through the section 64 grant funding system; we do not have money that we give out in that way at the Department for Work and Pensions. The hon. Gentleman clearly has a lot of experience in his constituency of the issues involved. Carers need respite and they need to take breaks from caring in order to keep them going. In that regard, the carer's grant has amounted to some £325 million over the past five years, and it will be about £125 million this year, going up to £185 million next year. So we are providing more money to give respite and breaks to carers—something that they and their organisations have emphasised that they need.

**Mrs. Ann Cryer** (Keighley) (Lab): My hon. Friend gave us an excellent and very full reply, but will she comment on a case that was brought to my attention on Saturday involving a family in my constituency? The mother has had a stroke and she requires full-time care. Her daughter has given up her job in order to give that full-time care and a nurse calls in twice a day, but as yet the family has not been able to replace the wages that the daughter has lost through giving up her job. However, tomorrow, the mother could be put into a nursing home, which would cost the state a great deal more money than the daughter needs. This is an unfortunate turn of events, and I shall write to my hon. Friend about it.

**Maria Eagle:** I cannot cope with the praise that I am receiving—things are bound to go wrong later in the afternoon. I will be happy to look into any particular case raised by my hon. Friend. Even on the basis of those facts, it is difficult to know what might be available to assist that family. It may be difficult for carers who are faced with a burden of caring, which they perhaps did not expect, to get everything sorted out. We must ensure that we do the most that we possibly can to ease them through that process.

## National Insurance Rebates

9. **Mr. Peter Lilley** (Hitchin and Harpenden) (Con): What the total value of national insurance rebates paid into contracted-out pension funds was in the most recent year for which figures are available. [209979]

**The Minister for Pensions (Malcolm Wicks):** £10.5 billion.

**Mr. Lilley:** Given that the national savings ratio has halved under this Government, is it not sad that the sum that the Minister mentioned, which is still very large, has declined from its peak? Does he recognise that national insurance rebates still make a major contribution to the nation's savings and are a vital element of individuals' savings for retirement? Will he resist the temptation to steal that money to improve benefits for current pensioners at the expense of future pensioners? Stealing that money would turn savings into spending; instead, he should encourage more people to save.

**Malcolm Wicks:** The question was addressed to the Government Front Bench, but I am not sure what official Conservative party policy is on that matter—it might be to use the money in some other way. National insurance rebates are an important way in which private and occupational pension schemes are funded. As the former Secretary of State knows only too well, legislation requires that rebate rates be reviewed at least once every five years. Later this year, we will start the review process with the Government Actuary's Department to set the new rebate levels from 2007.

**Mr. Peter Pike** (Burnley) (Lab): Does my hon. Friend agree that we will make more progress in tackling fraud within the benefit system and ensuring that people can get the benefits to which they are entitled when all computers within the system can speak to each other?

**Mr. Speaker:** Order. The hon. Gentleman has asked a supplementary question to Question 8, which has been withdrawn, and we are on Question 9.

**Mr. David Willetts** (Havant) (Con): May I follow up the question asked by my right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley), who did not get a clear answer? Does the Minister agree that it would be wrong to raid contracted-out rebates in order to finance the citizen's pension—we know from a previous exchange in this House that the Secretary of State is interested in that policy? We seek such an assurance from the Minister, and it is a pity that we did not hear it in answer to the previous question. Will he now give such an assurance?

**Malcolm Wicks:** Our position remains that we regard the contracted-out rebate as a valuable way in which to fund those who choose a private occupational pension scheme. The debate about the future of state pensions is altogether different.

## Older Workers

10. **Jim Sheridan** (West Renfrewshire) (Lab): What steps he is taking to encourage older workers into employment. [209980]

12. **Jim Knight** (South Dorset) (Lab): What steps he is taking to encourage older workers into employment. [209983]

**The Minister for Work (Jane Kennedy):** Since 1997, over 1.1 million more people from that age group are in work, which accounts for more than half of the growth in employment over that period. Without question, that is because of a combination of the back-to-work help provided by Jobcentre Plus, new deal 50-plus and strong labour market conditions, all of which could so easily be placed in jeopardy.

**Jim Sheridan:** My right hon. Friend knows that many elderly workers are currently on incapacity benefit through no fault of their own because of injuries or illnesses that they have picked up during the course of their working lives. Will she offer an incentive to those with skills and experience to return to industries such as construction to help to train young people in the skills that we need in this country?

**Jane Kennedy:** That is an interesting suggestion. My hon. Friend is right. Of the 950,000 people who claim incapacity benefit and severe disablement allowance, around a quarter would like to work—that is, those who are in the age group of over-50 to state pension age. Our pathways to work pilots are testing and developing the best ways in which to help those people to achieve their goals, and the initial results are very encouraging. However, my hon. Friend is right—this group of people has a wealth of experience and knowledge that could be harnessed in the labour market in the interesting way that he suggests.

**Jim Knight:** The Minister may be aware that in September the fashion retailer, New Look, will close its distribution centre in my constituency, with the loss of 580 jobs to the Weymouth area. Many of those workers are older or of low skill. What help can the Department offer them to give them the belief that they have a future in work? Would a member of the ministerial team, ideally the Minister herself, be willing to visit New Look in the next couple of months to see the situation on the ground?

**Jane Kennedy:** I am pleased to receive that invitation from my hon. Friend. I was not aware that the announcement about New Look had been made, but I know that Jobcentre Plus is standing by with a rapid response service to offer precisely the training for reskilling that my hon. Friend is calling for. The full Jobcentre Plus package of support is ready to help that company and those of its employees who face the uncertain future that he describes. I would be more than happy to visit his constituency to meet the workers affected.

**Mr. Bill Tynan** (Hamilton, South) (Lab): Has my right hon. Friend seen the latest political bulletin from Age Concern, which congratulates the Government with the words, "Queen's Speech Brings Good News for Older People"? That document refers to the mandatory retirement age. Will my right hon. Friend carefully consider the loss of skills and experience that results from the mandatory retirement age and think about creating some flexibility to allow older people to remain in the work force?

**Jane Kennedy:** I have not seen the article, but I should obviously read it, because it would cheer me up. We know that 1 million people have already chosen to carry on working past state pension age, many of them in part-time work, and our research shows that people do want the choice and flexibility that my hon. Friend is calling for. Our Age Positive programme encourages employers to work towards that in the spirit, not just the letter of the law. To help them to do that, our campaign and its associated website strongly promotes the business benefits of employing older people as part of a mixed-age work force. The promotion of the benefits of employing people in this older age group is clearly beginning to be heard by businesses.

## Pension Credit

11. **Mr. Parmjit Singh Gill** (Leicester, South) (LD): How many people in Leicester, South are eligible to claim pension credit. [209982]

**The Minister for Pensions (Malcolm Wicks):** We do not have the data on pension credit eligibility at constituency level, but I can tell the hon. Gentleman that at 31 October 2004, 5,368 pensioner households, including 6,720 individuals, in Leicester, South were receiving pension credit. The average award was around more than £58 a week.

**Mr. Gill:** I thank the Minister for his response. However, is he aware that one assessment found that more than 1,000 pensioner households in Leicester, South are eligible to claim pension credit but are not doing so although they are clearly in need of the money? What steps will the Minister take to help to bridge that gap?

**Malcolm Wicks:** We do not have the data on eligibility, so I am amazed that the hon. Gentleman does. Undoubtedly, there will be people in Leicester, South and in all our constituencies who are eligible for pension credit and should be claiming it. Members of Parliament have a role to play in working with the local Pension Service in that regard. It is interesting that among those with the most to gain from pension credit—those eligible for guarantee level—take-up is extremely high. I think, from memory, that at least 250,000 more people now get the guarantee than under the old days of income support. We would not have achieved that success had we listened to the Liberal Democrats on pension credit.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): The pension credit scheme will certainly have done a great deal to tackle pensioner poverty in the constituency of Leicester, South, which I know very well and is quite close to mine. However, does the

Minister accept that in Leicester, South and similar constituencies substantial numbers of older pensioners, often women over 80, still endure poverty? Would not it be a good idea, for their benefit, at least to revisit the possibility of making the boost to pensions at the age of 80 more significant than 25p and of re-linking some pensioners' levels of income to the level of income in the economy?

**Malcolm Wicks:** We need to bear it in mind that pensioner households where one or more people are over 80 receive £400 as part of the winter fuel payment package. We are successfully targeting a group of people—elderly women over 80—through pension credit. Pension credit means that state pension money is more or less equal now for men and women in old age, I am pleased to say.

### Unemployment

13. **John Robertson** (Glasgow, Anniesland) (Lab): How much the Department is spending on measures to address unemployment in 2004–05; and how much it spent in 1997–98. [209984]

**The Minister for Work (Jane Kennedy):** In 1997–98, around £2.4 billion was spent on programmes to help the unemployed move back into work. Now, as a result of a strong economy and our active labour market policies, there are more people in work than ever. However, we are not complacent and we are now focusing on people who experience the greatest barriers to work. That is why, last year, expenditure on unemployment programmes was £2.8 billion.

**John Robertson:** I congratulate my right hon. Friend and the Government on their work in getting people back to work. What will she do about inner-city constituencies such as Glasgow, Anniesland, where unemployment remains well above the national average and people want to get into work?

**Jane Kennedy:** Clearly, as we focus on those who face the greatest difficulty in returning to the labour market, we are increasing the amount of help and support that is available to them. Towards the end of the year, we will roll out more pathways to work pilot areas, which will help precisely the people to whom my hon. Friend refers. However, it is not all doom and gloom. In his constituency, long-term youth unemployment has decreased by 69 per cent. since 1997 and the number of long-term unemployed of all ages has gone down by 52 per cent. When we came to office in 1997, we faced an enduring legacy of long-term unemployment. It is a measure of the success of our policies over that period that we have been able to reduce the number of long-term unemployed to such a great extent.

### Financial Assistance Scheme

14. **Mr. Andrew Mackay** (Bracknell) (Con): What estimate he has made of the likely level of voluntary contribution to the financial assistance scheme by the pensions industry. [209985]

**The Minister for Pensions (Malcolm Wicks):** We are keen that the pensions industry should support the financial assistance scheme, either by voluntary financial contributions or assistance in kind.

We are most grateful for the expert help offered by the industry to date, of which we are making full use, and hope that it will further support the Government's leadership in assisting those who face the most serious losses. We believe that it has a strong interest in doing so.

**Mr. Mackay:** Does not the Minister realise that the funds available from the financial assistance scheme are woefully inadequate for those who have lost their pensions through wind-up? Should not something be done about it? The best thing to do is to claim banks' unclaimed assets. That would be an ideal way in which to assist.

**Malcolm Wicks:** I repeat the sad fact that the long-term answer—the pension protection fund—would not have been put in place if we had listened to the shadow Secretary of State and declined to give the Pensions Bill a Second Reading. The financial assistance scheme is an emergency package of £400 million of public money. We would like more money from the private sector and we are working hard to get a scheme up and running in April. [*Interruption.*] I hope that, instead of heckling from a sedentary position, Conservative Front Benchers will talk to the pensions industry about the size of its contribution.

**Dr. Alan Whitehead** (Southampton, Test) (Lab): In setting out the criteria for the FAS, will my hon. Friend consider whether to ban compromises whereby scheme members lose more than 30 per cent. of their pension benefits? Will he consider setting the eligibility criteria for the FAS so that trustees who have compromised the debt and members who have lost more than 50 per cent. of their promised benefits become eligible? Does he accept that, if he did those two things, there would not be a flood of new schemes into the FAS? Indeed, the problems of APW pensioners, about which we have heard this afternoon, could thereby be substantially assisted.

**Malcolm Wicks:** There are few things sadder than listening to a person who worked hard for their company, made their contributions and thought that they were in a decent pension scheme, only to find that the scheme and their dreams were shattered. I have every sympathy with that group of people, and I have met many such workers. This is why we have set up the pension protection fund. We keep these matters seriously under review, as will the new regulator, but I would be loth to say to trustees that they may no longer make compromise agreements. The trustees will be in the driving seat in future, and the right kind of compromise agreement can often strike a balance between keeping people in work in a company and the pension liability involved. That is a difficult balance to strike. My instinct is that neither the Government nor the regulator should make such decisions; they should be left to the trustees.

**Mr. Andrew Miller** (Ellesmere Port and Neston) (Lab): May I take this opportunity to thank my hon. Friend for his response to my representations on behalf of the workers at H. H. Robertson? I ask him not to forget, however, that the directors of some companies

that have now gone out of business still have substantial assets and need to be chased. We are dealing not only with the directors of good schemes in good companies, and we must not forget that some people have got away with extraordinary scams that have left our constituents high and dry.

**Malcolm Wicks:** I understand that. The Pensions Act 2004 and the powers being given to the new regulator mean that we shall now be better equipped to be aware of that kind of corruption in the system. While it is right that we have legislated for a pension protection fund, we now need to be on our guard to ensure that no unscrupulous company, accountant or anyone else in the pensions industry world wide takes the opportunity to dump a pension liability on the PPF, which we shall have in April. We must be very vigilant about that.

## Carers

15. **Mr. Gordon Marsden** (Blackpool, South) (Lab): What steps his Department is taking to ensure that more carers access the financial support to which they are entitled. [209986]

**The Parliamentary Under-Secretary of State for Work and Pensions (Maria Eagle):** Benefit advice is available through a wide variety of outlets, including the voluntary sector. In addition, the disability and carers service, Jobcentre Plus and the Pension Service are proactive in ensuring that carers get the money to which they are entitled. Local authority social services departments can, and do, advise on services and other support available to carers.

**Mr. Marsden:** I thank the Minister for that reply. In my constituency, at least 11,000 people are looking after frail relatives, friends or partners. That number could be higher because seaside towns have a large number of such people. Historically, the people who have lost out the most on their pension entitlements have been women, through caring for others over a long period of time. Will my hon. Friend tell me what measures the Department is focusing on to ensure that people in those circumstances can get support; and, in particular, what progress has been made following the Prime Minister's assurance, given to a group of carers last year, that the Government would consider more flexible arrangements for working carers' rights?

**Maria Eagle:** On my hon. Friend's last point, the Department of Health and the Department of Trade and Industry are taking forward work in that regard. I compliment my hon. Friend on his work to support carers in his constituency, and his question illustrates the extent to which he is aware of what is going on there. He is right to say that many older carers who have cared for relatives for many years during what would otherwise have been their working lives have lost out in terms of their pension entitlement. The state second pension recognised the value of carers by crediting them into entitlement in a way that the state earnings-related pension scheme did not. Almost all the 2 million carers being helped are women, and about 70 per cent. of the 5 million low earners who will benefit from the state second pension are women. Needless to say, the Conservatives have promised to abolish it.

## Payment Mechanisms

16. **Patrick Mercer** (Newark) (Con): If he will make a statement on the methods of payment of state benefits and pensions. [209987]

**The Minister for Pensions (Malcolm Wicks):** I am not sure whether the hon. Gentleman heard the useful exchange on this matter earlier in the proceedings. Direct payments mean that people's pensions and benefits can now be paid into a bank account, a building society account, a new basic account or the new post office card account. Post Office card accounts are proving very successful; there will be 4 million by the changeover date, which will involve about half of all pensioners receiving their pension in this way.

**Patrick Mercer:** Will the Minister comment on the recent series of bureaucratic hiccups that have occurred in Newark and Retford, particularly in regard to people receiving pensions for the first time and those who have been unable to find sustained employment under the new deal and who are coming back on to benefit? Clearly, both categories involve desperately vulnerable people.

**Malcolm Wicks:** We are committed to giving the so-called older worker employment opportunities, and the trends are moving in the right direction. More people in their 50s and early 60s, and beyond state pension age, are now in work, and we should welcome that opportunity to give the so-called older worker more choice. If the hon. Gentleman has come across any particular problems, I would be grateful if he wrote to me. Direct payment is proving a success—90 per cent. plus of people are satisfied with it—but we want to make sure that it works for 100 per cent.

## Homes for All: Five-year Plan

3.30 pm

**The Deputy Prime Minister (Mr. John Prescott):** With permission, Mr. Speaker, I should like to make a statement about the Government's five-year strategy, "Homes for All".

May I begin by offering my apologies to the hon. Member for Meriden (Mrs. Spelman) and to the Liberal spokesman for the delay in providing copies of my statement? The computer failed, and my words of persuasion failed totally to convince it to speed up the process. Nevertheless, it is a complicated statement, and I want to offer my apologies to both of them.

As the House is aware, the Government have been drawing up a series of five-year plans as we continue to modernise our country. Today, I am presenting the Government's new five-year strategy, "Sustainable Communities—Homes for All." We will: provide more homes to buy or rent through responsible growth; continue to improve the social housing stock; promote greater home ownership; and give more people a share in their home. "Homes for All" offers choice, opportunity and fairness. It is a comprehensive strategy to deal with the housing challenges that face this country.

For decades, Britain has faced major long-term problems in housing. We inherited: a boom and bust economy, with 15 per cent. interest rates and hundreds of thousands of people suffering the misery of negative equity; a £19 billion backlog of repairs to social housing; a record number of rough sleepers and families in bed-and-breakfast accommodation. For decades, the number of households has increased while the supply of new housing has fallen. This has widened the wealth gap and priced millions of people out of home ownership. Successive Governments have failed to deal with these long-term challenges.

Our priorities in the first five years were to deliver economic stability, tackle the backlog in housing repairs, and remove the obstacles to increasing housing supply. That is what was intended in our policy. I am proud of what we have achieved: there are more than 1 million fewer non-decent homes than in 1997; rough sleeping is down by two thirds; and we have virtually ended the use of bed-and-breakfast hotels for homeless families and children. In the private rented sector, we have improved investment and quality and tackled the problem of bad landlords. Labour economic stability has replaced Tory boom and bust, with low interest rates, low unemployment and low inflation. Only by making progress on these issues have we been able in our second term to take action to increase housing supply and to give more people choice and opportunity in housing.

The number of households has been increasing faster than the growth in population, while the supply of new housing has been falling. The number of single person households has more than doubled from more than 3 million in 1971 to about 6.5 million today. Ten years ago, house prices were three and a half times people's annual salary; they are now six times the annual salary. Sons and daughters cannot afford to live where they were brought up. Nurses and teachers cannot afford to buy homes near where they work. As house prices rise, more people are priced out of the market. This is not just a housing problem; it is a matter of fairness, opportunity and social justice.

That is why I announced the £38 billion sustainable communities plan to the House two years ago. The plan provided for 200,000 extra homes in London and the wider south-east, increasing the total to 1.1 million new homes by 2016. Kate Barker's review of housing supply supported that decision. It said that the undersupply of housing was threatening economic stability and people's quality of life. The review also said that we needed a step change in housing supply, meaning an extra 70,000 to 120,000 new homes a year. The Barker review concluded that many people on moderate incomes in high-demand areas were unable to buy a home.

The case for sustainable growth is clear and unambiguous. The sustainable communities plan and this five-year strategy will achieve growth in a fair and responsible way. Responsible growth means concentrating more housing in our four growth areas in the wider south-east; modernising the planning system to make more land available for housing; encouraging environmentally sustainable homes; using brownfield land; and protecting the green belt. Responsible growth also means providing an infrastructure, because we are creating communities, not just housing estates. We are investing extra resources in schools and hospitals, and making more than £3 billion of new transport investment in the growth areas—the Thames gateway, Milton Keynes and the south midlands, Ashford and the Stansted-Cambridge corridor. It is all about creating sustainable communities with more affordable housing. Today I am announcing the provision of £40 million for sustainable communities in other areas, to support extra housing growth and promote regeneration.

I am also announcing important changes to our planning policies. We are extending our stricter controls on density to cover more areas of high demand, in the east of England and the south-west. Development on brownfield land has already increased from 56 per cent. in 1997 to 67 per cent. in 2003, and today we are further encouraging the use of such land. Our new planning guidance will help local authorities to release unwanted industrial land to be used for housing and other purposes.

We are using less land to provide the homes that people need. We are already doing that in London and the south-east, where we are providing for 1.1 million new homes on less land than the last Government set aside for 900,000 homes in 1997. We have added 19,000 hectares to the green belt, an area the size of Liverpool. Now I am proposing a new green belt direction that will further strengthen protection of the green belt. Local authorities will have to seek my endorsement for its development.

We also want more affordable homes in rural areas. For the first time we will allow local authorities to ring-fence land so that it can be used for rural affordable housing to meet local needs. Today I am announcing a review of the way in which existing home owners apply for planning permission for home improvements. The number of such applications has doubled in 10 years to more than 300,000, which has put additional strain on the planning system. I believe that we can reduce the

*[Mr. John Prescott]*

amount of red tape and make the planning system more effective, while still safeguarding the rights of neighbours and protecting the environment.

In parts of the north and the midlands, long-term industrial decline and people's changing aspirations have led to low demand for housing. Some 850,000 properties are affected, the value of people's homes has been devastated, and communities have been undermined. We are investing £1.2 billion in nine market renewal pathfinders to help lift housing markets in many of the worst affected areas. That investment could also attract billions of pounds of private investment.

I am making £65 million available to new areas such as Tees Valley, West Cumbria and West Yorkshire to tackle their problems of low demand. The plan offers more fairness, opportunity and choice to our 4 million social housing tenants. We are providing more affordable homes, more decent homes, more choice in regard to where people want to live, more help with jobs and housing and more opportunities of home ownership.

Following the recent spending review, we will provide 75,000 new social rented homes over the next three years. By 2008, we will have doubled our annual investment in new affordable housing to £2 billion since 1997. That is in addition to the £18 billion that we have invested in the improvement of our existing social homes since then, to correct the disinvestment incurred by the last Administration. Over 1 million people have benefited: many have new kitchens, bathrooms and central heating. I realise that the houses are not new, but they are certainly new homes to the people who live in them.

We aim to halve the number of households in temporary accommodation within five years, and we are on track to meet our commitment to bring every social home up to a decent standard by 2010. We are making available £500 million in new private finance initiative credits to allow local authorities to work with housing associations and the private sector to build new affordable homes. We are offering social tenants more choice to rent or buy, and we have already improved tenant participation considerably. We are offering tenants more information and more involvement in the decisions that affect their homes.

Local authorities such as Newham and Sheffield have been running choice-based lettings schemes, which have been very popular with tenants. Now I want to work with all local authorities to expand choice-based lettings, so that we can create a national system by 2010. I want the system to include housing associations and private rented homes. It would give information not just about renting, but about the cost of buying a share in a home, and it would give more people a chance of finding a decent home with employment. So we are establishing a new scheme called MoveUK, which will help tenants to find a new job as well as a home. MoveUK will extend our existing location schemes to help tenants find a new home and a better quality of life in another area. We are offering social tenants more choice and more opportunity. Our plan means that local authorities will continue their excellent work in delivering the decent homes programme and continue to invest in new social housing, while offering more choice, managing housing better and using their land for low-cost homes.

We know that many social tenants want to own a share in their own home. Since 1970, home ownership has increased from 50 to 70 per cent. and has continued to grow in every region. Average interest rates are half what they were under the previous Government. Cheaper and more stable mortgages have enabled over 1 million more people to buy their home under this Government, but there are still many more who want the opportunity to own a home. By offering more people the chance to own, or to buy a share in, their home, we will widen opportunity and narrow the wealth gap between those with housing assets and those without.

The House will be aware that 80 per cent. of social tenants already have the right to buy their home. The right to buy and the right to acquire will continue to be available. They have helped to boost home ownership, but have led to the loss of 1.8 million homes from the public sector, at a cost of £40 billion in discounts. I have capped the level of discount in 41 areas of housing crisis, but elsewhere, the right to buy still gives a discount of up to £38,000 for each home and the right to acquire a discount of up to £16,000. On average, it costs us £75,000 in grant to replace each home sold. I asked Baroness Dean to chair a taskforce, which made recommendations on how to promote sustainable home ownership while protecting the social housing stock. I am grateful for its valuable work and for her recommendations.

Today's new five-year plan offers a comprehensive package of schemes to help social tenants and first-time buyers to become home owners. We have two different approaches: HomeBuy, which will offer up to 300,000 council and housing association tenants the opportunity to buy an equity share in their home at a discount; and the first-time buyer initiative, which, together with our key worker and other low-cost home ownership schemes, will help 80,000 families into a home of their own by 2010.

HomeBuy is significantly different for several reasons. It will protect the social housing stock—we consider that essential—because social landlords will have first refusal to buy the home back if the owner moves on to the private sector. It will help more people—up to 300,000 tenants—and it will be more cost effective. We will consult on a range of options for discounts, up to the level of the right to acquire. Moreover, tenants will be able to buy as little as half their home, increasing their share over time if they want to. That will be particularly helpful to tenants who are unable to afford, or who do not have, the right to buy. Unlike the right to buy, HomeBuy will treat local authorities and housing associations equally, allowing both to retain full receipts from the sale of homes and thereby creating a level playing field.

Today's housing plan will widen the opportunity to own or to part-own. In addition to our HomeBuy scheme, I am announcing, as I mentioned, a radical new first-time buyer initiative. Our key worker programme has already helped more than 13,000 key workers such as nurses and teachers, who have been priced out of the housing market. The new first-time buyer initiative will help even more key workers and people on low incomes who cannot afford to buy a home. When they are ready

to move on, the social landlord will have first refusal to buy the home back, so that it can be offered to another first-time buyer. The scheme will use surplus public land for new homes. The first-time buyer will pay a price that reflects the cost of construction, and the public sector landowner will keep a share that reflects the value of the land. In due course, the first-time buyer will be able to increase their share up to full ownership, if they want to.

To begin with, the first-time buyer initiative will use land owned by the Government and their agencies, but I want to encourage other public and private sector landowners—in urban and in rural areas—to use their land for new affordable housing. We have been encouraged by our talks with the Council of Mortgage Lenders about how the private sector can support and extend the initiative. Separating the cost of land and the cost of construction through the initiative will be a big help in driving down the purchase price for the home buyer, but we still need to reduce construction costs, which have gone up more than three times faster than retail price inflation in recent years. Such costs are certainly higher than in other European countries.

I have said that it is possible to build a home for £60,000. Apparently, that was a controversial statement, but now it is clear that it is possible. So I am asking English Partnerships to hold a competition, challenging the contractors and house builders to produce a well-designed, environmentally efficient home for £60,000 without sacrificing safety or quality. Next week at the sustainable communities summit in Manchester, English Partnerships will exhibit a house that shows that high standards can be delivered at low cost—*[Interruption.]* I invite the hon. Members mumbling below the Gangway to come and see it.

The five-year plan is the next step in creating sustainable communities—mixed use, mixed tenures, designed to the highest standards, using less land to build more homes and helping thousands of key workers and first-time buyers to get a home of their own. It means more homes and more home ownership, with extra help for first-time buyers. The five-year plan offers choice for all; fairness for all; opportunity for all; homes for all; and homes for all in sustainable communities. I commend this statement to the House.

**Mrs. Caroline Spelman** (Meriden) (Con): I appreciate the apology that the Deputy Prime Minister gave, but I had only just about enough time to count the 20 pages of his statement.

We need to be clear that the statement is necessary because of the crisis in housing—a crisis that has spiralled out of control and is largely of the Government's own making. Under this Government, homelessness has increased by a third, and record numbers of people are living in bed-and-breakfast accommodation. It is disingenuous to single out families with children, because overall the number is a record. The amount of social housing being built has nearly halved and the resultant hike in house prices has taken home ownership beyond the reach of a whole generation of young people.

The stealth taxes introduced by this Government have had a disastrous effect for first-time buyers. The 70 per cent. increase in council tax, the extra £1,200 stamp duty facing the average first-time buyer and the abolition of mortgage tax relief all combine to make home ownership a near impossibility for hundreds of thousands of people each year. The Halifax review, published on Saturday, could not have been more damning, as it showed that nine out of 10 towns are now unaffordable for first-time house buyers.

Perhaps the Deputy Prime Minister could start his reply by offering an apology to all those people who took the Prime Minister at his word when he claimed to understand

"the very human aspiration to own your own home".

There are two key themes in this statement: the proposal for a pale imitation of right to buy for housing association tenants, and the Deputy Prime Minister's scheme to produce £60,000 houses on public land. That is ironic, given that in 1995 the Housing Corporation funded the provision of nearly 17,000 low-cost homes, whereas under Labour that has fallen to fewer than 3,500.

I have to admit some surprise at hearing what the Deputy Prime Minister had to say on the sale of equity in social housing. At the last Labour party conference, he declared that housing association homes were "not for sale". He said that

"it ain't going to happen".

Well, now it is being spun in the media that it is going to happen. His Minister of State said this morning that people could buy an equity share. Will the Deputy Prime Minister clarify whether that will be up to 100 per cent.?

This statement represents not so much a change of heart as a change in who has control over the Government's housing policy. The Chancellor of the Duchy of Lancaster, the right hon. Member for Darlington (Mr. Milburn), is well known as an admirer of the long-established Conservative policy of allowing housing association tenants to buy their homes, and the Deputy Prime Minister has consistently been opposed to it.

Let us look at the implications for housing association tenants. Are not the Government guilty of treating housing association tenants as second-class citizens by limiting their right to buy equity? Did the Deputy Prime Minister really mean that they could buy as little as a 50 per cent. stake in the equity of their home—or will that be the minimum threshold? On a practical level, will he confirm that housing association tenants who have bought an equity share will have to secure permission from the charity or association before doing any work on their homes? Will that not effectively remove one of the main advantages of home ownership?

I must say that if I were a housing association tenant, I would be pretty confused about these proposals. Will such tenants have the right to buy on the same terms as council tenants? If they will, why do the Government not just adopt Conservative proposals for a full right to buy and the right to shared equity all the way up to 100 per cent.?

As for the associations themselves, the proposal denies them the significant capital receipts from outright sales that are crucial if they are to invest in new stock. What measures will the Deputy Prime Minister implement to deregulate housing associations, because without more freedom and flexibility, they will simply

*[Mrs. Caroline Spelman]*

find themselves with a declining asset base without the flexibility to respond that our policy would give them? Conservative Members have pledged to reduce the eight regulatory regimes that oversee housing associations and reduce the costs imposed on them by the Government so that they can invest and innovate to generate new housing stock.

Let us turn to the other principal aspect of today's announcement: the provision of cheap houses for key workers. How does the Deputy Prime Minister define "key worker"? Just recently, I received a letter from a nurse who works in a GP practice, yet does not qualify for the Government's much-vaunted key worker scheme. Surely that is absurd.

How can the Deputy Prime Minister explain the inconsistency between the Chancellor's plans to sell off land in public ownership and his plans to build cheap homes on that land? By the Government's own arithmetic, the market value of the land will be about £71,000 per plot, so building 60,000 key worker homes—the figure touted in the press—under the scheme on publicly owned land will mean that the Treasury will forgo £4.2 billion of asset sales that were already pencilled in over the next few years. That represents a sizeable chunk of the total asset sales identified by the Lyons report, and it will create an even deeper black hole in the Government's finances, which could only be bridged with more third-term tax rises. Why are the Government obsessed with building key worker ghettos on public land when good shared equity schemes can make good-quality homes affordable for all?

Up to now, the Government's sole answer to the housing crisis has been to concrete over more and more green fields in the vain hope that supply will eventually match demand and bring house prices down. Today's announcement is essentially an admission that that approach, on its own, is doomed to fail. How can the Deputy Prime Minister expect to be taken seriously on the green belt? He has expanded it in areas where, in the words of the House of Commons Library,

"development pressure is not greatest,"

while allowing more than 170 permissions to concrete over the green belt. How can he possibly portray himself as the "guardian" of the green belt?

Yet still, the Deputy Prime Minister is determined to steamroller ahead with plans to impose massive housing targets on the countryside. The statement advocates again sustainable communities. What does he understand by the word, "sustainable"—surely not slapping down hundreds of thousands of new homes in a region of the United Kingdom that has 30 per cent. less water resources than 10 years ago?

There are many ways in which the Government can help people to get on to the housing ladder, but the statement misses nearly all of them. A five-year-plan, published probably just months before a general election, will fool no one. It is merely another example of the Government talking the talk to hide eight years of complacency and failure to act. Today's announcement is a fudge and a hastily assembled compromise that will do little to help the increasing number of people who are priced out of the housing market. If ever there was a case of too little, too late, this is it.

**The Deputy Prime Minister:** It is a great pity that the hon. Member for Meriden (Mrs. Spelman) does not do the research to substantiate her allegations. As for a housing crisis, I do not think that anyone doubted that there was one in 1997 when we came to office. There was negative equity, the public sector had been robbed of 1.8 million houses—*[Interruption.]* Can you shut up for a second while I explain the position? *[Interruption.]* I am talking to the hon. Member for Meriden.

When we fought the election in 1997, one of the major concerns was the crisis in housing caused largely by boom and bust in the economy. Housing paid the price. Housing investment in the last five years of the previous Administration was slashed by half; it has doubled under ours. The lowest amount of house building for decades occurred at that time. Please do not tell me that there was not a housing crisis and a problem of credibility.

The hon. Lady talks about the council tax and says that we increased it by 30 per cent. in real terms and that, in the four years before we came in, they had cut it by 7 per cent. That is just untrue. Those are some of the facts that she must consider before making accusations in the way that she has.

The hon. Lady talked about building on brownfield land. We have increased that from 57 to 67 per cent., whereas the previous Administration argued whether they could go to 60 per cent., as anybody who remembers the debates in 1997 will know. We have done very well.

On housing density, if the hon. Lady is concerned about the south-east, surely the Conservatives should have raised the density levels required in the south-east in the way that I did—from 25 to 30 per hectare, and it is has now gone up to 35. Therefore, the extra 200,000 houses in our programme can be built on the same amount of land as she planned for 900,000. Using land more efficiently and using brownfield is the way to proceed, and that is exactly what the previous Administration did not do.

On the housing association capital receipts that the hon. Lady mentioned, the housing associations will receive, as they did before, the full receipts. In fact, I have gone a little further. It has always been a common complaint that local authorities are not treated the same as housing associations in regard to capital receipts returns from the sale of homes. On this occasion, we are now giving the returns to the local authorities so that they, like housing associations, can have the full receipts from the sale of homes. That creates the level playing field that I have constantly been asked for.

The hon. Lady will know that council receipts are something like £2 billion this year. According to the Conservative party's policy document, that will be used in all other housing investment areas. She should talk to the shadow Chancellor, because he presumes that the £2 billion that is used at present will be available to him when he calculates the costs. Again, the figures do not add up.

The hon. Lady has a cheek to talk about capital receipts, because the previous Government held back capital receipts. They did not even allow local

authorities to replace the housing that was being taken out of the public stock. Indeed, one of the first things that I did when I came to office was to get hold of those capital receipts and begin to improve the stock of all the 2 million houses that were not of a decent standard. In those circumstances, she should look at the consequences of her policies, least of all now that the James report seems to suggest that the Conservatives will slash another £500 million out of the housing programme. When they launched their programme in November, they probably did not tell her that the James report was coming out in January and would effectively slash her proposals in the new housing document.

I thought it was quite offensive when the hon. Lady talked about key worker ghettos. *[Interruption.]* Did the hon. Lady say that? Did she say that? We introduced a key worker policy when there was not one under the previous Administration, and I have seen an example of it today in Ealing. It is a tremendous development built by both the public and private sectors, and I talked to one of the ladies there. She was absolutely delighted, because she could not have paid the full price. Some 40 per cent. of tenants and key workers in that area are in that position and no one would describe it as a ghetto. I suggest that the hon. Lady go out and have a look at it. The record of the previous Administration was deplorable. They created the crisis and now she is saying that, although everybody agrees that we need more houses, we do not want them in the "nimby" south-east. People in that area do want houses and we will provide precisely what is wanted.

**Mr. Edward Davey** (Kingston and Surbiton) (LD): I thank the Deputy Prime Minister for the statement. Although it was inconvenient not to have a copy much beforehand, there have been so many leaks in the press that much of what he said was hardly news.

May I, unusually, congratulate the Deputy Prime Minister on one thing: his victory over the Chancellor of the Duchy of Lancaster? I welcome the fact that, with his proposed HomeBuy policy, the Deputy Prime Minister has effectively adopted the Liberal Democrat right to invest policy for housing association tenants. Is he aware that the Minister for Housing and Planning wrote to the Liberal Democrats last April expressing interest in our proposed right to invest, which is strikingly similar to HomeBuy? Does he recognise that such schemes can both help people on to the ladder of home ownership and protect the future of social housing? Will he give an assurance that, under HomeBuy, housing associations will be able to reinvest all capital receipts in new social housing?

Given Britain's affordable housing crisis, is not the real challenge to build more homes, not to cut funds going into housing, as the Conservatives propose? Will the right hon. Gentleman confirm that there are serious doubts about the legality of extending the right to buy to housing associations, as many are charities and few are owned by the Government? Does he agree with the National Housing Federation that it would cost the taxpayer about £1 billion a year to subsidise the sell-off by housing associations and undermine their future ability to build the social housing that we so desperately need?

On the Deputy Prime Minister's proposal to use surplus public sector land for new home building, are not his plans rather timid and cautious? Why has he failed to secure more land from Departments such as Defence and Health? Why is Whitehall clinging on to so much unused land when people are crying out for affordable homes? Why has he limited his scheme to Government land ownership? Why is he not prepared to co-operate with the mutual sector and establish new community land trusts that could ensure that the land was properly used for new homes?

During the passage of the recent Housing Bill, ODPM Ministers eventually accepted our arguments for new powers to tackle the scandal of empty homes. When reusing empty properties offers a cheap, fast and sustainable way to provide affordable housing, why are the Government dragging their feet on the regulations needed to introduce those new powers?

On homelessness, will the right hon. Gentleman confirm that his new target to halve the number of homeless households in temporary accommodation by 2010 will simply take us back to the numbers inherited by Labour in 1997? Is he proud of that? Will he reassure the House that the target will not be met by changing the definition of "homeless", as some have proposed?

It has taken the Government far too long to wake up to Britain's affordable housing crisis. Although the Deputy Prime Minister has done well to resist the Minister for the manifesto, his strategy falls far short of the new approach that Britain's families need.

**The Deputy Prime Minister:** I repeat: do not believe everything you read in the press. I say that constantly. The hon. Gentleman can be assured that I do not talk to the press. I can't stick 'em, frankly. Did they get that right? The hon. Gentleman should judge by the statement that I made today, not by the tittle-tattle he gets in the press. I have made a balanced judgment about what is the best policy.

As for adopting Liberal policy, why is it that whenever Liberal Democrats see something similar to their thinking they automatically call it Liberal policy? The hon. Gentleman referred to a proposal for dealing with empty homes. That came from the Empty Homes Agency. He is a jackdaw, pinching one of the agency's ideas and claiming it for the Liberals. It does not matter how many times he proposes different policies, because he is never going to be in power to implement them. He has the luxury of being able to say what is popular without doing it.

The hon. Gentleman made a number of serious points that I will address. Receipts will be kept by local authorities. The hon. Gentleman will recognise that that is a new departure. Housing associations will be able to do that for social housing. That is absolutely right. I do not think that my thinking should not stop there, but it is an interesting step towards levelling the ground.

I recognise the point made by the hon. Gentleman. I do not think that the hon. Member for Meriden (Mrs. Spelman) does that there was tremendous controversy when the previous Conservative Administration tried to introduce the right to buy in housing associations. That is why we ended up with the right to acquire and the legislative problems that went with it—the proposals were thrown out by Conservative Members in the House of Lords, if I recall correctly. We will wait and see what happens. The Conservatives can

*[The Deputy Prime Minister]*

forget about the past and propose something for the future. They can ignore the fact that they gave us the housing crisis that we are trying to deal with now.

I agree with what the hon. Member for Kingston and Surbiton (Mr. Davey) said about land. I hope that he will understand that I had arrived at the idea before I heard what he had to say about what should be done with land. Land is an important factor—the more of it we own, the better. He will have noticed that I have bought 100 plots of land—or rather, the Government have—from hospitals. I had better get that right in case somebody goes to the Register of Members' Interests. I have bought more plots from the Ministry of Defence and I am in the market to buy many more through English Partnerships, which acts as the agency. The aim is to increase the amount of land that is available and to use it much more effectively.

I do not accept what the hon. Member for Meriden seems to want to do, which is to get a quick buck by selling off land. Perhaps we should own the land and use it much more effectively than at present, so that the price of land does not mean that the cost of the house increases. There is another factor. I have found myself constantly asking my right hon. Friend the Chancellor of the Exchequer for more subsidies for the housing programme. Prices were being forced up as a result of increases in land prices—land that was often sold at the market rate by Government Departments. We have shown that it is far better to change that policy. This does not include every piece of land that is owned by the Government, but certainly some of it. If we build houses on that land, we will separate the land from the construction price, with mortgages relating to the building. There is an equity share. I do not think that this approach has been proposed before. However, I have done it, and I think that it makes a lot of sense because prices have increased so much that it is beyond the ability of many to purchase, even if they want to. It is common sense for the community to use its land in the way that I have described to provide housing.

At the same time, the land and the house return to the public sector. They will not be lost to the public sector. People can use this as a first rung on the ladder and then move on to the private sector once the increase in the value of the land is available for a deposit. I am also giving that right to social tenants. There were tenants who could not afford the full market price or the right to buy. A greater opportunity will be presented for these people to get a house. We all know that having a house and owning an asset makes a difference to our quality of life. Many people borrow against it and the growing differential in wealth is between those who have houses and those who do not. What we are proposing will make a change.

**Mr. Kevin Barron** (Rother Valley) (Lab): My right hon. Friend knows that in the Yorkshire and Humber region 10 years ago, only about 7 per cent. of first-time buyers paid stamp duty. Now, more than 70 per cent. of first-time buyers pay stamp duty. It is rumoured in today's press that the Chancellor of the Exchequer will consider that before making his pre-Budget statement. Is the Deputy Prime Minister prepared to add his support to introducing a rebate on stamp duty for house buyers who invest in energy efficiency measures, as proposed in my private Member's Bill? That would not only help first-time buyers to get into the market but assist the Government in hitting their climate change programme targets.

**The Deputy Prime Minister:** I appreciate the point made by my right hon. Friend. I say to him, as anyone would on the Treasury Front Bench, that judgments about tax changes are best left to my right hon. Friend the Chancellor.

I understand the difficulties about stamp duty and I know how strongly people feel about it, but it still represents only about 1 per cent. of the total purchase price. My priority is to get construction prices down so that people can afford to buy a house. Taxation matters will be dealt with by my right hon. Friend the Chancellor.

**Mr. David Curry** (Skipton and Ripon) (Con): Has the Treasury changed its policy on the disposal of public assets? Until now, public bodies have been required to get best value from the sale of property. If that is no longer true, that could affect their ability to raise money for use in, for example, the health service. Will they be compensated for that? The Deputy Prime Minister said that as little as 50 per cent. could be bought. Is that intended to be the minimum purchase? If that is purchased at a discount, people will sell it, by definition, at market value, otherwise there is no point to the scheme. The housing association might well find itself constantly repurchasing at market value to own the same house. Given that only 30 per cent. of those who live in housing association properties are in work, is that a realistic proposition?

**The Deputy Prime Minister:** As usual, the right hon. Gentleman makes a serious point. He is thinking about the transferability of value, which will obviously be part of the debate. We do not envisage that happening, but we are issuing a consultation document. We will pay serious attention to the point. In regard to best value land, the matter is agreed with the Treasury. That does not alter the fact that most of the land will still be operating under best value. It is interesting to consider whether it is best value for the community for people to get a home. At the end of the day, if we go for best value in everything, what happens is that the land is sold at a very high price and houses are built on it. The people who provide the social housing that is included in the mix through section 106 come to me and say, "Look, if you want this, given the cost of land and housing, you will have to pay a subsidy." In some cases, grants for key worker homes are up to £80,000. This is ever escalating. I think that there is a better way of doing it, instead of fuelling market prices by selling land at the top price.

**Laura Moffatt** (Crawley) (Lab): I welcome the proposals in today's statement, especially as they give local authorities a level playing field. I congratulate my right hon. Friend on the relinkage of jobs and housing which, just as the 1947 Labour Government did with the new town project, gives people opportunities through a job and a home. Does he agree that many people, particularly in the Conservative party in West Sussex, do not want to make sure that everyone still has a good

chance of a home? They have turned their backs on many people who desperately need houses and embraced silly rhetoric about concreting over the south-east. They are not getting down to the real issue and good young families cannot secure housing in West Sussex, because those people are happy to treat the matter as an election issue.

**The Deputy Prime Minister:** Sustainable communities are not only about building housing but providing the supporting infrastructure in education, health and transport systems. The extra investment that we are putting into the new growth areas does precisely that and will also be critical in providing jobs. Our approach to new towns reflected that and our new community growth areas will certainly do so. I have mentioned the possibility of giving more information to people who are considering moving to a different area. They might want to move from my hon. Friend's constituency up to Hull, where houses and jobs are available. We will therefore provide more information, as it is important to connect jobs as well as housing to quality of life. Too often in the past, we have given people houses, but there were no jobs, so we had to pay housing benefit, and those people just existed. That was the policy, in particular, under the previous Administration.

As for the Conservatives' arguments about concreting over the south-east, the fact that density has increased and that I can build 200,000 more houses on the same land on which they envisaged 900,000 suggests much more effective land usage. We can build more houses without taking any more land. That is an intelligent approach to the housing problem. The previous Administration got into a mess because they did not have any commonsense policies.

**Sir Teddy Taylor** (Rochford and Southend, East) (Con): Does the Deputy Prime Minister agree that it will cause misery for the whole population if extra houses are provided in already overcrowded areas without the provision of additional facilities such as roads and health services? Does he agree that, in Southend, where we have a serious housing problem and a large number of houses in multiple occupation, providing additional houses would simply make the already appalling traffic congestion worse unless the Government make provision for the ring road that we have needed for a desperately long time?

**The Deputy Prime Minister:** The hon. Gentleman makes a good point. In the growth areas, including the Thames gateway near his constituency, we are putting those things together. However, he raised the problem of growth in established towns, and the question of whether facilities will be available to make that growth sustainable. I announced today another £40 million for growth areas that require such investment if they are to be sustainable. The transport infrastructure fund that we announced was intended to ensure the proper investment necessary for sustainable communities, so that more and more people are not packed into an area where the services cannot carry them. It is a serious point, and we are addressing it.

**Peter Bradley** (The Wrekin) (Lab): The Deputy Prime Minister mentioned the problem of sons and daughters who cannot afford to live where they were brought up. That is certainly the case in many rural communities in my constituency and elsewhere. Does he acknowledge that the issue is not just how many new homes are provided, but where they are provided? Does he accept that the sequential test has the unfortunate consequence of directing the provision of affordable housing to market towns and often away from the villages where it is desperately needed? Will he review his policies and draw up proposals to remove the barriers to the provision of affordable housing in rural communities, where there is support from the community? That is the only way to guarantee their sustainability.

**The Deputy Prime Minister:** My hon. Friend makes an important point about the distribution of housing, particularly in rural areas, whether in market towns or villages. There is a responsibility on the Housing Corporation and now the regional housing boards to achieve a balance in the amount of housing and where it is situated. As regards rural areas, I proposed in my statement that local authorities that have land should start ring-fencing it to ensure that the homes are affordable to people who live in the area. We hear in the news that some planning bodies have decided to restrict houses being built in the area. That will not help the people who live there. All it will do is restrict the existing problem. The previous Administration introduced the right to buy in some rural areas, with the restriction that the homes should be sold only to people who live in the area. As I learned from visits to the Lake district and other areas, the house is indeed sold to someone who lives in the area, but usually a wealthy person who wants the property as a holiday let. It does not necessarily go to the young person with a job who wants to stay in the area. We have started introducing some restrictions, but the rural case is important. My proposal today to local authorities is that, if they have some land, why do they not consider providing houses at a price that people can afford, so that they can live in the area, help towards its prosperity and maintain the sustainability that comes from a family living together?

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): May I ask the Deputy Prime Minister for clarification? Page 7 of his statement, in subsection C, on HomeBuy, states:

> "And tenants will be able to buy as little as half of their home, increasing their share over time if they want to."

Is that up to 100 per cent.?

**The Deputy Prime Minister:** Yes, it can be to 100 per cent. if tenants so wish, but eventually they may want to buy the house or move on and use the value from the house to buy one in the private market. There were similar schemes previously which allowed that. The difficulty is knowing whether the share should go below 50 per cent. As the hon. Gentleman knows, in these circumstances there are always difficulties with accepting responsibility for maintenance, particularly in the low income groups for which the policies are designed.

**Mr. Frank Dobson** (Holborn and St. Pancras) (Lab): May I congratulate my right hon. Friend on resisting the advocates of extending the right to buy to housing association tenants, with the damaging effects that that would have had in areas of high housing need? May I also congratulate him on reasserting the point that providing people with somewhere decent and permanent to live takes a higher priority than the right to buy?

**The Deputy Prime Minister:** I am grateful for my right hon. Friend's comments. Having read the press reports, I do not confirm that there was a battle going on about that at all. It made for good, exciting press chat—*[Interruption.]* Well, nobody quoted anybody who said anything. It was always attributed to a high source, a low source or some other source, but never an actual quote of anybody saying it. It was one of those media battles. The priorities that my right hon. Friend mentioned and the importance of getting houses to people who need them are what concentrate my mind.

**Hywel Williams** (Caernarfon) (PC): I welcome the Deputy Prime Minister's statement with its support for Plaid Cymru's long-standing policies of extending shared equity, separating the costs of houses and land, and ring-fencing land in rural areas for low-cost housing for local people, but could he tell the House who described those policies last month as being spiteful, desperate, extreme and on the margins of politics? I see that the Deputy Prime Minister is puzzled, so perhaps I can extend to him a kindness and whisper the name of the rightly obscure deputy social justice Minister in the Welsh Assembly Government, Mr. Huw Lewis. What will the Deputy Prime Minister do to inform this personage of this latest policy flip-flop?

**The Deputy Prime Minister:** Who is he? As a Welshman, I find that I can get into enough trouble going into Wales and getting involved in Welsh politics, without getting involved in that here. Let me quote what Jim Coulter, chief excutive of the National Housing Federation, said today about the plan. He said:

"Right-To-Buy is unrealistic and extending it is an irrelevant policy. If the government comes forward with social home-buy, this will provide more choice for tenants and allow for investment in sustainable communities."

Shelter has equally come out in support of the measure. It makes the point that we need to build far more houses to deal with the real problem of supply and demand, but anyone who understands the problem will know that it will not be solved in two or three years. However, we are moving in the right direction. I will leave others to judge whether I have pinched one of the Welsh nationalist policies, but at least we appear to agree.

**Mr. Stephen Pound** (Ealing, North) (Lab): I thank my right hon. Friend for his visit to Ealing this morning and assure him that he has made many new friends in Northolt, including Sharon Williams, the young woman whom he referred to obliquely earlier. When the Conservative Front-Bench spokesman uses expressions such as "key worker ghetto", immense offence is caused to police officers, teachers and health workers, such as those whom my right hon. Friend met today. Will my right hon. Friend say from the Dispatch Box that those of us on the Labour Benches talk about key worker communities, and never ever ghettos?

**The Deputy Prime Minister:** I very much agree with my hon. Friend and I was pleased to make that visit with him this morning and to meet Sharon Williams, who was delighted to have an equity share in her home, and she expressed it forcefully. She will react strongly to being described as living in an area called a key worker ghetto. That language is offensive to people who desperately want a home in a decent area—something that was not provided by the previous Administration.

**Mr. Philip Hammond** (Runnymede and Weybridge) (Con): Why?

**The Deputy Prime Minister:** The hon. Gentleman asks why. *[Interruption.]* The hon. Gentleman says that they want to live in a proper community. If he does not think that the place that I visited this morning was a good community, and certainly not a ghetto, I invite him to go and look at that joint public-private project that is building a wonderful sustainable community, with all the facilities that are needed and the jobs, and the hon. Member for Meriden will have to withdraw her remark. It is not a key worker ghetto, by any stretch of the imagination.

**Mr. John Maples** (Stratford-on-Avon) (Con): May I take the Deputy Prime Minister further down the avenue opened by the hon. Member for The Wrekin (Peter Bradley) about the shortage of housing in rural areas, particularly in villages in the southern half of the country where the price has been driven up by demand from outsiders for attractive properties, perhaps for first homes but often for second homes? What he has announced today may well help in market towns, but I do not think that it will help in villages, which often need small schemes of five to 10 units, administered by a local housing trust and available only to people with a strong connection with the area. That often makes sense for a local landowner, who, even if he does not want to give the land, could sell it for more than its agricultural value, although obviously less than its full development value. It makes sense for everybody. It is permissible under planning guidance, but does the Deputy Prime Minister think that more could be done to promote and encourage such schemes?

**The Deputy Prime Minister:** I do think that more could be done, and I hope that we can begin to encourage such thoughts rather than people rejecting the use of land in such ways. I am not talking about large developments, or even medium-sized developments of 50 to 100 houses, but of plots that would take two or three houses. A youth hostel in the Lake district that I visited recently had a piece of land that it wanted to put three or four houses on, two for workers at the hostel and another two for people from the village. It was denied permission by the planning board, and I thought that that was particularly stupid. If we consider such land, we can provide more housing, albeit in small parcels. Asking local authorities to consider such land

use along with my ideas about producing cheaper housing might help in the rural areas, and we will do what we can to achieve that.

**Vera Baird** (Redcar) (Lab): I strongly welcome the allocation of a share of £65 million to Tees Valley for housing market renewal, which will help with regeneration that is sorely needed in wards such as Grangetown and South Bank in my constituency. As my right hon. Friend will be aware, the Tees Valley authorities have set up Tees Valley Living to plan some regional regeneration and we are, as it were, ready to go now the allocation has been made. When may we know what share of the £65 million will be ours? To enhance progress, can it be paid straight to Tees Valley Living, rather than through the regional housing board? Granted that the pathfinders originally got an average of about £60 million and our problems in Tees Valley are deep, I hope that, in the end, we will not be treated as Oliver Twist was if my colleagues and I are obliged later to come and ask for yet more.

**The Deputy Prime Minister:** I think that the announcement will be shortly, and that the money will go direct to the pathfinder, as it is the pathfinders that are playing that part. Without indicating the conclusions that we have come to, I hope that that may play a part in the development of my hon. and learned Friend's area.

**Mr. Adrian Sanders** (Torbay) (LD): The Deputy Prime Minister referred to the planning system as the mechanism for making more land available for new homes. How much land is that likely to realise and how does that arrangement compare with the idea of land value taxation as a way of releasing more land for development?

**The Deputy Prime Minister:** I do not know precisely how much land would be available. Certainly, there is more than enough for the resources that I have to be able to purchase to utilise in this way. I shall write and give the hon. Gentleman a more informed opinion, if I can, and tell him exactly where we are in purchasing in these matters. It is often difficult comment because we are the middle of commercial contracts, and I hope that he will understand that, but I will write to him.

On the hon. Gentleman's second point, Barker made some interesting comments and I cannot help feeling sympathetic. Public investment often creates an awful lot of value for other people, but not the community. There is a good argument, but we said that we would report back on the Barker recommendations in the autumn.

**Mr. David Drew** (Stroud) (Lab/Co-op): My right hon. Friend was wise to ignore the siren voices calling for the right to buy for housing associations, because more than anything, it would have done enormous damage to the exceptions policy in rural Britain. Does he accept that there is a need to look for innovative schemes in rural Britain and particularly at the idea of the community land trust, which was mentioned from the Liberal Democrat Benches but has come from the co-operative movement? Will he look carefully at the sites that he has made available through his deal with the Department of Health, because many of them would be appropriate in looking to take forward that type of exciting scheme?

**The Deputy Prime Minister:** Yes, my hon. Friend is absolutely right. As I understand it, we are exploring the possibilities in his constituency. When I looked at the amount of land being sold by the Department of Health, I saw that it was in plots. There were large amounts and small amounts spread throughout the United Kingdom. We are looking at the possibilities in using that land and to see how we can put houses on it and meet the real need that exists, particularly in rural areas.

**Sir George Young** (North-West Hampshire) (Con): The Deputy Prime Minister said in his statement that we also want more affordable homes in rural areas, and he is absolutely right. Why then has he made it more difficult for local authorities in rural areas such as Test Valley to do exactly that, by unilaterally ending the programme funded under local authority social housing grant, funded out of their capital receipts, which has resulted in a decimated programme of affordable homes? Will he reconsider that decision and reintroduce that programme?

**The Deputy Prime Minister:** The view that we took in the Department was that the programme was an inefficient way of dealing with the matter, and we put more resources into doubling the investment. As the right hon. Gentleman knows, he was in a Government who halved that investment over a period, which was certainly not very helpful to his rural constituents.

**Ms Karen Buck** (Regent's Park and Kensington, North) (Lab): I congratulate my right hon. Friend on the careful balance that he has struck between promoting home ownership, improving housing conditions and meeting housing need. Does he agree that London has 60,000 homeless households and 500,000 children in chronically overcrowded accommodation in large part because of the halving of the number of social homes during the past 20 years, which has led to the absurdity of councils re-renting ex-right-to-buy properties to house homeless families? Will he ensure that housing associations have not only an expectation, but a duty to repurchase the equity stake that they have sold, so that we retain social housing stock in all communities? We should not repeat the errors of the past, when the largest and most attractive homes in the best neighbourhoods were sold first, leaving the poorest concentrated in the worst housing.

**The Deputy Prime Minister:** My hon. Friend has consistently come to me to discuss the problems of housing, on which she is an acknowledged expert. She was one of the first to say to me that the right to buy was creating problems in her area. We made her area one of the emergency housing areas to deal with profiteering—people bought properties and made a profit by re-renting them out under different conditions. My hon. Friend knows that my right hon. Friend the Minister for Housing and Planning has been examining in new housing legislation how to keep the flexibility to judge whether an area is in housing crisis and whether we should take action.

*[The Deputy Prime Minister]*

My hon. Friend put her finger on the main point—insufficient social housing. If we doubled our investment in social housing, it would still be nowhere near enough to solve the problem. The amount of money that I get buys fewer and fewer units because of escalating prices, which was the problem with the right to buy—the properties cost an awful lot to replace and a lot of subsidies were given out in grants to pay for the policy. We are rightly changing that situation and making it clear that houses should remain in the public sector in those circumstances.

## Point of Order

**Mr. Nick Hawkins** (Surrey Heath) (Con): On a point of order, Mr. Speaker. Throughout the lengthy period in which the Gambling Bill was in Committee, the Government constantly made announcements and changed their policy. Only a few minutes ago, the Doorkeepers were trying to distribute a series of letters from the Government about further clarifications or changes of view to members of the Standing Committee, on which I served. It is ridiculous that on the very day the Bill is on Report, the Government have handed over not one or two letters, but in my case four separate letters announcing different views. I realise that the Government have a duty to inform hon. Members about matters raised in Standing Committee, but if the Government and those who support Ministers cannot get out a full set of papers to members of the Standing Committee any earlier, the business managers should not put the Bill on Report.

**Mr. Speaker:** Hon. Members often complain that Ministers do not keep them informed. The hon. Gentleman has reported to me that they are keeping at least some hon. Members informed, which is not something that I want to pursue.

# Gambling Bill (Programme) (No. 2)

4.33 pm

**The Minister for Sport and Tourism (Mr. Richard Caborn):** I beg to move,

That the Order of 1st November 2004 be varied by the substitution for paragraphs 4 and 5 of the following:

1. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption.

2. Those proceedings shall be taken in the order shown in the first column of the following table, and each part of those proceedings shall (so far as not previously concluded) be brought to a conclusion at the time shown in the second column.

| *Proceedings* | *Time for conclusion of proceedings* |
|---|---|
| Amendments relating to Clauses 7, 68, 85, 88, 161, 162 and 179; New Clauses NC7 and NC11; Amendments relating to Clauses 83, 89, 266 and 272. | Two hours after the commencement of proceedings on the Motion for this Order. |
| Amendments relating to Clause 58; Remaining proceedings on consideration. | One hour before the moment of interruption. |

3. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption.

The motion will ensure that in the time available, hon. Members can concentrate on the key issues in the Bill—casinos, bingo, charity lotteries and amusement arcades. I am sure that the key issues and the drafting amendments, which are designed to improve the Bill, can be debated adequately in that time.

**Mr. John Whittingdale** (Maldon and East Chelmsford) (Con): The Bill differs radically from its form on Second Reading. The Government radically changed its thrust in Committee, imposing limitations on the key provisions relating to casinos right at the last minute. Indeed, the biggest change was made on the final day in Committee, which allowed little opportunity to explore why the Government had made that sudden U-turn.

We are now faced with a Report stage that is programmed and limited to just one day. It is profoundly unsatisfactory that a Bill that has undergone years of consultation and scrutiny should suddenly be changed so dramatically at the very last minute, and then that the House of Commons should have so little opportunity to examine the changes that the Government have proposed.

The official Opposition will not vote against the programme motion, because to do so would limit even further the time that we have, but I want to place on the record the fact that we regard this situation as completely unsatisfactory. I have no doubt that when those in another place come to consider the Bill, they will take account of the fact that large chunks of it were not properly scrutinised by the House of Commons.

4.35 pm

**Mr. Richard Page** (South-West Hertfordshire) (Con): I would like to add to my hon. Friend's remarks. This Bill has been around, in various shapes and forms, for some four or five years. We had the Budd report, the White Paper, the pre-legislative scrutiny and then the Bill, which has been heavily amended throughout. The major concerns expressed by the Joint Committee regarding the planning advice were swept to one side with the claim that that was all firmly in place, but now, at the 11th hour, those changes are being proposed.

On Second Reading the Secretary of State did a somersault, or U-turn—call it what one will—that substantially changed the character and nature of the Bill. Then in Committee, after 300 clauses, with only 60 or so to go, and after numerous Government amendments and new clauses, the Minister produced the 888 policy. In my 28 or 29 years in this House, I had never seen a Standing Committee adjourn to debate a ministerial statement at the tail end of its proceedings. This has been a catalogue of mismanagement, order, counter-order and disorder. If I were a Minister or an official I would be extremely embarrassed that things should be in this state today.

I shall follow my hon. Friend the Member for Maldon and East Chelmsford (Mr. Whittingdale) in not taking too much time, because we want to get on to the amendments. However, I felt it right to register, for the first time, my views about a programme motion. Most programme motions are spurious, but this one represents an abuse of the House. It is an abuse of parliamentary procedure to bring forward on Report more than 90 Government amendments and some six new clauses, and allow us only until 10 o'clock to get through it all. I hope, Madam Deputy Speaker, that through your office you can express that concern in the appropriate quarters.

4.37 pm

**Mr. Don Foster** (Bath) (LD): Although the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) and I may have our differences later, I entirely agree with his remarks. I wish to place it clearly on the record that we formally requested that the Government allocate two days to the Report stage of this very important Bill, not least in the light of the large number of amendments that were tabled in Committee at the last moment, and that have been brought before us today.

As the hon. Member for Maldon and East Chelmsford rightly says, we do not wish to waste time debating the lack of time, so we will not oppose the programme motion, but we wish clearly to register our belief that the time allowed for the debate is completely inadequate.

4.38 pm

**Mr. Nick Hawkins** (Surrey Heath) (Con): I will be brief, for the reasons already given by my hon. Friends the Members for Maldon and East Chelmsford (Mr. Whittingdale) and for South-West Hertfordshire (Mr. Page) and by the hon. Member for Bath (Mr. Foster). I entirely agree that the whole passage of the Bill has been a mess.

*[Mr. Nick Hawkins]*

I want to make a specific point on the programme motion. If the Government had had the sense to listen in much greater detail to all, not merely some, of the recommendations made by the Joint Committee so ably chaired by my hon. Friend the Member for Ryedale (Mr. Greenway) and including my hon. Friend the Member for South-West Hertfordshire, they could have avoided a lot of the mess into which they have got themselves. One of the reasons why they had to make two such humiliating U-turns in Committee was that they were under pressure, which they completely failed to anticipate, from a media campaign and from some of their own Back Benchers.

However, that huge media campaign would not have occurred if the Government had simply stuck to the pre-legislative scrutiny Committee's recommendations. My hon. Friend the Member for South-West Hertfordshire would not then have faced the position that he described as unique in his parliamentary experience, which is much longer than mine.

It is inadequate that we have such limited time today. I do not want to take up more time, but I hope that those in another place will listen carefully to all that my hon. Friends the Members for Maldon and East Chelmsford and for South-West Hertfordshire, the hon. Member for Bath and I have said today. I hope that they will insist—as they have the right to do in another place, where the Government cannot so easily programme, guillotine and bulldoze things through—on proper scrutiny.

I predict that the Government will regret not acceding to the request of the official Opposition and the Liberal Democrats for two full days of debate. I suspect that there will be substantial rebellions in another place by Labour peers, especially those who have detailed knowledge of the industry. They will say, as I am saying, that the recommendations of the Joint Committee should have been followed and that, having performed all those humiliating U-turns and changes of policy, the Government are wrong subsequently to guillotine and programme the debate. By doing that, they are preventing the House from doing the job for which we were all elected.

The Government are introducing much new material, which will not be debated by the House. I therefore suspect that they will have genuine problems in another place. Once the other place has finished with it, we may end up with a Bill that is much closer to the Joint Committee's sensible recommendations.

4.41 pm

**Sir Teddy Taylor** (Rochford and Southend, East) (Con): It is not my habit to speak about such motions, because I know that, no matter who is in power, they must have some such procedure. However, I ask the Minister whether he genuinely believes that it is in any way reasonable to discuss 127 amendments, new clauses and Government amendments in one hour. That simply means that we will not have the slightest chance of discussing them all.

Some Members of Parliament represent seaside towns. For example, my constituency has many amusement arcades. The residents and the owners of the arcades had meetings with me and said that there were some questions that I simply had to ask the Government about amendments Nos. 106 and 109. They want to know, for example, whether and in what circumstances the Government would use the powers for which they are providing. Yet there is not the slightest chance of my being able to ask those questions. The second part of the selection list includes a long list of headings, including "Age limit", "Miscellaneous", "Lotteries", "Restrictions on gambling and gaming", "Gaming machines" and "Children". How on earth can we hold a reasonable discussion on 127 different amendments in one hour? It is not possible, and the proposition constitutes treating the House of Commons with contempt.

It is not as though we are dealing with a silly industry that does not count. The betting and gaming industry employs 82,000 people, and the income that it generated last year was £1.76 billion. The industry is huge, and important to seaside towns. Although I appreciate that there will be no vote, which I greatly regret, will the Minister say whether the Government would be willing to re-examine the matter and ensure that we have at least a quarter of an hour, or even 20 minutes, on some of the big issues? They are desperately important matters, which could have a serious effect on employment in seaside towns. I wonder whether the Minister, even at this stage, would allow half an hour or 20 minutes on some issues.

I hope that the Government appreciate that when many jobs are at risk—and the people who run the industries do believe that jobs will be at risk—the least we should do in the House of Commons is hold some sort of discussion and provide some opportunity for hon. Members to ask questions and find out why the Minister intends to proceed with some of the proposals. The time allowed for discussion makes the House of Commons nonsensical, and I hope that the Government will think again.

4.43 pm

**Mr. Caborn:** The Executive are accused of not listening to the House of Commons, and then we get accused of reacting to it. I have been a Member of Parliament for some 20 years, and I believe that if Governments of both sides had taken heed of the House, that would probably have made for better legislation. Therefore, that is exactly what we have done. On Second Reading there was clearly much concern in the House, and we responded to it. Yet when the Executive respond to that, we are accused of U-turns and back-downs; many such descriptive nouns are used.

If the hon. Member for Rochford and Southend, East (Sir Teddy Taylor) examines the programme motion, he will see that there are two hours, followed by the time until 9 o'clock, and then an hour for Third Reading. I believe that there will be adequate time.

We have indeed responded to all the issues of concern raised on Second Reading, and there has been some radical change. The hon. Member for South-West Hertfordshire (Mr. Page) argued that we used the facilities of the House to allow an Adjournment of the Standing Committee. Well, what is wrong with that? The House was flexible enough to be able to take into account the concerns that hon. Members had clearly expressed on Second Reading, and the Executive have

responded to them. A statement was made to clarify the position, which I believe is now more in concert with the views of the pre-legislative scrutiny Committee—and, indeed, with what we brought to the House on Second Reading. I am proud that we have listened to the House of Commons and responded positively to hon. Members' concerns. I believe that we are now presenting a Bill that is in concert with what the British people are thinking.

*Question put and agreed to.*

# Orders of the Day

## Gambling Bill

*As amended in Committee, considered*

### Clause 7

CASINO

4.45 pm

**Mr. Don Foster** (Bath) (LD): I beg to move amendment No. 102, in clause 7, page 4, line 2, at end insert—

'(2A) In this Act "casino premises" means premises in respect of which a casino premises licence has been granted under section 146(1)(a).'.

**Madam Deputy Speaker (Sylvia Heal):** With this it will be convenient to discuss the following: amendment No. 101, in page 4, line 8, after 'of', insert 'casino'.

Amendment No. 96, in page 4, line 14, leave out paragraph (a).

Amendment No. 100, in page 4, line 17, leave out paragraph (d) and insert—

'(d) sub-small casinos previously licensed under the Gaming Act 1968.'.

Government amendments Nos. 2 and 8.

Amendment No. 93, in page 37, line 23, leave out Clause 85.

Amendment No. 97, in page 38, line 43, clause 88, at end add—

'(3) A casino operating licence may be subject to a condition imposed by virtue of section 73 or 75 specifying rules relating to—

(a) opening hours,

(b) smoke-free areas, and

(c) alcohol-free areas.'.

Amendment No. 103, in page 72, line 35, clause 161, at end insert

'or not to issue more than a specified number of such licences.'.

Amendment No. 104, in page 72, line 37, at end insert

'and in particular may take account of the likely social impact of permitting casinos or more than a specified number of casinos to operate in its area.'.

Amendment No. 105, in page 72, line 38, at end insert—

'(za) must specify the maximum number (if any) of casino premises licences that the authority is willing to issue.'.

Amendment No. 116, in page 73, line 29, clause 162, at end insert—

'(4) Each casino premises licence shall by virtue of this subsection be subject to the mandatory conditions that the licensee—

(a) shall not operate gaming tables or gaming machines of Categories A or B outside a designated gaming area prescribed in relation to the relevant casino premises under section 147.

(b) shall not permit any person other than the licensee or a person employed by the licensee to perform any function within the casino to enter a designated gaming area whilst the same is being used in reliance of the casino premises licence without the production at the entrance thereto of satisfactory evidence of identity; and

*[Madam Deputy Speaker ]*

(c) shall maintain a condition of door supervision in respect of the designated gaming area at all times whilst the same is being used in reliance of the casino premises licence; and

(5) Regulations under this section may, in particular, add or exclude gaming machines of a particular category or categories from gaming machines which are the subject of subsection (4) of this section provided that such regulations shall not permit gaming machines of Category A to be so excluded.

(6) In subsection (4) "satisfactory evidence of identity" means evidence which is reasonably capable of establishing (and does in fact establish to the satisfaction of the person who obtains it) (a) the name, address and a photographic likeness of the person producing the evidence, (b) establishing that such person is over the age of 18 years on each occasion that satisfactory evidence of identity is required to be produced under this Act (including the proffering on a second or subsequent occasion of entry of a card or token issued to them by the licensee of the casino premises) for the purpose of verifying the identity of such person by reference to a photographic image.

(7) For the purposes of subsection (6) a photographic image may be an image stored (a) visually or electronically upon the card or (b) upon a system maintained by the licensee of the premises for such a purpose.'.

Government amendment No. 13.

New clause 7—*Membership role*—

'(1) No premises licence shall be granted if conditions are not in place for the effect that no person shall participate in gaming or gambling in casinos unless either—

(a) he is a member of the casino specified in the licence who, at the time when he begins to take part in the gaming, or gambling, is eligible to take part in it, or

(b) he is a bona fide guest of a person who is a member of that casino and who, at the time when the guest begins to take part in the gaming, or gambling, is eligible to take part in it.

(2) For the purposes of subsection (1) a member of the casino specified in the licence is eligible to take part in gaming or gambling at any particular time if he was admitted to membership of the casino in pursuance of an application in writing—

(a) made by him in person or on the premises, or

(b) sent by him to those premises and at that time at least 24 hours have elapsed since his application was made or received there.'.

New clause 11—*Going equipped to cheat*—

'(1) A person commits an offence if, without reasonable excuse (the burden of proof of which shall lie upon him), he has with him in a casino any article that is capable of or is intended for recording, analysing or predicting—

(a) the outcome of a game;

(b) any cards played or to be played in a game;

(c) the probability of the occurrence of an event relating to a game; or

(d) the strategy for playing a game.

(2) The provisions of subsection (1) shall not apply to any article which is used for making a handwritten record in respect of a game.'.

New clause 13—*Gaming machines in established casinos*—

'(1) A casino premises licence for an established casino shall, by virtue of this section, authorise the holder to make gaming machines available for use on the premises provided that—

(a) each gaming machine is of Category A, B, C or D; and

(b) the number of Category A gaming machines is not more than one-fifth of the total number of gaming machines of any Category made available for use on the premises.

(2) In subsection (1) references to a casino premises licence include any licence for an established casino which, by virtue of Schedule 18 or anything done under it, is treated as if it was a casino premises licence issued under section 169.

(3) In this section "established casino" means any casino premises which are in use or could lawfully be used for the operation of a casino under section 1 of the Gaming Act 1968.'.

Amendment No. 117, in page 65, line 36, clause 147, at end insert

'and

(i) specify an area (being all or part of the casino premises) for the purposes of section 162(4) in relation to those casino premises ("a designated gaming area") and identify the same upon or by reference to the plan to be included under paragraph (g) above.'.

Amendment No. 143, in page 77, line 2, clause 170, leave out 'eight' and insert 'four'.

Amendment No. 141, in page 77, line 3, after 'casinos', insert 'subject to subsection (3A)'.

Amendment No. 142, in page 77, line 7, at end insert—

'"(3A) In calculating for the purpose of subsection (1) the number of casino premises licences which have effect at any time, no account shall be taken of any established casino but—

(a) an established casino which meets the requirements of regulations made under section 7(5) as to the classification of large casinos shall for the purposes of section 167 be treated as if it is a large casino;

(b) an established casino which meets the requirements of regulations made under section 7(5) as to the classification of small casinos shall for the purposes of section 167 be treated as if it is a small casino; and

(c) an established casino which is below the minimum size for a licensed casino shall for the purposes of section 167 be treated as if it is a small casino.

(3B) In this section 'established casino' means any casino premises which are in use for the operation of a casino under the Gaming Act 1968 when this part of this Act comes into force."'.

Amendment No. 119, in page 77, line 30, at end insert

'provided that no order under this section shall be made until the expiration of a period of five years after the granting of the eighth casino premises licence under subsection (1).'.

Government amendment No. 29.

**Mr. Foster:** The time it has just taken you, Madam Deputy Speaker, to read out the amendments in this first group reinforces the manner in which our proceedings will be dealt with.

Amendment No. 102 has been tabled in my name and that of the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) and others. The genesis of the Bill goes back to the Budd report of 2001, and it is worth reflecting that, in the early stages of his work, Sir Alan Budd sent a note to members of his committee that included a paragraph entitled "The Chairman's Dream", which optimistically stated:

"I hope we shall be able to establish principles which are acceptable to all sensible people and shall make proposals consistent with those principles. The (unanimous) report will then be published (to schedule) to widespread acclaim and all its recommendations will be accepted."

I suspect that Sir Alan and members of his committee will be bitterly disappointed that, following his report, as well as two detailed reports from the Joint Committee of both Houses of Parliament and endless discussions in Standing Committee, we are still a long way from achieving "widespread acclaim" for the Government's Gambling Bill. As you have just demonstrated, Madam Deputy Speaker, the Bill is characterised by innumerable amendments, many of which have been tabled by the Government. As we can see from the amendment paper, many more have still to be debated.

This first group of amendments deals with the important issue of casinos, and it is worth reflecting on the fact that there has been much support from all sides for the Bill's provisions, including the establishment of a new tough, independent regulator through the creation of the gambling commission, which will replace the Gaming Board. We understand from a press notice today that the new body is likely to be located in Birmingham. The measures to increase requirements in respect of social responsibility for all involved in the gambling industry, and to bring remote gambling—interactive television and internet gambling, for example—under regulation for the first time have also received support. Many hon. Members were delighted when the Secretary of State announced on Second Reading that casinos would be designated as a single-use category under planning regulations, although I hope that the Minister for Sport and Tourism will tell us when we can expect to hear more about that.

The Minister has often claimed, perhaps rightly, that as much as 90 per cent. of the Bill has the support of hon. Members on both sides of the House, but it is the issue of casinos that causes the greatest controversy. The Government's proposals on casinos came as a huge shock to many members of the public and many Members of the House. They simply could not understand why a Labour Government wanted to increase greatly the opportunities for gambling, and, in particular, launch a massive growth in the number of casinos, when, bizarrely, no member of the Government could even tell us with certainty how many casinos currently exist.

In particular, many of us simply could not reconcile the Government's initial plans to allow the unlimited introduction of new super-casinos, each of them having up to 1,250 new so-called category A machines—which are untried in this country—with unlimited stakes and prizes, with the statement made by the Secretary of State to the Joint Committee that,

"If this legislation gave rise to an increase in problem gambling then it would have failed and it would be bad legislation".

Stung by the criticism, the Government backed down and made a welcome U-turn—not all U-turns are bad—for which there was a great deal of support. The Government then told us, despite having told us previously that they thought that it was a bad idea, that they intended to cap the number of new regional super-casinos at eight. The Committee was much amused by the musings of the hon. Member for West Ham (Mr. Banks) on why the figure of eight had been chosen. He wondered, for instance, whether it was related to the atomic number of oxygen being eight, or whether it had some connection with the Buddhist eightfold path to enlightenment. Whatever the reason, however, the cap was a good idea. I note that there is an amendment in this group to reduce that number from eight to four. I want to make it clear that we will not support that amendment if a vote is called on it.

Perhaps more surprising, however, was the Government's announcement that it would also cap the number of new large and small casinos at eight. That now means caps of eight, eight and eight, which is remarkably reminiscent of the internet gambling site www.888.com. There are arguments for a cap on the number of large and small casinos if, crucially, that does not undúly prejudice the existing British casino industry. That is why amendments Nos. 141 and 142 are crucial, and why, if there is a vote on them, we will support them. After all, the British casino industry has an enviable record of being responsible and free of crime. It would be a huge mistake were we to allow the Bill to pass without ensuring that our industry is given a fair chance against the foreign competitors who are already at our door, seeking to pick up the spoils that the Bill creates. As the Bill stands, the indigenous industry could lose out significantly. If the hon. Member for Maldon and East Chelmsfofd catches your eye, Madam Deputy Speaker, I hope that he will explain in detail the nature of that threat and the solution to it.

I want to give one example of why, unless we guarantee both grandfather rights and the right to allow some trading up as proposed in those amendments, we could see many existing casinos lose some of their machines, while new casinos will be allowed a far greater number. At present, existing casinos are allowed 10 machines. They also have a number of electronic roulette or auto-roulette devices. A Bournemouth casino, for example, has 26 such devices, one in Birmingham has 38, and many others have 10 or more. In part 10 of the Bill, however, those devices are redefined as machines. Therefore, since casinos will only be allowed a total of 10 machines, unless we provide grandfather rights and the right to trade up, as proposed in amendments Nos. 141 and 142, every existing casino would see a reduction in the number of their current machines.

On amendments Nos. 102, 100, 101, 116 and 117, removing restrictions on casinos has been a key focus of this Bill since its inception. It proposes the removal of the 24-hour rule and membership of casinos. Following those relaxations, identification is no longer necessary for someone to enter a casino.

While liberalising the gaming industry has its benefits, we must be diligent about the possible dangers. Casinos without some form of identification requirement could easily attract criminals. As can be seen in the Treasury's anti-money laundering strategy document, the National Criminal Intelligence Service said as recently as 26 October last year:

"Money launderers can take advantage of the facilities offered by casinos to disguise the origins of their funds. Launderers can take 'dirty' cash into a casino, exchange it for chips, spend a few hours gambling, and then exchange the chips (with a gain or loss according to their play) for a casino cheque which can subsequently be presented as an apparently legitimate source of funds."

We tabled the amendments with the aim of preventing crime and money laundering from infiltrating our casinos. They clearly set out a system under which well-monitored areas in casinos will be designated for gaming. To enter such areas, gamblers will have to

*[Mr. Foster]*

provide identification for the casino operators, who will then use the information from identification to keep track of those who frequent their casinos. Those measures will not only curb money laundering and crime, but help with problem gambling. We are well aware that many casinos currently operate self-barring schemes, enabling problem gamblers to request that their casino membership be suspended and entry denied to deal with their addiction. If there were no requirement for ID on entry to a casino, it would be very difficult for such schemes to operate. I consider that unacceptable, as many operators find the schemes particularly beneficial in combating customer addiction to the new high-price slot machines.

**Mr. Lindsay Hoyle** (Chorley) (Lab): I agree with what the hon. Gentleman says about problem gamblers, but how would he get around the problem of those who are refused entry at casinos but then use the internet to continue their gambling? That still worries me.

**Mr. Foster:** The hon. Gentleman is right to express concern about internet gambling. Recent evidence suggested that young children currently had no difficulty in gambling on the internet. The hon. Gentleman will be pleased to know that there is a great deal of support—in, I think, all parts of the House—for the clauses that will bring internet gambling under regulation, and that proposals in a later group of amendments will toughen the arrangements still further. There remains the problem of internet gambling operations that are based in the UK, but have a server based somewhere else. I know that the hon. Member for Maldon and East Chelmsford has tabled an amendment to deal with that.

The issue of children is clearly important. The amendments propose the establishment of a clearly identified area for high-stakes machines, which will be heavily supervised. Children will not be allowed into such areas, as long as we know who is defined as a child in the legislation. If we do not have a system of identification, it will be difficult for those doing the supervising to know who is under 18, for example. We have discussed that in other contexts, such as the licensing legislation: landlords will have a problem if there is no identification system. A number of benefits would accrue from the amendments, which would not only deal with money laundering but protect young children and help with problem gambling.

In Committee, the Minister said that although ID was currently required for entry to all casinos,

"we are not persuaded that it would be right in future to require identification on entry in all cases . . . The casinos of the future will not be the same as casinos now."—[*Official Report, Standing Committee B*, 2 December 2004; c. 351.]

But despite the complications and difficulties that I accept may well arise for the big regional casinos dealing with large numbers of punters streaming in on Saturday nights, I think it imperative for a mechanism to be established to protect the British gaming industry from crime, as well as protecting young people and problem gamblers.

The Minister may well tell us that the Government are awaiting the outcome of European Union deliberations on the third directive on money laundering, but one thing is clear: the Government themselves have accepted that the gambling commission must establish a clear set of guidelines. Indeed, clause 24 states that arrangements must be made for the purposes of

"ensuring that gambling is conducted in a fair and open way",

for

"protecting children and other vulnerable persons from being harmed or exploited by gambling",

and for

"making assistance available to persons who are or may be affected by problems related to gambling."

I genuinely believe that the provision of identification would help in all those cases, and that it would be consistent with the terms of the third directive and with what the Government claim that they wish to achieve.

5 pm

I turn to amendments Nos. 103 to 105. Although regulating access to a gaming area is an important issue, so are the powers that we give to local authorities over the introduction of casinos in their area. Local authorities should be given as much freedom as possible, within the proposed caps, to take advantage—or not—of the increased gambling opportunities afforded by the Bill. As currently drafted, clause 161 empowers local authorities to say no only to any casino whatsoever; it does not enable them to say that they want, for example, only one casino, or only two or three casinos. Amendments Nos. 103 to 105 would enable local licensing authorities to place their own cap on the number of casinos in their area, and at a figure other than zero. When such authorities review premises' licences, they should have as much freedom as possible to determine what kind of premises they want in their area and how many there should be.

Finally, the purpose of new clause 11, which deals with cheating, is to make it illegal to carry articles into a casino that could help in analysing or predicting the odds or outcome of the game. It tackles the problem of so-called "advantage players", who use such articles to help them during the game, but who argue that they are not cheating because they are not interfering with the game. We tabled a similar amendment in Committee, but we withdrew it after the Minister assured us on 30 November last year that a gambler who does anything that unfairly increases his chances of winning is cheating and is therefore covered.

Despite that assurance and others given by the Minister in subsequent conversations, we are not convinced that the Bill as drafted would result in "advantage playing" being considered an offence. Current legislation certainly does not consider it so. On 6 December—only a few days after the Minister gave us that assurance in Committee—*The Times* reported an incident at the Ritz casino in which the use of a device in a mobile phone enabled the players in question to predict the outcome of every spin of a roulette wheel. As a result, they scooped £1.3 million. However, according to legal advice, because the device had not interfered with the game the gamblers were not in breach of current law, and were therefore able to hold on to their winnings. The purpose of new clause 11 is to change the system, so that we can be absolutely sure that so-called "advantage" cheaters will be unable to get away with such things.

Many jurisdictions—in Nevada, in South Africa and in a number of Australian states, for example—already explicitly legislate against practices such as that employed during the Ritz episode. They have laws that prevent not only the sort of cheating described by the Minister in Committee, but offences relating to the possession or use of the devices mentioned in our new clause. Our suggestion is therefore already in operation elsewhere, and its use would not be unprecedented.

There are a number of other amendments to which many Members will wish to speak, but I should make it clear before I finish that the part of the Bill dealing with casinos is still a long way from being likely to achieve the widespread acclaim that Sir Alan Budd referred to. I hope that our amendments are accepted, so that they can at least move the Bill in the right direction.

**Mr. Win Griffiths** (Bridgend) (Lab): I must admit that I am not an expert in all the complexities of the Bill. I was happy to see the extension of regulation of new forms of gambling, but—as I said on Second Reading when I voted against the Bill—I am very disturbed by the opening of the gates to super-casinos and the way in which the Bill will allow people to gamble much more easily than they can at present.

I appreciate that in Committee the Government have adjusted the likely number of super-casinos and have proved willing to experiment first, but I have still tabled amendment No. 96, which would delete regional casinos from the Bill. Other amendments to which I have put my name would provide for smoke-free areas, a ban on alcohol at the tables and limits on opening hours. The gambling commission will have control over those issues, but they should be covered by the Bill. There are some 13,000 casino workers in the UK at present, but the Bill would lead to a huge increase in that number. It is only right that they should not have to work in the smoke-filled rooms that seem to exist in many casinos. It is also right that no alcohol should be allowed at the tables. I understand that some casinos have been operating that policy for about 18 months. It gives people the opportunity to have a break from the tables and perhaps think about what they are doing. I believe that there should be a ban on consuming alcohol in the gaming areas. If alcohol is sold on the premises, it should be kept away from those areas. As I read the Bill, it would allow casinos to be open for 24 hours. The gambling commission should have the right to set opening hours, and I am willing to leave that to custom and practice. By and large, casinos are open from 2 pm to 4 am. That is way beyond any time that I personally would like to see them open, but if that is the rule of thumb that operates at present, I am content to allow that to continue. However, I do not favour 24-hour opening.

I wish to support the amendments tabled by my right hon. Friend the Member for Gateshead, East and Washington, West (Joyce Quin) to maintain the 24-hour membership rule—the cooling-off period. It protects the person who goes out on a Saturday night and has a few drinks, and then their friend says, "Come on, let's go to the local casino." Before they know it, they are inside. They may have already drunk too much, but still have money in their pockets—of course, under the Bill, they could even use their credit cards to get money to gamble. I have tabled some amendments on that point later in the Bill.

**Mr. Jon Owen Jones** (Cardiff, Central) (Lab/Co-op): I do not know whether there are any plans to build a super-casino in Bridgend. The nearest super-casino, if one is built, will probably be in Cardiff. Is my hon. Friend aware that the Liberal leader of Cardiff council has accepted a £6,000, all-expenses-paid trip to Las Vegas to inquire about casinos? Was it proper of him to accept that trip?

**Mr. Griffiths:** I can only thank my hon. Friend for providing me with that information. Given the context of the Bill, that decision is highly dubious, and I certainly hope that there will not be a super-casino in Cardiff.

There is much evidence about the impact of super-casinos. The famous Atlantic City survey showed that unemployment there fell by very little and that the nature of its businesses changed. By 1996, some 1,000 businesses had gone, and there are now only 60 independent hotels there.

**Mr. Nick Hawkins** (Surrey Heath) (Con): I know that the hon. Gentleman holds his views on the matter extremely sincerely. Will he accept that the Atlantic City survey to which he refers is extremely contentious? Those of us who compare the terrible state that Atlantic City was in during the 1970s—it was a run-down place of the past—with how it is after the huge amounts of regeneration that have resulted from the creation of resort casinos would certainly say that it is a more attractive, vibrant and successful place now. Many of us who believe that a good outcome of the Bill would be regeneration want to ensure that the one-sided picture of Atlantic City, as presented in the survey to which the hon. Gentleman refers, is not the only information before the House.

**Mr. Griffiths:** I thank my honourable colleague for that description of Atlantic City.

**Mrs. Gwyneth Dunwoody** (Crewe and Nantwich) (Lab): He is not your colleague.

**Mr. Griffiths:** The hon. Gentleman is a colleague in the House—a Member.

Although I accept that the physical changes to which the hon. Gentleman refers have occurred, despite the creation of the super-casinos, the unemployment rate in Atlantic City has hardly changed—it has gone down by only 2 per cent. However, there are now 71 per cent. more bankruptcies recorded in Atlantic City than in the rest of New Jersey. Of course, we do not know the huge problems that super-casinos leave in their wake for gamblers whose lives have been destroyed, and so on.

**Mrs. Dunwoody:** If the Government see fit not to accept the minimal protection that my hon. Friend wishes to build into the legislation, and given that it is not at all clear where this tacky Bill has come from, would it not be a good idea to vote against it?

**Mr. Griffiths:** I voted against the Bill on Second Reading. One important consideration is whether the

*[Mr. Griffiths]*

Bill will be amended in the other place to address my concerns. If that were to happen and the House agreed to such Lords amendments, I could support the Bill. However, I could not support it in its present form and without my amendments.

**Sir Teddy Taylor** (Rochford and Southend, East) (Con): I am interested in the points that the hon. Gentleman is making about Atlantic City. Will he make an additional point? Should we not bear it in mind that in the first few years after the super-casino went to Atlantic City, crime rose by 107 per cent.—that is a fact, not just an opinion? At the same time, crime in America overall increased only moderately.

**Mr. Griffiths:** The hon. Gentleman is quite right. I would have made that point myself, but he has saved me the trouble.

Although the Government have moved their position somewhat, if they do not remove super-casinos from the Bill this evening, I hope that they will allow the other place to do so. I also support amendment No. 119, which would ensure that the pilot scheme to examine the effect of super-casinos—if they are created—would last for at least five years from the time at which the eighth such super-casino started to operate so that there could be a proper in-depth study of the situation.

I hope that the Government will react positively to this group of amendments, say that they have had second thoughts and will now abandon the idea of regional casinos altogether. That would lift my spirits. As I said on Second Reading, I blame myself in part for what has happened. I did not take a close interest in the proposals. I simply thought on reading them that no Labour Government would ever want to accept the opening up of the gambling business in the United Kingdom.

I certainly know that there is no public demand for such casinos. As far as I am aware, no one has commissioned a single opinion poll to suggest that any more of these casinos are wanted. In fact, the only poll that has been commissioned indicated that more than 80 per cent. of people thought that there were sufficient opportunities to gamble in the United Kingdom. I agree overwhelmingly with that response, and look forward to a positive reaction from the Government.

5.15 pm

**Mr. John Whittingdale** (Maldon and East Chelmsford): Although we have to cover 12 groups of amendments before 9 o'clock, the group relating to casinos deals with perhaps the most contentious part of the Bill. In some ways, it is a shame that the Bill has come to be seen in the public mind as the casino Bill. It contains many other important measures about which there is little dispute in the House as to their necessity, but casinos have caused most of the argument.

Unlike the hon. Member for Bridgend (Mr. Griffiths), we are not completely opposed to the idea of regional casinos. We have always recognised that regional casinos could bring huge regeneration benefits to areas that are in desperate need of that investment. We supported the original concept when they were to be termed "destination casinos" simply on the basis that we could see that potential for regeneration. However, we have always been very much aware that they are a type of gambling institution that is entirely new and untested in this country. They represent gambling on a scale that we have never seen before. Therefore, we have always felt that it was sensible to proceed cautiously.

On Second Reading, the Secretary of State argued that the controls in the Bill at that time would be sufficient and that, as a result, the market would limit the number of regional casinos to perhaps 20 to 40, each of which would represent an investment of £150 million or more. The business model on which they are based requires 20,000 people or more each week to gamble in those casinos. That represents an increase in gambling on a scale not seen in this country before.

We felt strongly that the Bill contained no provision that would have necessarily limited the number to 20 to 40 and that in any case that was too high a number, particularly as each of the new regional casinos could have up to 1,250 category A gaming machines that have never been seen before in this country. There is a widely felt concern that that could lead to an explosion of problem gambling. That is why we have always argued for a cautious approach. Rather than rely on the Secretary of State's expression of hope that the proposal might lead to no more than 20 to 40 regional casinos, we believed that there was a strong case for the Government to introduce a pilot scheme to test the impact of a small number of regional casinos to see whether problem gambling increased as a result. That is why we proposed in Committee that there should be a pilot scheme with just four regional casinos.

Having argued on Second Reading that a pilot scheme would be a bad idea and was not necessary, the Government then did their first major U-turn of the Committee stage and announced a cap of eight on the number of regional casinos. At the time of that announcement, we made it clear that we welcomed the Government's surrender, but found it difficult to see where the number of eight had come from. The hon. Member for Bath (Mr. Foster) referred to some of the speculation that took place in Committee about why eight had been chosen. It certainly does not represent one per region, which would have been one way to proceed; instead, it appeared to be an entirely arbitrary figure. Certainly, the Government have never offered a real justification for choosing that number. The purpose of our amendment No. 143 is therefore, first, to press the Government to explain why eight is the right number.

**Geraldine Smith** (Morecambe and Lunesdale) (Lab): I welcome the fact that the Government are considering having just eight regional casinos instead of what they were proposing on Second Reading. Can the hon. Gentleman tell the House why he thinks that the number should be four and explain the logic behind the Opposition's thinking?

**Mr. Whittingdale:** I can, and was just about to. First, as I said, we want the Government to tell us why eight is the right number. They are, after all, the Government, and they must justify their proposals. We proposed four because we feel that it is much more sensible to start off with a small number, test the impact and, if it appears that there are no problems, increase. Although we

recognise the possibility of the regeneration benefits which the Government hope for, and which we would certainly like to see, it is not right to risk a dramatic rise in problem gambling. We have to be satisfied that there has not been a massive rise in problem gambling before we go on to seek those potential regeneration benefits.

The Secretary of State said right at the beginning that if the consequence of the Bill were a rise in problem gambling, the Bill would have failed. Our concern is that eight regional casinos could lead to a significant increase in problem gambling, particularly because there could be up to 10,000 category A machines. At present, there are no category A machines in this country, yet as a result of one pilot scheme we could have up to 10,000 of them.

Also central to the purpose of our amendment is the fact that it is possible to start with four and increase, whereas it is not realistic to start with eight and go downwards. It is unthinkable that investors would commit the sums that we are talking about—£150 million per casino—if there were any risk that after a few years their licence would be taken away.

**Mr. Caborn:** The hon. Gentleman described category A machines as a potential problem that needs to be monitored. Does he believe that the scrutiny Committee was right to say that category A machines should go into large and small casinos? Does he believe that that is still the case today?

**Mr. Whittingdale:** We have tabled another amendment, to which my hon. Friend the Member for South-West Hertfordshire (Mr. Page) will speak, if he has the opportunity, which would allow a limited number of category A machines in large and small casinos. That would allow a proper test of their impact in each type of casino.

**Mr. Caborn:** Does the hon. Gentleman believe that category A machines should be allowed in the 136 casinos that currently operate under the Gaming Act 1968?

**Mr. Whittingdale:** As I said, we believe that a limited number of those machines should be allowed in large and small casinos in order for there to be a proper test. However, I point out to the Minister that amendment No. 143, by reducing the number of regional casinos from eight to four, would halve the number of category A machines to 5,000, as opposed to the 10,000 that the Government currently propose.

**Mr. Caborn:** Perhaps the hon. Gentleman will now answer the question. Does he suggest that category A machines should be not only in regional casinos but in large casinos, in small casinos and in the 136 casinos that operate under the 1968 Act? Does he agree that category A machines should also be in those places?

**Mr. Whittingdale:** Existing casinos are those that have never given rise to a significant gambling problem. We believe that if there is to be a proper impact test, it makes sense that there should be a limited number of machines tested in each type of casino. That is the purpose of new clause 13. I hope that we will have the opportunity to address that in more detail. However, the answer to the Minister's question is yes.

**Mr. Caborn:** On category A machines, there is an important difference between what the Government are saying and the Opposition's suggestion. The pilot or experiment is limited to category A machines at eight sites throughout Great Britain. The Opposition are now suggesting that we have category A machines in 150 sites. That is my understanding. If that is not proliferation of category A machines, I do not know what is.

**Mr. Whittingdale:** If the Government adopt our amendment, it would mean considerably fewer category A machines than if they were to proceed with the eight regional casinos. There are other safeguards that we strongly believe are necessary—I am about to refer to them—which would provide additional protection to that which is available under the Bill. Our concern is to take account of the warnings that have been given, especially about destination casinos—regional casinos, as the Government term them. That new type of casino has given rise to the concerns that have been expressed by many bodies, such as the Royal College of Psychiatrists, the British Psychological Society, the Methodist Church and the Salvation Army.

Existing casinos have not produced a major increase in problem gambling and have a good record of responsible behaviour. However, a cautious approach needs to be taken to the new regional casinos, which are entirely untried and untested. That is why we have suggested that the pilot scheme should involve only four casinos, perhaps two in major cities and two at destination locations. That would enable a proper trial to take place. If it is shown that there is no significant problem attached to those four sites, we could proceed to increase that number. To start with eight means a huge increase in the number of machines and it would be almost impossible to move down from that number.

Amendment No. 116 relates to an ID requirement. It provides for an important additional safeguard that we would like to see in place alongside the proposals to bring in regional casinos and introduce category A machines.

The hon. Member for Bridgend (Mr. Griffiths) said that he wished to retain the 24-hour rule. We see no great purpose in retaining that rule, which is now largely anomalous. Adults who decide that they wish to visit a casino should be able to do so without having to wait 24 hours in case they change their mind.

The arguments for retaining an ID requirement are much stronger. Such a requirement would provide an additional protection for those known to be suffering from gambling addiction. Existing casinos maintain a register of people who suffer from gambling addiction and who therefore cannot use their premises. It would also provide an additional means of ensuring that age restrictions are enforced. An identity requirement would mean that people under the age of 18 could not obtain access and use category A machines or the regional casinos.

Perhaps most importantly, it would help to prevent money laundering. The second money laundering directive requires ID for anyone using a casino in this country:

> "A person who operates a casino by way of business in the UK must obtain satisfactory evidence of identify of any person before allowing that person to use the casino's gaming facilities".

5.30 pm

The proposed draft of the third money laundering directive will change that identification requirement, so that it applies only to people who purchase or exchange gambling chips with a value of €1,000 or more. However, emails between officials in the Department and the American casino operators revealed that the Government were asking what figure they would regard as acceptable. It seems that the Government propose actively to lobby to try to increase that threshold to a much higher level, as the American operators believe that that is necessary for their business model to work. The domestic industry has no difficulty with an ID requirement. Rank is happy to retain such a requirement; indeed, it accepts that it could have positive advantages, as does the Casino Operators Association. Some operators of regional casinos are happy to accept an ID requirement. Sun International told us that its South African casinos that are equivalent in size to regional ones in the UK require someone to use a smart card, for which ID is necessary, before they can use category A machines.

Operators of regional casinos say that it is perfectly possible to have an ID requirement, and they accept that it would provide additional protection, both for people suffering from gambling addiction and as a measure to prevent money laundering. The amendment to reduce the number of regional casinos from eight to four and the amendment introducing a requirement for ID represent the cautious approach that, we believe, is necessary. We accept that there could be great benefits, but the last thing that we want is something that the Secretary of State spoke about when the Bill was introduced. If the Bill leads to an increase in problem gambling it will have failed. The amendments are designed to ensure that that is not the case.

**Mrs. Janet Dean** (Burton) (Lab): My hon. Friends will be aware that from the brewing industry, which began in my constituency more than 1,000 years ago, grew the gaming machine industry, which originated in pubs. Leisure Link and other companies in my constituency service machines throughout the country, so I am keen to protect our home-grown casino industry, which has proved to be responsible over the years. I spoke to that effect on Second Reading.

I welcome the Government's decision to limit the number of regional casinos, but my hon. Friends will be aware of concern about the unlevel playing field that disadvantages the existing UK casino industry. There are anxieties that the introduction of category A machines in regional casinos—such machines are not produced by the home-grown industry and would have to be imported—would have an impact on other casinos, whether in their existing form or in the proposed arrangement of eight large and eight small casinos. I hope that when the Bill goes to the Lords there will be more discussion with the industry about how we can make sure that there is not an adverse effect on existing casinos.

**Mrs. Dunwoody:** I have the greatest admiration for my hon. Friend, but is she suggesting that the House of Commons should pass sub-acceptable legislation on the assumption that another place will throw it out? That is a rather sad doctrine.

**Mrs. Dean:** I accept that we should not have to rely on the other place to amend our legislation, but while the House of Lords exists and the business that proceeds through this House carries on there, I hope that gives the Government more time to talk to the industry. The Government have spent much time discussing all these matters with the industry over a long period. Hon. Members have commented that the Bill underwent pre-legislative scrutiny and that we have had Adjournment debates in Westminster Hall and elsewhere on the Budd report. There have been lengthy discussions, but more are still needed to ensure that we protect our home-grown industry.

It is ironic that people and organisations that oppose the development of casinos agree with those in the home-grown industry who want fewer regional casinos and more safety introduced into the development of those regional casinos. Both ends of the spectrum—those in the industry and those who oppose it—want us to proceed carefully. I hope the Government will make sure that we do that.

There are concerns about the development of regional casinos and the introduction of category A machines. The question was asked whether the Opposition support category A machines in all casinos. It might be better to go the other way, continue to have category B machines in all casinos, and support our home-grown industry. I hope Ministers will be able to provide the reassurance that I seek.

**Mr. Richard Page** (South-West Hertfordshire) (Con): With the reform of gambling, and the broad agreement in most quarters, the House can welcome many aspects of the Bill—the establishment of a gambling commission, further help for problem gamblers and new forms of control of new gambling, such as the internet and betting exchanges. However, the Minister seems to have adopted the line—I have seen it manifest itself twice, first in response to me and then in response to my hon. Friend the Member for Maldon and East Chelmsford (Mr. Whittingdale)—that attack is the best form of defence. After his Committee performance, this is the only home he has to go to. He said that the Government had listened and that the statement that he made was a result of the Government listening. I have already expressed my sympathy to the Minister for being lumbered with the Bill. He is a nice chap and it was not his fault. I do not know who gave it to him and ordered him to take it through the House, but they are the smart ones. They got out of doing it and lumbered the Minister with it. Now he must live with it.

The Minister said that he had listened to concerns and produced what I call the 888 statement, but the existing casino operators said they had not been consulted. The statement came as a bolt from the blue. The point has been made by the hon. Member for Bath (Mr. Foster). I keep calling him my hon. Friend, because we had a relationship in Committee that grew warm and friendly as the days went by. No doubt an election will soon cause it to come asunder. He said, and I repeat, that the

existing casino operators were not consulted prior to the 888 statement. Nothing that I have heard so far contradicts that. Perhaps the Minister will say that he consulted deeply with the casino operators before making the statement.

I support the hon. Member for Bath on the damage that will be caused to the existing industry. It is an industry that has a good reputation. To the best of my knowledge, it has caused no more than small problems in one or two areas. Compared with the industry in the rest of the world, we can feel pride in and respect for ours, so why are the Government trying to damage it? Normally, with any Government, I would think that there was a deliberate plan to knock the existing casino industry. But with the chaos and confusion that has surrounded the Bill's passage, I can only assume that this is a mistake—one of the many blunders that have been made along the road. I sincerely hope that, in the fullness of time, possibly when the Bill is in the other place, the Minister will table some amendments that will restore the balance for the existing casino system and the operators that they justifiably deserve. I hope that he will take that point on board and look after the industry that has served us well without letting us down and which has a good reputation.

I support amendment No. 143 and the move from eight to four casinos. I shall not reiterate all the arguments advanced by my hon. Friend the Member for Maldon and East Chelmsford, but simply say that destination resort casinos are a new phenomenon. We have licensing authorities with no experience and regeneration benefits that are as yet unknown.

The scrutiny Committee, chaired by my hon. Friend the Member for Ryedale (Mr. Greenway), who is sitting next to me poised to intervene later, to which I look forward, said:

"Whilst we acknowledge the Government's reluctance to publish national guidance relating specifically to regional/leisure destination casinos, we believe that it could help to ensure a consistent approach between regional authorities and avoid the need for applications to be called in for determination by the First Secretary of State."

The Committee was remarkably tactful in making that point, because it was saying that the Government have got it wrong and have no idea of the chaos and confusion that will be visited upon them if they do not have proper national planning guidance.

As we know, chaos and confusion did descend upon the Government, which is why I welcome the Minister's statement and the news that we will have an advisory panel to look at these matters. That is a substitute for planning guidance and procedures—the new way out of the bind that they have got themselves into. I support all that, but not the 888 proposal, because I think that that is too large a figure for the quicker process of evaluation and assessment that I want to see. In Committee, there was doubt about the timetable to be followed: whether it would be a drip, drip, drip affair, where assessments would take place as each casino ran up a number of years, or whether they would wait to the end. That is one reason why I support having four regional and leisure casinos. The assessment process would be quicker, we would get the results quicker and we could decide how to proceed on the basis of those results.

**Mr. Hoyle:** If the hon. Gentleman is so concerned about the numbers, why did he not go for a further reduction to two of the large casinos, one in a town, and one a destination casino?

**Mr. Page:** I do not know whether the hon. Gentleman has any statistical background, but the larger the sample, the better the result that one will get. However, at the same time, the larger the sample, the longer it will take, so we come to a trade-off. I could take his argument and say, "Why not have just one?" He might say that we need one in a town and one in a resort, such as Blackpool, which the hon. Member for Blackpool, North and Fleetwood (Mrs. Humble) would be only too glad to see. But what would happen if one of those samples was incomplete and inaccurate, not a fair one? By having two in each area, we can make a proper comparison. If they are vastly different, we might have to extend the cycle. I want to see the results as soon as possible, so that we can go forward as soon as possible. At the moment, we are in limbo and the quicker that it is resolved, and the quicker that we know where we are, the better.

5.45 pm

**Alan Howarth** (Newport, East) (Lab): I wish to speak in support of amendment No. 96 and new clause 7.

My right hon. Friends have already responded constructively to anxieties expressed by the public about their proposals to open the way for regional or mega-casinos. Instead of market forces determining how many such casinos there should be, there will now be eight in a first wave to be tested during a trial period, albeit a short one. Can we hope that my right hon. Friends might go further and withdraw their proposals for regional casinos all together? I am not very optimistic about that, as my right hon. Friend the Secretary of State was reported on 17 November as saying:

"I don't describe this as a cap . . . A cap is a once-and-for-all limit—what we are doing is introducing regional casinos more slowly than was the original intention."

I have had the opportunity to have some conversation with my right hon. Friend, for which I thank her, and she told me that the Government's view on the matter was neutral and that it remained to be seen how, under the dispensation that they are creating, regional casinos would eventually develop.

The question that I would like to put to Ministers is, who wants any regional or mega-casinos? The public do not. I understand that a national opinion poll survey found that 93 per cent. of respondents opposed the extension of casinos. Doubtless, the industry wants them, although it is interesting to note that it is not the United Kingdom industry. Some local authorities have expressed an intrigued interest and no doubt the Exchequer is attracted to the proposal. My right hon. Friend the Chancellor received £1.35 billion in gambling duties in 2003-04, and I fear that the Treasury's addiction to gambling revenues may grow. The Treasury should be encouraging saving, not gambling.

*[Alan Howarth]*

Why should the character and quality of life of our communities be at the mercy of the executives of Caesars International—it is a very long time since we were last invaded by Caesar, and we have taken some national pride in the fact that it is many hundreds of years since we have been successfully invaded—Las Vegas Sands or MGM Mirage? I hope that the latter name is apt. It certainly is as far as gamblers' dreams go: this is an industry that profits only as its customers lose. I hope that, similarly, the £1.1 billion and more that MGM Mirage promised, or threatened, to invest in Britain will prove to be a mirage.

I am not so puritanical or impractical as to seek to ban all gambling, but I believe that a responsible Government should tightly restrict it. Of course, that is what most of the Bill does, which is why I was content to vote for it on Second Reading. My right hon. Friends are right to take account of technical change, including the development of remote gambling and the arrival of video roulette games. I support their proposals on licensing, the establishment of the gambling commission, codes of practice and consultation of local authorities, the police and the public, but their proposals for mega-casinos—that we should have these casinos with up to 1,250 slot machines and £1 million jackpots—run entirely counter to the thrust of the rest of the Bill. I have noticed that the British Amusement Catering Trades Association, at some risk of self-contradiction, has described the machines as

"untried, untested and highly addictive".

My right hon. Friends say that their intention is to promote socially responsible gambling, but I find myself at a loss to understand the conception of socially responsible gambling. I have heard Ministers declare, perhaps somewhat romantically, that the poor should be enabled to enjoy the same pleasures as the rich, but I think we should ask the poor what they want. I noticed that women who were surveyed were particularly strongly opposed to the extension of gambling. So many women have seen the male so-called breadwinner taking a disproportionate share of the household income to the betting shop or dog track, and they know the consequences. According to the National Audit Office, gambling has a £53 billion turnover in Britain through betting shops, casinos and, of course, the national lottery. In passing, I wonder whether the proposals will not prove deeply damaging to the national lottery. That would mean a serious blow to culture, which it is my right hon. Friends' responsibility to defend.

The Methodist Church and the Salvation Army have urged the Government to exercise greater restraint and more care. They have been at pains to be reasonable and I go further than them. I joined the Labour party because I thought that it took the view that it is the Government's responsibility to protect vulnerable people. That is what this Government want to do and that is what they do so very well in so many fields of policy, but I cannot see how the creation of mega-casinos will protect vulnerable people. I understand that we have in this country some 300,000 problem gamblers, and members of their families, their employers and their fellow employees are, of course, affected.

Last November, the *San Francisco Chroniele* reported:

"Economist Earl Grinols has studied the rates of crime, lost productivity, domestic abuse and other social ills in counties with and without casinos. He found that the 3 to 5 per cent. of players who become problem gamblers each end up costing society about $11,000. States would need to seize half a casino's profits, calculates Grinols, to cover the 'social wreckage' it generates. In Missouri, for instance, gambling tax revenue brought in a 'seeming windfall' of $242 million in 2002, yet the state lost an estimated $572 million in related business failures, crime, unemployment and other social costs."

In contrast, in South Carolina,

"six months after it banned slot machines in 2002, two-thirds of the state's Gamblers Anonymous groups had disbanded and calls to help lines had plummeted."

Citizens advice bureaux have a great deal of experience of helping individuals who have got into severe multiple debt as a result of their gambling addiction. A citizens advice bureau in south Wales has reported a case that may be characteristic:

"A 62 year old pensioner approached a CAB in South Wales for advice about her debts. She had a problem with gambling and had built up £80,000 debt on various credit cards. When she got into difficulties she approached her bank who lent her a further £25,000, although her only income was £600 per month."

Mega-casinos have historically been associated with people's propensity to self-destruction, vice and crime. We are introducing 24-hour drinking at the same time as we are discussing the abolition of the 24-hour rule that requires people to have been members of a club for not less than 24 hours if they want to go into casinos and gamble. My hon. Friend the Member for Bridgend (Mr. Griffiths) spoke eloquently about that point in his advocacy of new clause 7, and he is right. One can imagine someone who has had too much to drink and who is armed with cash and a credit card going into a casino and ruining him or herself and their family. We should keep that sobering-up period. I am pleased to see that the British Casino Association itself wants the 24-hour membership requirement kept at all casinos.

**Mr. Jim Cousins** (Newcastle upon Tyne, Central) (Lab): In focusing all his fire and attention on mega-casinos, my right hon. Friend opens up the possibility of no mega-casinos, but a proliferation of casinos that are merely described as "large". On 16 December, my right hon. Friend the Secretary of State clearly stated that a cap will be imposed on not only mega-casinos, but large casinos, which was a significant step forward.

**Alan Howarth:** I agree with my hon. Friend that that was a constructive step. I also appreciate his point that a good deal of the argument that I am developing in relation to mega-casinos is applicable to large casinos, and we must be equally wary of the dangers posed by a proliferation of large casinos.

On 31 October last year, *The Observer* reported on the situation in Australia, which is instructive. Gamblers in the mega-casino in Melbourne have incurred vast losses of more than £3.2 billion over the past 10 years. The article stated that that mega-casino is used for the laundering of drugs money, and I thought that the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) made some good points about the danger of crime associated with mega-casinos and

the desirability of retaining an ID requirement, which, as he noted, would also help problem gamblers who are making efforts to exclude themselves from casinos and the policing of the age limit.

I wonder whether my right hon. Friends the Ministers noticed that when Judge Derek Inman sentenced a violent serial mugger who robbed to fund his betting shop addiction last November, he proposed that Parliament might wish to take that particular case into account in its consideration of the Gambling Bill. The hon. Member for Rochford and Southend, East (Sir Teddy Taylor) discussed the rise of crime in Atlantic City when a mega-casino was established. In Sydney, it is reported that a Russian mafia has been running prostitution rackets, which is exactly what one sees if one visits Las Vegas. The report in *The Observer* quoted an Australian academic:

"'It is a crime inflicted on the community by the government. It has been an absolute curse on the state of Victoria. It is a money-making venture that maximises returns by ensuring that people lose a lot of money'".

I have seen mega-casinos in Las Vegas, in Genting in the Malaysian highlands and in Australia, and they seem to offer death to the soul.

The only other country I am aware of that is energetically promoting large-scale gambling is North Korea—curious company for us to keep. There must be better ways in which to regenerate our cities. On 30 October, *The Times* reported the opinion of the respected venture capitalist Wilbur Ross, who said that the casino and gaming sector is the next to go belly up and that

"'That whole industry is based on junk bonds'".

Do we really want such developments in our great cities?

My right hon. Friend the Secretary of State said to me that it is better for people to gamble in mega-casinos than online, but I do not believe that the reality will be like that. If it is easy to gamble on the internet, why will people make a journey across the country to a regional casino or even across the city to a big casino?

My right hon. Friend the Secretary of State said that planning authorities will provide a safeguard, but I fear that local authorities will all too readily be seduced by the prospects of planning gain and the anticipated extra revenue as a result of the presence of casinos. The Local Government Association's so-called safer communities board, which seems a somewhat Orwellian title given the context, expressed disappointment at the limit of eight casinos. I impugn the integrity of no individual, but it is dangerous to put such temptation in the way of planning officers and members of planning committees. We are dealing with an industry that disposes of very large sums of money and that is prepared to be entirely ruthless.

My right hon. Friend the Secretary of State also said to me that the gambling commission will be the judge of whether operators are fit and proper, which is true, but the difficulty is that the unfit will gamble and the improper will batten on them.

If this is the first wave, I do not want the tsunami. If the Bill is carried, I hope that my more apocalyptic fears will not prove justified, but I cannot see how any good can come out of the policy.

**Bob Russell** (Colchester) (LD): The right hon. Gentleman has spoken for about 14 minutes and has not yet said a word in favour of the Bill. Will he sum up in one sentence why he thinks that his Government are introducing it?

**Alan Howarth:** I respond to the hon. Gentleman by saying that my right hon. Friends are good people and good Ministers who are animated by concern for public well-being, and I am completely baffled as to why they are putting forward this policy. I do not want it and I will not vote for it.

**Mr. Malcolm Moss** (North-East Cambridgeshire) (Con): I propose to speak to amendments Nos. 142 and 116 and new clauses 13 and 11. We shall vote on amendment No. 116, and hope to press amendments Nos. 142 and 143 to a vote. I shall be relatively brief because I know that several Members wish to take part. That underlines the fact that the two hours that we have been given for this important debate on casinos is inadequate, as is the time allowed for the whole debate.

6 pm

I begin by considering the issue of casinos in the round. The Government have changed tack dramatically—I will not call it a U-turn. Their proposals are predicated on trialling, or piloting, regional casinos. The Bill retains the proposal for having 1,250 category A machines in the selected eight regional casinos. The existing industry, which consists of about 136 casinos—the number is sometimes cited as 131 or a few more, but let us take 136 as a ballpark figure—and which has had an unblemished record for 40 years and done extremely well in terms of its social responsibility, has been completely and utterly ignored. The Bill makes no mention of it; it seems not to exist as far as the Government are concerned.

Through the 888 pilots, the Government propose a completely new situation with regard to category A machines, but the same number of category B machines in the eight new large and eight new small casinos as are allowed in the existing casino estate, where the maximum is only 10 machines per casino, irrespective of its size. That does not make any sense—it is illogical. The Government's idea of a trial does not stack up. If they want a real trial, they should put machines into the existing estate, not leave it without any extra machines and virtually no changes other than to membership requirements and the demand test. We should have a proper trial, but let us not ignore the existing industry, because the impact on it will be immense.

**Mr. Hoyle:** Under the hon. Gentleman's proposals, would existing casinos be allowed category A machines?

**Mr. Moss:** I shall come to that in a moment, because it relates to new clause 13.

The Government's proposals on casinos are analogous to saying that if an American supermarket interest—I will not refer to any particular supermarket—wanted to come into this country in a huge way, and was allowed to do so on the basis of regeneration, it would be allowed to sell anything and everything it wanted, while the existing supermarkets were told that they were limited to selling,

*[Mr. Moss]*

perhaps, tinned food. That is the kind of situation that we face. Existing casinos can have a maximum of 10 category B machines, while the new casinos that the Government propose under the 888 proposals will have 150 category Bs per large casino and 80 per small casino. That completely eclipses the existing casino estate. If the Government want to test these proposals, they should do it across the board and limit the number of regional casinos from eight to four. That would, at a stroke, reduce the number of category A machines available from 10,000 to 5,000.

**Clive Efford** (Eltham) (Lab): Is the hon. Gentleman aware that there are 131 existing casinos in Great Britain, and 24 across London alone? By suggesting that we should suck it and see, as it were, is not he promoting a proliferation of those machines all over the country?

**Mr. Moss:** I hope to show that I am not proposing any more machines than the Government are. I propose that the existing casino industry should be part of the trial. Why should it be dismissed? On the day the Government announced the 888 configuration, £0.5 billion was wiped off the share value of the four major casino businesses in this country—not £500,000 or £5 million, but £500 million. The Minister scoffed when that was raised in Committee, but it is a huge amount of money to be wiped off, and it happened because of the complete imbalance in the Government's approach to the future of the casino industry.

**Mr. Hoyle:** I do not want to argue about whether there are 131 or 136 casinos, but would the hon. Gentleman limit the number of category A machines that they have? If he is saying that there would be no more category A machines than the Government propose, and possibly fewer, what number does he envisage?

**Mr. Moss:** I shall come to that when I have finished developing my argument. It is an important point, of course, and I will not leave the hon. Gentleman in suspense for long.

We propose that an existing casino that qualifies as a large casino in terms of floor area should be allowed to have, instead of just 10 category B machines, the number allowed to the new large casinos on a machine-to-table ratio of 5:1. With an extra, say, 20 large casinos, that would provide an extra 3,000 category B machines—or rather 2,800, as there are already 200. Under amendment No. 142, existing casinos with a 2:1 machine-to-table ratio would be categorised as small casinos. Those that do not qualify as large or small but are sub-small, and come under the 5,000 sq ft threshold, would have the same machine-to-table ratio. Many of them are very small and cannot get many gaming tables in, so, as the Joint Committee proposed, the limitation on machines would be a qualifying measure.

New clause 13 would extend the trial. It poses this question: why should the punters in existing casinos such as those in London—where we have, in the form of the membership clubs, some of the top casinos in the world—be restricted to playing category B machines, while a new regional casino somewhere else in London will enable people to play category A machines? New clause 13 would allow a fifth of all the machines in a casino to be category A. That would mean, for example, that the large casinos in the existing estate would have a total of 600 category A machines, or 30 per casino. For the small casinos, there would be 480, or 16 per casino, and for the sub-small, there would be around six per casino. The idea that such machines, with unlimited stakes and prizes, will pay out millions of pounds is nonsense, because they cannot be linked from casino to casino. If there are just six in one small casino, the stakes and prizes will be similar to those for the category B machines that already exist.

**Mr. Don Foster:** The hon. Gentleman knows that I have great reservations about his proposals for category A machines, and several hon. Members may be concerned about his earlier proposal for trading up. He mentioned the additional machines that would be introduced as a result. Will he confirm that the number will be about 6,000 or 7,000 additional machines, compared with the 10,000 category A machines that the Government propose and the approximately 33,000 fixed-odds betting terminals that currently exist?

**Mr. Moss:** The hon. Gentleman makes a good point, which I was about to cover. He has stolen some of my thunder, but he is right. We contend that the 10,000 category A machines in the regional casinos should be reduced to 5,000, and that more category B machines—and some category A machines—should be put into the established casinos. The total under Government proposals—I am now answering the question asked by the hon. Member for Chorley (Mr. Hoyle), so perhaps he will concentrate—is 10,000 category A machines and 3,240 category B machines. That encompasses the machines in the new casinos—the eight and eight—and those in the existing estate. Our proposals are for 5,000 category A machines in the new regional casinos and 8,540 category B machines throughout the estate, including the new eight large and eight small casinos. The total is 13,540. That should be compared with the figure of 13,240 under the Government's proposals, but with half the number of category A machines.

New clause 13 provides an alternative proposal and would introduce category A machines instead of category B machines in some casinos. That would mean 6,985 category A machines and 6,555 category B machines, and therefore a total of 13,540. We do not propose to increase the number of machines throughout the country; we are keeping to the Government's figures but contend that our approach, involving a trial of all casinos, is a better way of going about it, and a better test than the Government's proposal.

I promised to be brief. I have made my points and I simply reiterate that we shall divide on the three amendments to which I referred at the beginning of my speech.

**Mr. John Greenway** (Ryedale) (Con): I apologise for not being here at half-past 4 when proceedings started. I had to go to North Yorkshire today to attend the funeral of a close friend.

Ideally, we would have longer to discuss the Bill. However, I want to reflect on some of the issues that the pre-legislative scrutiny Committee considered and its

general conclusions. I hope that that will be helpful. First, the Committee recognised that the decision to introduce category A machines into United Kingdom casinos for the first time was bound to be controversial, but we did not challenge the principle of that, as some now try to do. The policy decision seemed clear to us. From the Budd report, through the White Paper, the draft Bill and the Government's proposals that they presented to our second inquiry last July, there was a seamless robe of agreement that the proposal was a good idea and that it was time to relax some of the restrictions on our UK industry. The availability of category A machines was an example of that relaxation.

However, we also believed that key issues about numbers and accessibility to the machines needed to be considered. We established an important principle, which forms the basis of our debate tonight, that the original Budd and White Paper proposals for unlimited category A machines throughout the estate was neither necessary nor desirable. We also acknowledged that operators needed flexibility. I therefore believe that in the fullness of time, the Government have to resolve category B limits if there are not to be category A machines in the existing estate.

We also believed that the largest casinos, which the Government have chosen to call "regional", posed several challenges to policy across Departments. There is undoubtedly capacity for regeneration. The right hon. Member for Newport, East (Alan Howarth) asked who wanted the proposals. He should go to Blackpool, for which there is no plan B. Even the Churches, representatives of which met my Committee, said that they supported the proposals, because Blackpool needs jobs and regeneration. We believed that the number of large casinos would ultimately be limited by the market but that programmes of social responsibility, especially for operators from outside the UK, who have no experience of the UK market, are crucial. We are considering big leisure destination casinos and major leisure complexes, which would support and offer many other facilities. They would not need unlimited numbers of machines, but their location would be important, for the avoidance of easy access.

6.15 pm

However, when the June proposals were published and the Government introduced the subject of size for the first time and the decision on category A limits, the Committee believed that the ideas had not been properly thought through and that the result was that too many casinos, which the Government initially envisaged as large, would be encouraged into the big regional category as a means of getting hold of the category A machines. We were also doubtful about the mechanisms for selection of sites through regional spatial strategies. The structure to do that simply does not exist.

The key question that hon. Members should ask me tonight is whether we would have perceived pilots as a good idea, had we been asked to make that judgment. Given the general tenor of the scrutiny Committee's comments, we probably would have found the idea of pilots attractive on balance, but we would have been worried about the competitiveness of the existing industry, especially with regard to machine entitlements. We did not consider keeping category A machines from the existing estate, but we said that the Government needed to be cautious. If there are to be pilots for the largest casinos, especially because of their size and the number of category A machines, is there also a case for trials for large and small casinos?

I have given much thought to that question, and the only basis on which one can justify trials is that the large casinos will have 150 machines and the smaller casinos will have 80. That is significantly fewer than was first envisaged, but many more machines than exist in the current casino estate, although we are considering category B machines. Professor Peter Collins told the Committee that there was no evidence that category A machines were more harmful than any other sort of gaming machine, including a category C machine with a £25 jackpot in your local pub, Madam Deputy Speaker—although I do not suggest that you would go there to play one.

The need for research, and to test the market and public reaction, was brought home strongly to us. Trials can therefore be said to be sensible. We are left to argue about two matters. First, what are sensible numbers for the trials? Secondly, what do we do about the existing estate? We felt all along that there was a need to be cautious. Once the genie is let out of the bottle, it cannot be put back in. I differ with my hon. Friends on the Front Bench about the figure of four; eight is a sensible number. On Second Reading, I urged on the Government a policy that would have limited the number to 20.

**Mr. Win Griffiths:** Will the hon. Gentleman give way?

**Mr. Greenway:** I have not got time—I shall wrap up my speech shortly.

We need a trial in seaside resorts, in urban areas and in city centres. Scotland and Wales will want to be part of the programme. However, we also need to ensure flexibility over time. Hon. Members must realise that we have the opportunity to make primary legislation only every 20 years or so, and the Bill must therefore create the blueprint for the gambling industry for the next 20 to 30 years, or longer. We must also trust the new gambling commission to do its job, and we need fairness for the existing industry. The Minister can use statutory instrument powers under the Gaming Act 1968 to increase the number of category B machines allowed in the existing estate. I know that he is considering that, and I urge him to do it.

My hon. Friend the Member for North-East Cambridgeshire (Mr. Moss) spoke about amendment No. 116. It does not constitute a membership requirement, but supports the principle that the casinos should know their customers. I should have thought that gambling commission codes of practice were likely to incorporate similar provisions on age, money laundering and the supervision of areas where category A and category B machines are to be located. That principle applies now to arcades, to limit access to category C machines by children.

The Government now have difficulty with these provisions in only one respect: fairness to the existing industry. I hope that the Minister will give that question further consideration, and that even in the other place, there will be an opportunity to do more about it. The industry has a world-wide reputation for probity, and is

*[Mr. Greenway]*

respected across the entire casino world. We should therefore trust it to do a little more than the Government are currently allowing it to do.

**Dr. John Pugh** (Southport) (LD): I was on the Joint Committee and the reconvened Joint Committee, and I enjoyed a brief half-life on the Standing Committee until the Railways Bill was introduced. I know more about gambling now than I have ever done. The conclusion that the Joint Committee reached was that there should have been two Bills: a gambling Bill and a casino Bill. On the issue of a casino Bill, the Government disagreed with the Joint Committee, specifically in regard to the size, number and categories of machines. "Casino" was perhaps a misnomer all along; what we are talking about are sheds full of machines.

The Government took our advice and then kept changing that advice. It is really difficult to understand the twists and turns that they have made. Those moves are profoundly puzzling unless we decide that the script has been written around a particular outcome, and that the bottom line is that certain key players—Americans or whoever—must have their way. If we assume that to be the case, all else falls into place and things start to make sense.

My objection to the proposal for super-casinos is that there is simply no demand for them. That is an industry-led proposal. There is no necessity to use them as a regeneration tool. My constituency is regenerating itself without any proposal for a casino. The requirement in the Bill for regeneration is more notional than real. It is dependent on very weak planning controls and falls far short of what happens on the continent, where major revenue benefits are secured as part of the package. The assessment of the benefits has been extraordinarily partial. Neither the losses to small businesses nor the threat of ambient gambling to resort communities has been fairly considered.

I have concluded that casino developments are a licence to print money, a cash cow for the Chancellor. They represent a doubtful prospect for any community, and will aggravate problem gambling and lead to a further redistribution of wealth from the poor to the rich. Blue-collar workers from all over Lancashire are going to find recreation a lot more expensive. Despite such a dim prospect, I am fairly confident that there will be some tiny victories tonight. However, the thread running through the legislation tells me that the greatest satisfaction will be experienced by those in the corporate headquarters for whom the Bill seems to have been written. No amendment before us will change that.

**Mr. Caborn:** I would like to say to the hon. Member for Ryedale (Mr. Greenway) that, if one could respond in a fair way to the existing industry, one would do so. The last thing that we want to do is to put our own industry at a disadvantage. Equally, however, we must assure the House that what we are doing reflects what hon. Members want, not just in relation to certain proposals but the entire Bill.

The Government have tried to set out a cautious course of reform. When we debated the Bill on Second Reading, hon. Members gave us the clear message that they wanted us to be more cautious and to put in place a structure that would give people more certainty about the shape and size of the new industry. We listened to the House. It is patently obvious that we all agree with 90 per cent. of the Bill's provisions. The part that is under debate this evening relates to casinos and associated matters.

Our new proposals gave hon. Members what they asked for: controls on the number of new casinos and on the number of new gaming machines. Perhaps it would help if I started by giving the House a very brief explanation of the Government amendments in this group. Government amendment No. 2 is purely a drafting amendment. Government amendment No. 8 ensures that the gambling commission will focus on an applicant's commitment to social responsibility when considering applications for casino operating licences.

Government amendment No. 13 answers one point that worried the Standing Committee: what would happen to regeneration benefits if the casino owner were to sell on the casino and the premises' licence? Where the previous licence holder has entered into an agreement about local benefits, the substance of that agreement will continue to be a condition of the new licence. This means that any commitments will have to be fulfilled by the new operator. Government amendment No. 29 requires licensing authorities that are permitted to issue casino premises licences to publish a statement setting out the principles that they intend to apply when judging the licensing competition under schedule 9.

Amendment No. 96 is tabled in the name of my hon. Friend the Member for Bridgend (Mr. Griffiths) and my right hon. Friend the Member for Birkenhead (Mr. Field). I understand that they have a great problem with the whole notion of unlimited prize gaming machines in new-style regional casinos. They have explained that clearly, and they have every right to do so. However, unlimited stakes and prizes are by no means new to Britain. They are available every day in betting offices, at roulette tables and online. Gambling for unlimited prizes is open to the British public now.

I acknowledge, however, that new casinos will bring risks that are untested in Great Britain. That is why we took the decision to limit the numbers of these casinos to eight. It does need to be restated that these casinos will be subject to the most intense regulation. Every aspect of their conduct will be carefully controlled. Casino gaming in regional casinos is a legitimate leisure activity for adults, and at the end of the day, I believe that adults need to be treated like adults.

**Mr. Hoyle:** Will the Minister give way?

**Mr. Caborn:** No, I do not have time.

Amendment No. 119, tabled in the name of my hon. Friend the Member for Selby (Mr. Grogan), goes a little too far. I made it clear in Standing Committee that the Government would take a commonsense approach to reviewing the impact of the regional casinos. We have also said that the review will take place no less than three years after the beginning of the new regime. However, we will not begin the review until we are confident that a good number of casinos are established and operating in a reasonable spread of locations. It would be foolish

to speculate now on what the right number or spread would be, when we do not know where the casinos will be. But the Government will not rush into the review if we cannot be confident about the quality of data that we might get out of it. My hon. Friend's amendment is therefore over-restrictive. It might be possible to draw reasonable conclusions about the impact of regional casinos when, say, five or six are established and in operation.

Amendment No. 143 was tabled by members of the official Opposition, and returns us to a subject that we debated at length in Committee. The official Opposition want four regional casinos; we recommend eight. At the end of the day, this is a judgment call. It is not an exact science; far from it. What is important—and, indeed, what lies behind our decision—is the need to strike the appropriate balance between providing for a number that will enable a proper assessment of social impact to be made, while minimising the risk of social harm. We think that eight casinos will give a sound basis for a reasonable test. Four would be too few.

Amendments Nos. 103, 104 and 105, tabled in the name of the hon. Member for Bath (Mr. Foster), would give local authorities a power to determine in advance the exact number of casinos in their area. We think that that goes too far. We accept—indeed, it was we who proposed it—that some authorities should have the power to reflect strong local opinion and not allow any new casinos in their area if they are not wanted. The decision of local authorities can also reflect the view that there is a sufficient number in their area. We do not accept, however, that local authorities should be able to specify a number in advance. Amendment No. 104 would give licensing authorities a power that they already have, because clause 161 already gives them the power to have regard to "any principle or matter". That is intentionally very broad, and would clearly allow an authority to take account of the likely social impact of new casinos.

6.30 pm

Amendment No. 100 was also tabled by the hon. Member for Bath, and I do not think that it is needed. Casinos that are licensed now under the Gaming Act 1968 will continue to be licensed after that Act is repealed through transitional provisions in an order made under schedule 18 to the Bill. The order will deem those casinos, under powers in paragraph 9 of schedule 18, to have premises licences under the Bill, but they will be limited to 10 gaming machines of up to category B1. Under the powers in paragraph 10 of the same schedule they will not be allowed to provide betting or bingo. Those provisions will provide a mix of casinos, on the basis of which the House, in future years, can make a sound decision on how it wants to move forward.

Clause 7(5)(d) makes it clear that a separate category of casinos, which are below the minimum size for a small casino, will exist under the Bill. Paragraph 3(a) of schedule 18 makes it clear that a casino premises licence may be issued for such a casino, despite the fact that it does not meet the size requirement. Clause 7(5)(d) is needed purely to exempt the casinos from the minimum size requirement that applies to new casinos. Nor does amendment No. 101 have any effect on the meaning of clause 7, as casino games provided on premises can only be provided on casino premises. Therefore, no harm arises from the single reference to "premises" in clause 7(4).

Amendment No. 102 is also unnecessary. The Standing Committee had concerns about multiple licences on a single premises, but as I have stated previously, such an arrangement is not possible under the Bill.

Amendments Nos. 116 and 117 lead us on to the linked topics of identity and membership. The amendments in the name of the hon. Member for Bath make two new proposals: first, that everyone entering the gaming area of casinos should show photographic ID to door supervisors; and secondly, that gaming machines should be allowed in what we have called the non-gambling area. The Government agree entirely with him that casinos have a responsibility to confirm the age of customers. That is why a person who fails to do that is guilty of a criminal offence under clause 46. I do not agree, however, that we must impose the requirement that he seeks.

The hon. Member for Bath is also concerned about money laundering and I agree that strong controls are necessary. I do not agree, however, that those controls should take the form of identification on entry. He misled the House, probably unwittingly, when he misquoted the second money laundering directive, which does not require ID on entry. Instead, it requires that ID must be given when buying and selling more than €1,000 of chips. As we discussed in Standing Committee, that is how money laundering controls are enforced now, but it is possible to maintain the same level of vigilance without checks on entry, and we should not impose excessive burdens on the industry without good reason.

On the other aspects of the amendment, I must disagree with the hon. Member for Bath. The non-gambling area of a casino should be exactly that—free from gambling of any type. The purpose of such an area is to give gamblers a readily available break from gambling, which is hardly possible if it is full of pub-style gaming machines.

I recognise that my hon. Friends have the best intentions in proposing new clause 7 and amendment No. 93, but I cannot agree with them. The current membership rule and 24-hour delay before play provide no significant protection to consumers, and nor are they practical to operate for any large casino when large numbers of people are likely to arrive at peak periods. I remind my hon. Friends that casinos provide adult entertainment, and if an adult wishes to enter a casino, it is not reasonable to ask that person to become a member, any more than it would be reasonable to ask someone to be a member of their local pub or betting office.

*Amendment negatived.*

*It being two hours after the commencement of proceedings on consideration of the motion,* MR. DEPUTY SPEAKER *put forthwith the Questions necessary to dispose of the business to be concluded at that hour, pursuant to Order [this day].*

## Clause 162

CONDITIONS

*Amendment proposed:* No. 116, in page 73, line 29, at end insert—

'(4) Each casino premises licence shall by virtue of this subsection be subject to the mandatory conditions that the licensee—

(a) shall not operate gaming tables or gaming machines of Categories A or B outside a designated gaming area prescribed in relation to the relevant casino premises under section 147.

(b) shall not permit any person other than the licensee or a person employed by the licensee to perform any function within the casino to enter a designated gaming area whilst the same is being used in reliance of the casino premises licence without the production at the entrance thereto of satisfactory evidence of identity; and

(c) shall maintain a condition of door supervision in respect of the designated gaming area at all times whilst the same is being used in reliance of the casino premises licence; and

(5) Regulations under this section may, in particular, add or exclude gaming machines of a particular category or categories from gaming machines which are the subject of subsection (4) of this section provided that such regulations shall not permit gaming machines of Category A to be so excluded.

(6) In subsection (4) "satisfactory evidence of identity" means evidence which is reasonably capable of establishing (and does in fact establish to the satisfaction of the person who obtains it) (a) the name, address and a photographic likeness of the person producing the evidence, (b) establishing that such person is over the age of 18 years on each occasion that satisfactory evidence of identity is required to be produced under this Act (including the proffering on a second or subsequent occasion of entry of a card or token issued to them by the licensee of the casino premises) for the purpose of verifying the identity of such person by reference to a photographic image.

(7) For the purposes of subsection (6) a photographic image may be an image stored (a) visually or electronically upon the card or (b) upon a system maintained by the licensee of the premises for such a purpose.'.—*[Mr. Don Foster.]*

*Question put,* That the amendment be made:—

*The House divided:* Ayes 148, Noes 235.

**Division No. 38]** **[6.33 pm**

### AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Doughty, Sue
Duncan, Alan *(Rutland)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Oaten, Mark *(Winchester)*
Osborne, George *(Tatton)*
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. David Ruffley and Bob Russell**

### NOES

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Calton, Mrs Patsy
Campbell, Alan *(Tynemouth)*

Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corston, rh Jean
Cousins, Jim
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hoon, rh Geoffrey
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Illsley, Eric
Iranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
McFall, rh John
McGuire, Mrs Anne
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Meacher, rh Michael
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Morley, Elliot
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
Olner, Bill
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Purnell, James
Rammell, Bill
Raynsford, rh Nick
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Ross, Ernie *(Dundee W)*
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Savidge, Malcolm
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Southworth, Helen
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Touhig, Don *(Islwyn)*
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

**Tellers for the Noes:**
**Gillian Merron and**
**Jim Fitzpatrick**

*Question accordingly negatived.*

## Clause 7

CASINO

*Amendment made*: No. 2, in page 4, line 25, leave out paragraphs (d) to (f) and insert—

'(d) the floor area used or designated for a specified purpose.'.—*[Mr. Caborn.]*

## Clause 68

CONSIDERATION OF APPLICATION: GENERAL PRINCIPLES

*Amendment made*: No. 8, in page 29, line 6, at end insert—

'(2A) In considering an application for a non-remote casino operating licence the Commission shall have regard, in addition to the matters specified in subsection (1), to the applicant's commitment to—

(a) protecting vulnerable persons from being harmed or exploited by gambling, and

(b) making assistance available to persons who are or may be affected by problems related to gambling.'.—*[Mr. Caborn.]*

## Clause 179

TRANSFER

*Amendment made*: No. 13, in page 82, line 17, at end insert—

'(6) A licence to which a condition is attached under section 164 for the purpose of giving effect to an agreement entered into under paragraph 5(3)(b) of Schedule 9 ("the original agreement") shall not be transferred unless—

(a) the transferee enters into an agreement ("the new agreement") which appears to the licensing authority to have substantially the same effect as the original agreement, and

(b) the condition is altered so as to give effect to the new agreement.'.—*[Mr. Caborn.]*

**Clause 83**

EQUIPMENT

*Amendment made*: No. 9, in page 37, line 6, after 'equipment' insert

'( other than equipment for playing bingo.'.—*[Mr. Caborn.]*

**Clause 89**

BINGO OPERATING LICENCE

*Amendments made*: No. 10, in page 39, line 17, after 'nature' insert ', amount or value'.

No. 11, in page 39, line 19, at end insert—

'(ea) preventing or limiting an arrangement whereby the fact that a prize is not won or claimed in one game of bingo increases the value of the prizes available in another game of bingo,'.—*[Mr. Caborn.]*

**Clause 266**

BINGO

*Amendments made*: No. 21, in page 119, line 23, leave out '£1,000' and insert '£2,000'.

No. 22, in page 119, line 27, leave out '£1,000' and insert '£2,000'.

No. 23, in page 119, line 29, leave out '£1,000' and insert '£2,000'. —*[Mr. Caborn.]*

**Clause 272**

BINGO

*Amendments made*: No. 24, in page 121, line 19, leave out '£1,000' and insert '£2,000'.

No. 25, in page 121, line 21, leave out '£1,000' and insert '£2,000'.

No. 26, in page 121, line 24, leave out '£1,000' and insert '£2,000'.

No. 27, in page 121, line 26, leave out '£1,000' and insert '£2,000'.

No. 40, in page 121, line 32, after 'licence' insert 'or relevant Scottish licence'.—*[Mr. Caborn]*

**Clause 58**

AGE LIMIT FOR CATEGORY D GAMING MACHINES

**Mr. Whittingdale:** I beg to move amendment No. 110, in page 24, line 34, leave out clause 58.

The last group of amendments concerned casinos. Casinos are an important issue, but the number of people in the country who use them is, in fact, relatively limited. We considered the potential impact if the new casinos were allowed, and there were a significant—

**Mr. Deputy Speaker (Sir Alan Haselhurst):** Order. I am sorry to interrupt the hon. Gentleman, but will hon. Members who are not staying for the debate please conduct their conversations outside the Chamber?

**Mr. Whittingdale:** As I was saying, we considered what impact the new casinos would have in the event of a significant increase in the number using them.

Amendment No. 110 is of vital importance to the existing 960 family entertainment centres, many of which can be found in our seaside resorts. They are long established and play a vital part in the local economy of many such resorts. In total, they employ some 8,600 people and spend about £100 million in doing so. More importantly, perhaps, they are a central part of the traditional British seaside holiday. They have undoubtedly brought pleasure to the millions of families who spend their summer holidays at the seaside, and there is no evidence that they have ever led to any harm. It seems extraordinary that, at the same time as introducing a Bill that will allow new and untried casinos—potentially leading to a considerable increase in gambling addiction—the Government seem intent on striking a series of hammer blows to existing seaside arcades. Such blows will do enormous damage and perhaps jeopardise their survival, even though there is no evidence that they do any harm.

Several later amendments deal with specific matters relating to seaside arcades, particularly machine stakes and prizes and the question of trading up. Amendment No. 110, however, deals with a power in the Bill that many regard as a sword of Damocles hanging over the industry: the Secretary of State's having a reserve power to ban children from using category D machines. Let us be clear what such machines are. One example is the "crane grab", whereby the player manoeuvres a crane in an attempt to grab a cuddly toy from the collection within the machine. A further example is the "penny falls", which involves rolling a coin down a slide, in the hope that it will push a number of coins over the edge and one will get one's money back, plus a little more. Such machines are not exactly examples of the hard gambling that leads to the worst examples of problem gambling or addiction.

**Mr. John Gummer** (Suffolk, Coastal) (Con): I wonder whether my hon. Friend can think of a worse example of the nanny state than the Secretary of State's taking the power to prevent a small child from grabbing a cuddly toy.

**Mr. Whittingdale:** This Government have come up with many different ways of imposing the nanny state, but I agree that this is one of the worst examples, particularly given that this provision appears to have been introduced without any supporting evidence whatever.

The whole point of such attractions is that they are part of what are called family entertainment centres. The latest published survey shows that some 47 per cent. of the population visited such a centre at least once in the past year. Like many people, I remember visiting seaside arcades during my childhood—in Weymouth and in Lyme Regis—and playing on the machines. Indeed, one of the strongest advocates of such machines, and opponents of this clause, is my right hon. Friend the Member for West Dorset (Mr. Letwin), who represents Lyme Regis.

In her letter to Labour Members, the Secretary of State made it clear that the Government are

"committed to taking an evidence-based approach to all gambling issues."

She continued by pointing out that

"low-value gaming machines have been available in amusement arcades for many years, and there has never been compelling evidence that it is harmful . . . for children to be able to play low-value gaming machines."

So the Government accept that we need to proceed on the basis of evidence, and that there is no evidence that such machines have ever caused harm to anyone.

**Mr. Nick Gibb** (Bognor Regis and Littlehampton) (Con): My hon. Friend will also be aware that, according to a survey carried out by the British Amusement Catering Trades Association, 90 per cent. of those of its members who run arcades in seaside towns will restrict their investment if clause 58 goes ahead unamended.

**Mr. Whittingdale:** My hon. Friend is absolutely right, and I shall come to the devastating effect that the clause will have on the industry if it remains in the Bill.

The only justification that the Secretary of State has been able to give for having this reserve power is the possibility that evidence supporting the need for it might emerge in future; or that some technological change might cause the Government to reconsider. However, as my hon. Friend the Member for Bognor Regis and Littlehampton (Mr. Gibb) said, this power will threaten investment throughout the industry and 90 per cent. of such businesses will restrict their investment.

I received a letter from Mrs. Fletcher, of the Fletcher Group, who has been involved in the seaside entertainment industry for almost her whole life. She said that

"such a damaging clause hanging over the industry will cause a level of uncertainty that will restrict the level of long term investment. How can we be expected to plan and invest in the future expansion of our businesses if with one stroke the government can eradicate around 75 per cent. of our customer base? The potential loss of customer levels will eradicate the majority of seaside establishments as we know them today, the traditional seaside will no longer exist."

The British Association of Leisure Parks, Piers and Attractions, which represents amusements and other such attractions, says:

"We cannot accept it is necessary or desirable to grant the Secretary of State a reserve power to prohibit children playing Category D games . . . There is no academic evidence to substantiate such a draconian measure. Such a power will blight the industry and mean that our members will be unlikely to invest in new equipment."

**Geraldine Smith:** Does the hon. Gentleman agree that many find it rather strange that while the Government are saying that people can play category A machines in mega-casinos, they are also giving the Secretary of State a reserve power to ban children from playing category D machines and winning cuddly toys? The clause is crazy and should be removed, and it is indeed an example of the nanny state gone mad.

**Mr. Whittingdale:** I am extremely grateful to the hon. Lady for her remarks and I am delighted to learn that she supports our amendment. She is right: the clause is entirely crazy.

The clause is particularly crazy because although the Government have said that they need this reserve power in case of future technological developments, or in case evidence emerges supporting the need for such a power, there are other provisions in the Bill giving the Secretary of State powers that she could use in such circumstances. For example, clause 226(6) gives her the power to act if there are changes in technology, and clause 230(1) gives her other wide-ranging powers. So clause 58 is not only immensely damaging; it is also completely unnecessary.

**Mr. Hawkins:** Does my hon. Friend recall that when he and I considered the Bill in Committee, the Minister himself said:

"We do not plan to use the power now or in the foreseeable future"? [*Official Report, Standing Committee B*, 30 November 2004; c. 267.]

In the light of what my hon. Friend and the hon. Member for Morecambe and Lunesdale (Geraldine Smith) have said, what on earth is the reason for the Government's including this provision in the Bill?

**Mr. Whittingdale:** My hon. Friend is of course right: there is no reason for this reserve power. Including such a power in the Bill sends the clear signal that there could be circumstances in which the Government ban children from using category D machines. Sending that signal will blight the prospects of many small businesses in seaside resorts throughout the country—businesses that are already struggling to survive—and as long as the clause remains in the Bill, it will cause real damage to them and will potentially deny enjoyment to many families. I therefore ask the Minister to think again and remove it.

**Dr. Gavin Strang** (Edinburgh, East and Musselburgh) (Lab): I am happy to follow the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale), because I agree with much of what he said.

I am grateful for the opportunity to raise my constituents' concerns about the implications of clause 58 for family entertainment centres. My constituency contains Portobello, a seaside suburb complete with beach and promenade. Part of the fun of a day at the seaside there is a visit to one of our family entertainment centres. I was asked recently to meet the operators of Portobello's two family entertainment centres—Nobles and Lothian Amusements' fun park. The Noble family has been in seaside amusements for three generations, and the Portobello centre has been in existence for some 100 years. The fun park has been running since 1908, and my constituent Melvin Strand has been in charge of it for more than 20 years. A significant part of the operation of both of those centres is the category D machines. As the House knows, those machines currently have a maximum stake of just 30p and a maximum prize value of £5 in cash or £8 non-cash. Such low-value gaming machines have been part of seaside life for decades, and many people will have fond memories of them. My right hon. Friend the Minister said in Committee that

"arcades with category D machines are an important part of the economy, particularly in seaside resorts. Indeed, they are a part of our history and culture at the seaside. We want to maintain them as part of that structure."[*Official Report, Standing Committee B*, 30 November 2004; c. 269.]

7 pm

As the House knows, clause 58 enables the Secretary of State to bring forward an order that would ban children and young people below a specified age from using category D machines. Clause 342 tells us that such an order would be subject to the affirmative procedure, meaning that a draft would have to be laid before, and approved by resolution of, both Houses. Not surprisingly, my constituents are profoundly alarmed at the implications of such an order for their family entertainment centres. Category D machines account for well over a quarter of their business, and Nobles estimated that in summertime such machines might account for three quarters or more of their trade.

I am aware, of course, that my right hon. and hon. Friends the Ministers insist that they have no intention of banning children from category D machines on current evidence. However, the very fact that the Secretary of State will have the power to do so is a matter of great concern to my constituents. I have seen the clause referred to as a sword of Damocles—indeed, the hon. Member for Maldon and East Chelmsford used the phrase. As any order would be subject to the approval of both Houses, this particular sword does have a safety net under it, but nevertheless my constituents are worried, and worry in an industry can translate into economic loss.

At present, the manufacturers of category D machines monitor children's interests and develop products that reflect current trends. The operators of family entertainment centres then invest in new machines to keep their facilities up to date, and that investment is serious money. A coin-pusher costs in the order of £10,000 to £15,000. Both family entertainment centres in Portobello renew a number of their machines every season, and expect a new machine to stay in place for around five or six seasons.

**Mr. Mark Simmonds** (Boston and Skegness) (Con): Is the right hon. Gentleman aware that investment decisions are already being delayed because of the uncertainty that the continued inclusion of clause 58 is having? It is not only future investment decisions that are being affected, but today's investment decisions, which will affect tourists in UK seaside resorts in the immediate future.

**Dr. Strang:** The hon. Gentleman makes a fair point.

My constituents tell me that the effect of clause 58 will be that investment in the development of new category D machines will cease, and that investment by operators will dry up, to the obvious detriment of jobs in the industry.

**Mr. Moss:** Does the right hon. Gentleman agree that it is slightly perverse that the Minister with responsibility for tourism should also be responsible for a Bill that would decimate whole swathes of the seaside resort industry?

**Dr. Strang:** The hon. Gentleman overstates his case. I do not believe that my right hon. Friend the Minister wants to decimate the industry, but I do think that the Government need to think again.

The British Amusement Catering Trades Association's survey of its members indicated that 90 per cent. of owners are less likely to invest in their businesses in the light of clause 58. That would be the direct effect, but there could be more general effects. For example, if a family entertainment centre owner needed to invest to refurbish the centre, he might find that his chances of getting a bank loan could be damaged by the threat posed by clause 58. And what about an owner seeking to sell his business? Could the price of that business be reduced by the threat of a clause 58 ban? The owners of both seaside amusement centres in my constituency are firmly of the view that the clause would have such an impact on their sector. If one adds to that the proposed reduction in stakes and prizes for category D machines in clause 226, the Bill has given my constituents great cause for concern.

Neither of my constituents is given to overstatement or melodrama. Both are knowledgeable businessmen with a wealth of experience in their field, and both are firmly of the view that clause 58 as it stands will be damaging to their industry. Ministers insist that they have no intention of using their reserve powers to ban children from using category D machines, and perhaps the impact of the reserve powers on the industry was not foreseen. However, the industry is very worried that just by taking those reserve powers the Bill will have a harmful effect on their sector. I hope that my right hon. Friend will recognise that Members on both sides of the House have expressed concern about this measure, and I urge him to listen to those concerns.

**Mr. Don Foster:** The House will be well aware that earlier we debated the issue of casinos, when many hon. Members expressed considerable concern that a Labour Government had sought to introduce an unlimited number of new untried super-casinos with up to 1,250 untried category A machines. Fortunately, as a result of pressure, the Government were prepared to change their mind on that issue. Many Members who were surprised by those proposals were puzzled that, at the same time, the Government were making huge attacks on traditional seaside resort entertainment facilities.

As the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) pointed out, this issue is not the only problem. Those hon. Members who have not studied the deliberations of the Committee in great detail may be surprised to learn that the Bill still contains a proposal that the cuddly teddy bear that can be won from a grabber machine should have its possible value reduced from £8 to £5. That is from a Government who happily proposed to introduce 10,000 new category A machines with unlimited stakes and prizes. The Government's thinking on the matter is bizarre.

Several hon. Members have already made the point eloquently that the reserve power in clause 58 simply is not necessary. Other parts of the legislation give the Secretary of State the power to make changes in the light of advice from the new gambling commission. No doubt whoever is Secretary of State at the time will do that in regard to many different aspects of gambling, so why is it necessary to single out, in this bizarre way, that one

aspect of the industry, especially as not a shred of evidence exists to show that it contributes to problem gambling?

**Mr. David Heathcoat-Amory** (Wells) (Con): Is not the simplest explanation that the proposal is part of the murky agreement between the Government and the large casino operators? If those casinos do not produce the revenue that the Treasury wants, the Government want to retain reserve powers to extinguish what remains of the competition.

**Mr. Foster:** If the right hon. Gentleman is right, he is failing to acknowledge that by leaving these measures in the Bill—this sword of Damocles hanging over the heads of such establishments—the chances of family entertainment centres making any money for regeneration in the future are very slim. It is worth reflecting that in a recent survey, 47 per cent. of families reported visiting such establishments at least once in the past 12 months. Some 90 per cent. of those who run such establishments believe that if the powers remain in the Bill, they are likely to affect their investment potential for the future. As other hon. Members have said, that is already beginning to have a huge impact.

If the Secretary of State were to invoke the powers, meaning that only over-18s could use category D machines, there is little chance that families would bother to visit places with such machines. As a result, such centres would no longer be viable and no investment would come in from them. There is no evidence to suggest that such reserve powers are necessary in addition to the existing powers that the Secretary of State will be given by the Bill. I hope that in the same way as the Government have been prepared to listen to the concerns expressed by many people about super-casinos, they will be prepared to consider the concerns expressed on this issue. Let us hope for another welcome U-turn.

**Mr. Hoyle:** It is obvious that many hon. Members are worried about the future of category D machines. One might ask why people in Chorley have an interest in the matter because it is not by the seaside, but my constituency contains Camelot, which is a theme park with category D machines. Another group that is concerned is travelling showmen—the funfairs. Travelling funfairs such as Greens and Silcock based in Chorley have category D machines, and many showmen go around the country with those machines. Will my right hon. Friend ensure that people who follow the great tradition of travelling around the country and those in seaside resorts do not have to worry about their future and livelihoods, because they are being put at stake?

We know about the proposal to reduce prize money, but there is a problem with that because there is no way of allowing it to increase with inflation over the next 15 to 20 years. A mechanism should be built into the Bill to allow category D machine prizes to increase over the long term. I hope that my right hon. Friend will think about what hon. Members have been talking about: the future viability of category D arcades, whether they are owned by travelling showmen or sited in seaside resorts and theme parks. Why does he want such special powers and does he really need them? Will he think long and hard about the travelling showmen, the seaside and theme parks?

**Mr. Caborn:** I rise at this point to try to be helpful because I know that hon. Members wish to speak to other amendments.

Amendment No. 110 would remove the Secretary of State's power to restrict children's access to category D gaming machines. I want to clarify a few points on the Government's attitude to low-prize gaming machines, because the debate has reflected the fact that there has been much frenetic lobbying on the matter, which has resulted in misunderstandings.

Many people have said that the Government are unfairly singling out category D machines with the reserve power in clause 58, but that is simply not true. Under the Bill, as, indeed, under the present law, every type of gaming machine except category D machines has a statutory age requirement for play, which is 18 years. Category D gaming machines thus single themselves out as a matter of fact.

The Government's policy over all the years covering the gambling review, the White Paper and the draft Bill has been that children should continue to be allowed to play those machines. We have taken that view because the amounts of money involved are modest and there is not yet a substantial body of compelling evidence to make us think that children's access to category D machines is truly a problem. However, contrary to what one might have thought after hearing the debate, there is a body of opinion that disagrees with the Government. There are serious academics who doubt our conclusions. There is also a strong body of public opinion that children should not be allowed to play gaming machines at all. Indeed, by far the largest number of responses to the public consultation on the draft Bill were from people who did not want children to be allowed to play the machines at all. The Government needed to make a choice between the options, so we have chosen to continue with the status quo, with children being allowed to play the machines.

We believe that the amendment goes a little far. I have to ask the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) whether he thinks it right for the Government to ignore those who hold strong views or offer different evidence. Is it not better to hold powers in reserve that will be subject to the approval of the House, using the affirmative procedure, so that we could act to protect children better? The Bill already provides for that, so it will give the Government and the gambling commission the powers needed to protect the public now and in years to come.

**Geraldine Smith:** Does my right hon. Friend accept the problem of blight on the industry? Many small amusement arcade owners are worried about reinvesting in category D machines because they would become obsolete if children were prevented from using them.

**Mr. Caborn:** I hope that what I will say will reassure my hon. Friend and other hon. Members. I am trying to balance the debate because alternative arguments have been advanced, which the Government have weighed up before reaching a view.

*[Mr. Caborn]*

It has been alleged that the Government are plotting to take the industry by surprise and use the power suddenly to strip away the right of children to use the machines, but that is not the case. With respect, it is a fanciful idea. I remind the House that the Government, in response to the Budd report, reaffirmed the view that children should continue to play these machines, even though chapter 23 of Sir Alan Budd's report showed that he was highly sceptical about whether children should be allowed to continue playing. The Government made their position crystal clear in chapter 7 of the 2002 White Paper, and that position has not changed.

7.15 pm

**Sir Teddy Taylor:** Would the Minister like to run a business, which is quite a difficult thing to do, if the Government could use reserve powers to put him out of business by simply laying an order before the House of Commons? Surely that is a real problem.

**Mr. Caborn:** I said in Committee that uncertainty is one of the worst things for a business. If the hon. Gentleman will bear with me, I shall try to clear up that uncertainty.

I am happy to give a pledge today, on behalf of the Government, that we will, of course, never use the power in clause 58 without a strong new body of evidence to support that. We would always consult both the gambling commission and representatives of the industry before coming to the House, as I said clearly in Committee.

We have listened carefully to the debate and strong representations on the matter that my hon. Friends have made over the past few weeks. I appreciate that there are strong views and many legitimate interests, especially among my hon. Friends who represent seaside constituencies. Although I cannot accept the amendment at this stage, I am happy to make a commitment that the Government will review carefully the need for the reserve powers included in clause 58, and that they will report their conclusions and any alternative proposals to the House of Lords if the Bill receives its Third Reading tonight. We need to consult several constituencies with legitimate views on the matter. The Government want to work with the British amusement industry to ensure that it remains an important part of our leisure and tourism industry—yes, the tourism industry, to respond to the hon. Member for North-East Cambridgeshire (Mr. Moss)—and that the leisure and tourism economy have a bright future.

**Mr. Hoyle:** My right hon. Friend mentioned seaside towns, but does he accept that we also represent theme parks and travelling funfairs?

**Mr. Caborn:** I do, but I was referring to the strong representations that have been made by Labour Members with constituencies containing seaside resorts. I hear what my hon. Friend says and confirm that we will examine the situation not only in respect of seaside resorts, but of category D machines. Given my reassurances, I hope that the hon. Member for Maldon and East Chelmsford will withdraw the amendment so that we may report back to another place.

**Mr. Hawkins:** Although the Minister's words were helpful, he is somewhat friendless on the Government Benches because all three Labour Back Benchers who have spoken were critical of the reserve power. If I may add to the speeches and interventions that have been made, independent research by the Henley Centre concluded that up to a third of family entertainment centres throughout the country could well close as a result of the Bill, if it were not amended. I hope that the Government will decide, on reflection, to remove the clause in another place, and that hon. Members of all parties will send a firm signal to another place and the Government by voting for the amendment this evening.

It is not only clause 58 and the singling out of category D machines, which have been enjoyed by many children for generations, that could damage family entertainment centres, because a raft of measures in the Bill will affect those centres and members of the British Amusement Catering Trades Association and the British Association of Leisure Parks, Piers and Attractions, with which I have worked for many years.

One must consider the cumulative effect of everything that the Government have done. They have reneged on promises that arcades' existing entitlements would all be grandfathered under the Bill. We may come back to that matter later, but the Government's ridiculous guillotining and programming of the Bill may not enable us to debate that, so I mention it now.

Despite previous assurances that they would not, the Government have limited the ability of families to exchange two smaller prizes for one larger one—a long-standing practice in the business known as trading up. The Government set out their intention in the regulatory impact assessment to reduce, in the absence of any evidence to justify it, by 66 per cent. the level of stakes and by 40 per cent. the prize levels available on the lowest stake and prize category D machines, threatening the profitability and viability of many arcades. The Government have also refused to implement the normal triennial increase in the levels of stakes and prizes as recommended by the Gaming Board to reflect increases in running costs over the period.

**Mr. Simmonds:** My hon. Friend is making a series of excellent points. Is he aware that, in seaside resorts such as Skegness in my constituency, the category D machines account for a substantial proportion of turnover and profit in many of the family entertainment centres? The Government seem to think that the machines are a tangential or marginal part of many of these businesses when they are critical to the future dynamism and success of tourist resorts such as Skegness.

**Mr. Hawkins:** I agree with my hon. Friend. As he knows, in my first five years in the House, I represented Blackpool, where exactly the same concerns exist. It is not surprising that Labour Back Benchers are responding to those concerns. As my hon. Friend the Member for Rochford and Southend, East (Sir Teddy Taylor) pointed out, it is simply not possible to run one

of these small businesses—most are small family concerns—if they have such a threat hanging over them. Once again, it is a reflection of the fact that far too few Ministers in the Government have ever had a single day's experience of running a business. They do not understand the effect of what they have done.

It is exactly the same as the point that was made in the previous debate when we heard the revelation that £500 million was knocked off the stock market valuation of the British casino industry in the 24 hours following the Government's change of policy. It is another example of how they do not care about businesses, large or small, because they have no comprehension of the worries that people running businesses have.

We have seen a chink of light, no doubt influenced by the fact that the Government are aware that many of their Back Benchers are prepared to contemplate rebellion on this issue and that the only Labour Members to speak in this debate have spoken against the clause. The Government may decide in the end that they have this wrong. I certainly hope so. There is every reason to think that family entertainment centres—they are a crucial part of our tourism both inland, as the hon. Member for Chorley (Mr. Hoyle) said, and at the seaside—desperately need the clause to be taken out. I hope that it will be in another place. The Government would be wise to do that.

**Sir Teddy Taylor:** I hope that the Minister will clarify whether it is his intention to withdraw the clause and remove its effect in the House of Lords or whether he is saying that he will just have another look at it.

I want to make three points. First, I represent Southend-on-Sea where we have a large amusement industry, which is rather different from the casino industry. I had the pleasure of speaking to two Americans who were making applications for one of the gigantic casinos and they seemed to know everything about everything. They belong to massive companies and, to my surprise, they told me that we would have to change the way in which regional casinos were being allocated, because of the decision to give Sheffield one. I pointed out how the organisation had not even been established and how the factors in the Bill had to be taken into account, but they seemed to know everything about everything. I genuinely say to the Minister that if Sheffield, which is the most outrageous place even to be considered for a casino, gets one, my faith in democracy will be undermined. If it does not get one, my faith in the American gambling industry will be undermined.

**Mr. Caborn:** As the hon. Gentleman knows, we have to set up a small committee to look at the location of the 24 casinos. Will he put his name forward to be a member of that Committee?

**Sir Teddy Taylor:** The Minister is aware that I am always interested in taking a look at anything.

I want to make two further brief points. The people who run amusement arcades are nice family people and have massive numbers of visitors at weekends. Southend is not a tourist resort, but people go there for a day out and families go there and enjoy themselves immensely. The Minister's proposal will affect machines such as the cranes that grab toys, the coin-pusher games involving 10p and 2p coins and redemption machines that issue tickets as prizes. I do not think that there is any way at all that the Minister can say that there is evidence that such machines cause damage. We should encourage families to go together in visits to the seaside.

Finally, I hope that if the Minister is thinking of going ahead with the proposal, he will wonder how on earth he will apply it. Regulations are very difficult for businesses to operate, particularly since we joined the European Economic Community, and I hope that he will bear in mind how he would operate the scheme. Is a father allowed to play a machine with his son standing beside him or is the father not allowed to do that? Must there be a separate place in amusement arcades for such machines? I hope that the Minister will realise that the proposal is a mistake, but I greatly appreciate the kind response that he has given.

**Mr. Hoyle:** Does the hon. Gentleman want an addition to the Bill that says that no machines can be converted to take the euro?

**Sir Teddy Taylor:** Our machines cannot be converted, and I hope that the Minister will bear in mind the massive costs the industry is facing because of the EU. If the euro is introduced, it will impose massive costs on the industry.

I hope that the Minister can make it clear that his intention is to remove the powers of the clause when the Bill goes to the House of Lords. If he said that, we would all be grateful and say that he had done a good job. If that is not done and we lose the opportunity, we will have no further chance. Once the Bill leaves the House of Commons, we will not have another chance to look at it unless there is an astonishing amendment in the House of Lords.

In view of the fact that the Minister has said that he is prepared to reconsider the issue, if he is willing to visit Southend-on-Sea to visit our arcades, he would be very welcome and I would give him a splendid lunch on the seafront. It takes only an hour to get to Southend and an hour to get back, so I hope that he will come there and realise that the clause was a great error.

**Mr. Gummer:** I would like to press the Minister. I represent the seaside town of Felixstowe, which is a place for day trips and weekend, weekly and fortnightly stays. Indeed, I am told that it is safer to rely on having two full days of sun in Felixstowe in the first two weeks of September than anywhere else in the United Kingdom. I am proud to represent it, not least because Charlie Manning and his friends produce some of the best seaside entertainments available. Not only are they family entertainments, they are run by families.

I am not always flabbergasted by the Government, but I find it difficult to understand why they have introduced the clause. One usually understands the nefarious reasons why they have decided to do something that is manifestly unpopular and extremely unproductive. Why they have done it on this occasion defies all reason. That is why I became even more worried when the Minister did not actually say that he would introduce an amendment to delete the clause in the House of Lords. I would be very unhappy to go without voting on this amendment unless we had an

*[Mr. Gummer]*

absolute undertaking that the clause will be removed. It is not good enough for the Minister to cite a series of mythical people who are opposed to cranes that catch woolly animals.

**Mr. Caborn:** Before the right hon. Gentleman describes the cranes, will he tell me whether he has consulted other constituents, such as the faith groups, that he also represents? I do not know whether he has spoken to the Methodist Church or to the Salvation Army in his constituency. Discussions are going on between BACTA and the faith groups about the effect of gambling on young people. I have known the right hon. Gentleman for some time, and I do not think that he would dismiss organisations such as the faith groups. They have a point of view and that must be factored into the decisions that the Government take.

7.30 pm

**Mr. Gummer:** As the proud relation of a sister-in-law who is a Methodist minister, I would find it difficult not to consult the Methodist Church in my constituency. I merely say to the right hon. Gentleman that, although I am a Catholic and therefore take a rather different view of these matters from Methodists, I have taken other views into account. I would be sad if our whole public life were organised in such a way that it was not possible to say a very simple thing: for many years the majority of people in this country have managed to grow up in peace and tranquillity while using penny-in-the-slot machines or their modern equivalent.

I am not sure that I would put the cranes that catch woolly animals high up on the list of all the things that have done me harm in life. Indeed, a number of things that have done me harm are not banned. The Minister is not taking reserve powers to protect me and my children against a whole range of other things, which he could do were he concerned about the matter. He should consider that, in a society in which he seeks to extend choice and allow people to do what they want to do—in some areas rather dangerously, in my view—it seems very odd that he should stop children playing these machines. Worse still, he is not actually going to stop them. He will have a reserve power to do so, thereby blighting the industry without having the courage of his convictions.

I simply say to the Minister that, if he agrees with the small number of people who think that the machines should be banned, he should come out and tell us. If he does not agree, he should say, "Right, the machines will go on." I will tell him what I will do: if it emerges, amazingly, that the possession of a woolly bear taken from one of these machines by crane damages the psyche of individuals, I will ask my hon. Friend the Member for Maldon and East Chelmsford (Mr. Whittingdale) to agree to rush emergency legislation through the Commons to ensure that, forthwith, woolly bears may not be put in such machines. If the Minister agrees now to withdraw the measures in the upper House, we will agree to facilitate emergency legislation should some miraculous new information be brought forward by Methodists, the Salvation Army, Jehovah's Witnesses or any group he likes. In the meantime, can we please have our cranes?

**Mr. Hoyle:** Has the right hon. Gentleman ever won a furry bear playing a crane machine?

**Mr. Gummer:** I was not going to enter into that, but it is hard to find someone clutching such a bear, because the bears seem to remain, week after week, inside the machines. All I know is that, for a very small amount of money, the machines give a great deal of pleasure to people hoping for a teddy bear. Why does the Minister want to take away from small children the chance to hope? Is he not the kind of nanny who would be had up under today's laws for cruelty to children?

**Mr. Greenway:** My right hon. Friend talks about whether new evidence will emerge in a blinding light and persuade him to change his mind. A number of organisations told the pre-legislative scrutiny Committee that such machines were damaging to children, but in my judgment and that of the Committee, that was pure assertion. There was not a shred of evidence that it was true. If it were true, we would have more problem gamblers than other countries, which we do not.

**Mr. Gummer:** My hon. Friend is perfectly right. I say to the Minister that I have seen no evidence—I have seen opinion, but no evidence—that these machines do any harm. All our experience, of our own childhood and that of our children, and, in my case, that of my constituents' children, is that they do no harm at all. I know of no body of academic research to the contrary that stands up.

The right hon. Gentleman is in danger of being laughed out of court on this proposal. If the blight cast over businesses by the proposals were not so serious for my constituents, those of my hon. Friend the Member for Rochford and Southend, East (Sir Teddy Taylor) and others, we would laugh, rightly, at a Government who hold reserve powers to protect children from the dangers of machines that have been part of their inheritance for this and most of the last century. What is the House of Commons doing debating woolly bears in crane machines on the front in Felixstowe? Surely we have many more important things to discuss, and the Minister should say now that he will withdraw the proposal.

**Geraldine Smith:** Many of the points have already been made, but I must say a few words, as I represent the seaside resort of Morecambe. Many of my constituents who own amusement arcades have lobbied me about the issue. The possible blight on their business is of great concern to them and they are worried about investing in new category D machines. I can assure the Minister that those do absolutely no harm to children. I have played on them many times, and I have to declare an interest and say that I have won, so it is possible to win on such a machine. The House may be interested to hear that I won a cuddly bulldog with a Union Jack, which I passed on to the hon. Member for Romford (Mr. Rosindell) as a Christmas present.

The machines provide a great deal of fun for children. They make a rainy day in Morecambe. *[Interruption.]* Of course, it rarely rains in Morecambe, but when it does people can escape into the amusement arcades and have some harmless fun. I hope that common sense will prevail.

**Mr. Hoyle:** As somebody who has owned up to winning a prize, will my hon. Friend share her knowledge with the House so that we can all win?

**Geraldine Smith:** I will be happy to give Members lessons if they see me afterwards.

We have had a laugh and a joke, but this is a serious issue for seaside arcade owners and the people who work for them. I am glad that the Minister appears to have taken the concerns on board. I hope that we can make progress and that clause 58 can be deleted from the Bill.

**Mr. Henry Bellingham** (North-West Norfolk) (Con): I declare an interest in that two towns in my constituency, Hunstanton and Heacham, have a large number of amusement arcades, which are, in the main, family owned. Many have been in those families for generations, and they employ, directly and indirectly, up to 250 people, which in small seaside towns is a significant number.

I have been lobbied by a number of arcade owners. I had the opportunity of going around an arcade only recently, as a guest of Mr. Michael Thomas and Michelle, his daughter. I, too, have a confession to make: I won a cuddly bear—but I was given an unlimited number of goes on the crane. Had I been a young child, persevering so long would probably have cost me four years' pocket money.

The Minister has given us an assurance that he will review the powers, but I do not feel that that is enough. He said that he would revisit the matter, but why can he not say that he will withdraw the clause? He has no friends whatever in this place, and the explanation that he gave was pretty unconvincing to me. Is it not ironic that the Government are giving substantial extra gambling opportunities in the small number of mega-casinos and in the machines that will offer unlimited prizes, yet doing significant harm to small family-owned arcades?

A constituent told me the other day:

"My 9 year old daughter will win a smaller teddy bear than she can at present, which will apparently stop her becoming a gambling addict. It's ludicrous."

As Michelle Thomas said, "Costs are going up at a time when seaside economies are struggling. Why give them a kick for no reason? We feel very strongly indeed that this is wrong."

The Minister is friendless. Some powerful arguments have been advanced—I refer to the remarks of my hon. Friend the Member for Surrey Heath (Mr. Hawkins) about the other clauses that affect family-owned amusement arcades. I hope that the Minister will listen to what has been said and have the good sense to withdraw the clause or accept the amendment.

**Dr. Lewis Moonie** (Kirkcaldy) (Lab/Co-op): I represent a constituency that has probably the longest continuous fair in Europe. It goes back 800 years. Clearly, when it started grab machines were not part of the entertainments. However, for as long as I have known it, they have been. One of my earliest memories is of walking through the amusement arcade in Dundee, which was in the basement of the town chamber—an odd place for it to be. The machines always fascinated me. Unlike other Members, I have not won anything on them. However, I have tried them for years. My misspent youth was completely unrewarded, and my misspent middle age likewise.

Rather than to descend into burlesque, I shall make some brief points. I ask my right hon. Friend the Minister to think carefully about the implications of the clause, and related clauses, for small businesses. I know owners in my constituency. The fair comes once a year, in April, and it always rains. The wind cuts through us like a knife. I can tell the House that when the wind does that in Kirkcaldy, we really feel it. Despite the fact that we are on the east of the country, it rains much more in Kirkcaldy than it does in Morecambe—or at least, it seems to. That being so, amusement arcades serve a useful function. In the small town of Burntisland in my constituency, and at other places along the coast, the machines provide a worthwhile service for families, given the state of the weather in Scotland. Roll on global warming. Many of us say that there is no sign of it where we come from.

It has been asserted that the machines are harmful. I entirely agree with the hon. Member for Ryedale (Mr. Greenway), who spoke about pre-legislative scrutiny. It is easy for those with strong views to make assertions about the effects of this and that, and how terrible they are. When we seek to examine objective evidence, we find that none is forthcoming.

The machines provide relatively simple amusement. As I, as a psychiatrist, would know, they provide nothing of the reinforcement so essential to problem gambling—quite the reverse. Two Members have claimed that they have won something from the machines but I have met far more people who have not. If we are to rely on anecdotal evidence and opinion, the fact that so few people seem to win, and thus receive the reinforcement that they would need to continue playing, would seem to suggest that the machines perform a public service at remarkably little cost.

To reduce the price of playing the machines is a serious issue. To reduce the price of such an entertainment from 30p to 10p is ludicrous. I know many of the proprietors, and they do not strike me as numbering among what I would charitably describe as the filthy rich. They run family businesses. They usually live in the towns where they run their businesses and they have a responsible attitude to the gambling that takes place in their establishments. To reduce their charges to those that prevailed 20 years ago would be unfair, especially in comparison with the rides at the fair that I mentioned. The whole point of the Links market in Kirkcaldy is that every new ride for the fairs in Europe comes up to the mile-and-a-half-long display. It now costs £2 to go on one of those things.

Having too great a concern for my own well-being, I am unlikely ever to be persuaded to take a ride. Given the speed at which they fly and the number of dimensions in which they seem to operate, it is probably worth while to take that approach, especially for someone of my size. When we are reflecting on the price

*[Dr. Lewis Moonie]*

of the entertainment provided by the machines, we should compare it with the price of the other entertainments available, and get a sense of proportion.

What are reserve powers for? They have to be provided. They are not just a cover-your-arse method—if that is parliamentary language; if it is not, I will withdraw it. Somebody in the Department has put in the provision because they think that it might be a good idea for the future. There must be reasonable grounds for supposing that reserve powers might be needed at some time. I know that my right hon. Friend the Minister has said that he wishes to be reasonable and to think again, and we are grateful for that. We certainly should think again. In the absence of anything other than prejudice and anecdotal opinion, let us leave these harmless pleasures alone and continue to gratify the tens of thousands of people who use the machines every year.

7.45 pm

**Mr. Simmonds:** When the Minister made his short statement earlier, I hoped that he would say unequivocally that he would withdraw the clause. I understand, however, that that is not what he actually said. He said that he would review the position and consult further, which will not put at rest the minds of the family amusement centre owners in Skegness or any other successful UK seaside resort.

It is not only those who own the family amusement centres who are concerned. Their concern is shared by many of the people who work in the amusement centres, and by those who visit successful seaside resorts such as Skegness. They are deeply concerned that their exciting and vibrant holidays may be destroyed by the sword of Damocles—to quote my hon. Friend the Member for Maldon and East Chelmsford (Mr. Whittingdale)—hanging over many successful businesses and successful seaside resorts. I hope that when the Minister replies he will go even further than he did earlier by stating clearly that when the Bill goes to the other place the clause will be removed in totality.

Category D machines are the fundamental lifeblood of tourist resorts such as Skegness. Members of all political parties are in their places tonight because they are concerned on behalf of their constituents that the clause could have a devastating impact on the tourist industry. Generations of families have enjoyed the facilities that we are discussing, which are at the centre of successful family resorts. Families return year after year to Skegness, not only to play on the same machines, but to use the new machines that have been put in place to create entertainment and vibrancy for the UK tourist. That activity could be decimated by the clause.

The clause is already stopping investment. I held a meeting in my constituency with between 25 and 40 amusement arcade owners. They told me that they had already stopped orders for new machines while the clause remains in the Bill, so this is not something that will have an impact only in the future. It is already starting to have a serious negative impact on resorts such as Skegness.

Despite the Minister's assurances about a review and deeper and wider consultation, I do not understand why the clause is in the Bill. If the evidence does not exist, and almost every body that has considered the issue has come to the same conclusion, why should we have the clause? The Budd report, the Culture, Media and Sport Committee, the excellent Joint Committee on the Draft Gambling Bill, chaired by my hon. Friend the Member for Ryedale (Mr. Greenway), BACTA and the British Association of Leisure Parks, Piers and Attractions have all concluded that there is an absence of evidence to show that playing category D machines under the age of 18 has any knock-on impact on future gambling problems. Indeed, I would argue that the evidence is to the contrary. Category D machines allow families to participate together in harmless fun and enjoyable entertainment.

**Mr. Gummer:** Why does my hon. Friend think that the Minister was entirely willing to listen to those who wanted him to hit at category D machines, but until the furore, was entirely unwilling to listen to those same people when they told him, with much greater evidence and much firmer statements, about casinos?

**Mr. Simmonds:** My right hon. Friend makes a good point, as there is a contradiction in the Bill. The Minister or a future Secretary of State can invoke clause 58 to ensure that children are not allowed to play on category D machines, but no such clause exists for category A machines, which may create far more serious gambling problems for the adult population.

If the Minister or his successor invokes the clause, what is a family supposed to do on a day out in Skegness? It rarely rains in Skegness, but when it does, are mother and father supposed to go into the family amusement centre and leave the children outside, because they are not allowed to play on category D machines? In fact, families will no longer come to UK tourist resorts such as Skegness. With the clause hanging over amusement centre owners, there will be a spiral of decline. There will be a lack of investment, and tourists will go elsewhere—probably abroad, where they can take advantage of such facilities. I very much hope that the Minister will reconsider his position and remove the clause from the Bill.

The Government do not pretend that there are any arguments or evidence to support the inclusion of the clause in the Bill. In correspondence on this issue, the Minister for Media and Heritage said:

> "Currently, there is no clear evidence that low stake and prize machines played by children lead to problem gambling."

If that is the Government's view, what on earth is the clause doing in the Bill? It should not be there at all but, as it is, it should be deleted.

In conclusion, family amusement centre owners in Skegness, as elsewhere, are extremely concerned about the future of their businesses. They will not commit to investing money in those businesses until they are sure that the clause has been deleted. Like many other Members, I would like the UK tourist industry to maintain its vibrant family atmosphere, and in particular, I would like Skegness to retain its vitality as a successful family resort. Clause 58 will do nothing but harm to its reputation, so I hope that the Minister will agree to delete it.

**Sandra Osborne** (Ayr) (Lab): I would like to add my concerns to those expressed by other hon. Members.

I speak as someone who represents three seaside towns on the south-west coast of Scotland, and who hopes to represent even more seaside towns there in future. If the Minister has not visited Ayrshire, I can certainly recommend it to him. It certainly does not rain there has much as it does in Kirkcaldy. When it does rain, however, family amusement centres are an important mechanism for supporting tourism and small businesses in those towns.

I recently visited Girvan, which is currently part of the constituency of my right hon. Friend the Member for Carrick, Cumnock and Doon Valley (Mr. Foulkes), to remind myself of what family amusement centres are like. It is some years since I frequented them, but in common with other hon. Members, I enjoyed the experience and it did not do me any lasting damage. As other hon. Members have said, the fact that there is not any evidence that category D machines are harmful is significant. When I went to Girvan I could not think of a logical reason for the Government's proposal to ban children from traditional games such as "grab a toy", penny falls, ticket redemption games and Derby races, all of which seemed to be quite harmless.

However, I draw Members' attention to the briefing from the Methodist Church, in which it draws a distinction between different category D games:

"Category D machines, which can be played by children, include the harmless teddy-bear grabber machines and "penny falls", but also include certain fruit-machines."

That sheds light on the reasons for the Government's proposals. We have all had a great laugh this evening about "grab a teddy", but that does not necessarily reflect the views of the Government or the Churches. We all accept that some games are harmless, but the Churches are concerned about children playing fruit machines, and we should not ignore or discount those concerns. We all want to do everything that we can to protect children.

**Mr. Don Foster:** The hon. Lady is making an important point, and has drawn our attention to the distinction made by the Churches. However, does she not accept that any changes in the categorisation of category D machines could be covered by changes made by the Secretary of State on advice from the gambling commission, which is already covered by other parts of the legislation? The sword of Damocles approach goes much too far.

**Sandra Osborne:** I agree, and I hope that the Government will take that into account when the Bill goes to the Lords. I hope that the Minister will give us such an assurance tonight. I am merely trying to shed light on people's concerns, and on why the Government have introduced the measure.

Finally, I think that I am right in saying that everyone who has spoken on the amendment tonight is concerned about clause 58. I do not think that anyone was in favour of it. I am reassured by what the Minister has said, and I wait to see what happens when the Bill goes to the Lords.

**Mr. Caborn:** With the leave of the House, I will say a few words of, I hope, reassurance.

I have said that the Government will review carefully the need for reserve powers, including clause 58. The length of the consultation was conditional on that review, and we will report our conclusion and any alternative proposals in the House of Lords, if the Bill completes Third Reading this evening. I went on to say that the Government wanted to work with the British amusement industry to make sure that this important part of the leisure and tourism economy has a bright future. My hon. Friend the Member for Ayr (Sandra Osborne) has lobbied very hard indeed, and as I said earlier, we have taken on board the comments that she and other hon. Members have made. They would like the Government to consult people who have concerns and to give them reassurance about clause 58. We will review the reserve powers in clause 58 very carefully indeed. When we have completed our consultation, we will report to the House of Lords, so there is a time limit on our review. I hope that I have been as helpful as possible. The last thing that the Government want to do is harm that part of the tourism and leisure sector. I have gone as far as possible in my reassurances, and have taken into account the fact that other people need to be consulted. However, we will report forthwith in another place.

**Mr. Whittingdale:** I welcome the Minister's remarks, as far as they went. However, we have been expressing these concerns since the Bill was published. There has been ample opportunity to review the position. The Minister and the Secretary of State have consistently argued that the reserve power is necessary, despite all the evidence to the contrary. Even tonight, when the Minister sought to make a statement, he prefaced it by explaining why the Government had included a reserve power in the Bill. In his intervention, he again defended the inclusion of that power. If he wishes to accept that it is not necessary, he should do so tonight. While I welcome the fact that he has agreed to review the power and consult on it, the Opposition do not believe that a further review is necessary. The evidence all points one way: there is no need for the clause whatever, and its retention will do serious damage to seaside resorts throughout the country. I welcome the Minister's comments, as far as he was prepared to go, but they are not sufficient, and we will press the amendment to a vote.

*Question put*, That the amendment be made:—

*The House divided:* Ayes 139, Noes 211.

**Division No. 39]** **[7.58 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Boswell, Tim
Brady, Graham
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Clappison, James
Clifton-Brown, Geoffrey
Conway, Derek
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Duncan, Alan *(Rutland)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*

Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Griffiths, Win *(Bridgend)*
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Horam, John *(Orpington)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jones, Jon Owen *(Cardiff C)*
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Osborne, George *(Tatton)*
Paice, James
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Tonge, Dr. Jenny
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Wiggin, Bill
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. Crispin Blunt and**
**Mr. David Ruffley**

**NOES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Bailey, Adrian
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corston, rh Jean
Cousins, Jim
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Davey, Valerie *(Bristol W)*
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Godsiff, Roger
Goggins, Paul
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Hendrick, Mark
Hepburn, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hoon, rh Geoffrey
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Illsley, Eric
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jones, Helen *(Warrington N)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Khabra, Piara S.
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McDonagh, Siobhain
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Mole, Chris
Moonie, Dr. Lewis
Morley, Elliot
Morris, rh Estelle
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Olner, Bill
Organ, Diana
Osborne, Sandra *(Ayr)*
Picking, Anne
Pickthall, Colin
Pope, Greg *(Hyndburn)*
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quinn, Lawrie
Raynsford, rh Nick
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Ross, Ernie *(Dundee W)*
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Savidge, Malcolm
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*

Smith, Angela *(Basildon)*
Soley, Clive
Southworth, Helen
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Wareing, Robert N.
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winnick, David
Woodward, Shaun
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

**Tellers for the Noes:**
**Mr. John Heppell and James Purnell**

*Question accordingly negatived.*

## New Clause 1

PRIZE GAMING PERMIT

'(1) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which an application has been made for a prize gaming permit for a purpose connected with the consideration of the application.

(2) A constable, enforcement officer or authorised local authority officer may enter premises in respect of which a prize gaming permit has effect for the purposes of determining whether prize gaming on the premises complies with the requirements of this Act and regulations under it.'.—*[Mr. Caborn.]*

*Brought up, read the First and Second time, and added to the Bill.*

## New Clause 2

DELEGATION OF FUNCTIONS UNDER PART 8: SCOTLAND

'(1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of their functions under this Part by a committee of the authority, a member or members of the authority, the clerk of the authority or any person appointed to assist the clerk.

(2) A licensing authority are not to make any arrangements under subsection (1)—

(a) in relation to their power under section 161 or their function under section 337, or

(b) for the discharge by the clerk of the authority or any person appointed to assist the clerk of any of the authority's functions mentioned in paragraphs (a) to (e) of section 150(4).

(3) The procedures applicable to the proceedings of licensing boards in the exercise or their functions under the Licensing (Scotland) Act 1976 apply to the proceedings of those boards in the exercise of their functions under this Part: and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies—

(a) only in relation to functions under that Act,

(b) only in relation to functions under this Part, or

(c) differently in relation to functions under that Act and functions under this Part.'.—*[Mr. Caborn.]*

*Brought up, read the first and Second time, and added to the Bill.*

## New Clause 3

DELEGATION OF FUNCTIONS UNDER PART 9: SCOTLAND

'(1) Subject to subsection (2), a licensing authority in Scotland may arrange for the discharge of any of their functions under this Part by a committee of the authority, a member or members of the authority, the clerk of the authority or any person appointed to assist the clerk.

(2) A licensing authority are not to make any arrangements under subsection (1) for the discharge by the clerk of the authority or any person appointed to assist the clerk of any of the authority's functions under section 215.

(3) The procedures applicable to the proceedings of licensing boards in the exercise of their functions under the Licensing (Scotland) Act 1976 apply to the proceedings of those boards in the exercise of their functions under this Part; and for that purpose regulations made by the Scottish Ministers may, in particular, make provision which applies—

(a) only in relation to functions under that Act,

(b) only in relation to functions under this Part,

(c) differently in relation to functions under that Act and functions under this Part.'.—*[Mr. Caborn.]*

*Brought up, read the First and Second time, and added to the Bill.*

## New Clause 4

PERMITS: SPECIAL PROVISION FOR SCOTLAND

'(1) The Scottish Ministers may, with the consent of the Secretary of State, by regulations provide that such provisions as are set out in the regulations are to apply in relation to—

(a) a club gaming permit or club machine permit, in place of Schedule 12 if the applicant for or holder of the permit is the holder of a certificate of registration under section 105 of the Licensing (Scotland) Act 1976 (certificate of registration in respect of a club) or a relevant Scottish licence, or

(b) a licensed premises gaming machine permit, in place of Schedule 13, if the applicant for or holder of the permit is the holder of a relevant Scottish licence,

or if the applicant for or holder of the permit falls within such other description as may be specified in the regulations.

(2) Regulations under subsection (1) may amend, revoke or otherwise modify any enactment in so far as it appears to the Scottish Ministers necessary or expedient to do so for the purposes of that subsection.

(3) In subsection (2), "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.'.—*[Mr. Caborn.]*

*Brought up, read the First and Second time, and added to the Bill.*

## New Clause 5

OPERATING AND PERSONAL LICENCES: APPEALS: ENFORCEMENT

'(1) Where the Tribunal has ordered the payment of the costs of one party to an appeal ("the judgment creditor") by another party ("the judgment debtor"), payment of those costs may be enforced by the judgment creditor in accordance with subsection (2).

(2) The judgment creditor may, on application to the county court for the district in which the judgment debtor is resident (or, if the judgment debtor is a company, where it has its registered office), enforce payment in accordance with Part V of the County Courts Act 1984 (c. 28) as if the costs were a sum payable under an order of that court.'.—*[Mr. Caborn]*

*Brought up, read the First and Second time, and added to the Bill.*

**New Clause 6**

OPERATING LICENCES: RULES FOR PARTICULAR KINDS OF LICENCE: BETTING ON THE NATIONAL LOTTERY

'(1) This section applies to—

(a) a general betting operating licence,

(b) a pool betting operating licence, and

(c) a betting intermediary operating licence.

(2) A licence to which this section applies shall, by virtue of this subsection, be subject to the condition that nothing may be done in reliance on the licence in relation to a bet on the outcome of a lottery which forms part of the National Lottery.'.—*[Mr. Caborn.]*

*Brought up, and read the First time.*

*Motion made, and Question proposed*, That the Clause be read a Second time.—(*Mr. Caborn*).

**Mr. Deputy Speaker:** With this it will be convenient to discuss the following: New clause 9—*Meaning of ticket*—

'In Part 5 "ticket" means a ticket or chance'.

Amendment No. 148, in clause 14, page 6, line 38, leave out paragraph (d) and insert—

'(d) of the processes referred to in paragraph (c) the process involving the majority of persons participating in the arrangement relies wholly on chance.'.

Amendment No. 149, in page 7, line 7, leave out 'significant', and insert 'substantial'.

Amendmdent No. 150, in page 7, line 10, leave out 'significant' and insert 'substantial'.

Government amendments Nos. 3 to 7 and 51.

Amendment No. 152, in clause 96, page 44, line 45 at end insert—

'(11) The Commission shall review the monetary limits laid out in subsection (3) on a triennial basis.'.

Amendment No. 153, in page 113, line 28, leave out clause 254.

Amendment No. 151, in schedule 2, page 159, line 8, at end insert—

'(e) the numbers of those who participate by sending a communication represent a substantial proportion of the total of those participating.'.

Government amendments Nos. 56, 58 and 59.

**Mr. Moss:** I wish to speak to amendments Nos. 148, 149, 150, 151, 152 and 153.

Amendment No. 148 relates to clause 14, which defines a lottery. Subsection (3) defines a complex lottery as one which relies on a series of processes rather than just one. The amendment to subsection (3)(d) is designed to close a loophole. In most cases where prize competitions are effectively lotteries it is not the first stage that relies wholly on chance—this stage is often a simple multiple choice question—but the decisive stage is the one where a computer selects one of several hundred or more correct answers to win. This relies on chance alone and is usually the final stage. As this subsection stands at present, it would seem possible for a prize competition to evade the regulatory requirements applying to lotteries by contriving a first stage that relied on some notional element of skill, which in reality eliminated very few participants, if any. This would take them out of the definition of lotteries altogether, provided that they complied with subsection (6). They would then proceed to the later stages relying on random computer selection from among the remainder, which would form the vast majority of the original participants. Our view is that the Bill should provide explicitly that the elements of the process relying wholly on chance should involve the majority of the participants.

Amendments Nos. 149 and 150 should be taken together. They seek to strengthen the definitions provided by the Bill. In the view of the Lotteries Council, the use of the word "significant" in subsection (5) is just as ambiguous as the Government allege the present law to be and sends a weaker signal. The intention of the law should be that prize competitions that seek to evade being called lotteries, and thus evade the regulatory regime, should be required to embody an element of skill that is very much more than merely derisory. It is hoped that the Government will endorse that statement of the Bill's intentions. The word "significant" does not at present carry that connotation. The amendment suggest the substitution of the word "significant" by "substantial", which is the word used in the present law.

8.15 pm

Amendment No. 151 relates to schedule 2, which deals with the definition of "payment to enter". Paragraph 8 deals with the arrangements that offer a choice of free entry. The amendment is designed to close a loophole. As it stands, the paragraph would seem to enable the organisers to limit the free entries to a very small proportion of those wishing to take part, leaving the rest to pay in the usual way. If this is the case, the effect would be that they could run what are in practice ordinary pay-to-enter lotteries, but in the guise of free-entry lotteries, thereby escaping the regulatory requirements that apply to lotteries as a whole. The amendment seeks to clarify the issue by in effect providing that a substantial proportion of participants in this type of arrangement should be non-payers. Indeed, since the 1976 Act, case law has established that the number of free entrants should not be de minimis—insignificant—in relation to the number of paid entries. The Bill as drafted reflects no such provision.

Amendment No. 152 relates to clause 96. The Lotteries Council has urged Parliament to allow society lotteries to establish their own proceeds and prize limits for some time—that is, with no specific limits in the Bill, subject to the licence requirements regarding the minimum proportion of proceeds from ticket sales that go to good causes. The Budd report recommended that they should be able to do that. The Government have decided, apparently in order to protect the national lottery against a totally notional threat from charities, to ignore this recommendation. If these limits are to continue to be applied, it is important that they should be capable of amendment by subordinate legislation and that they should be regularly updated. The first of the requirements we believe has been conceded following representations, but we believe that there has been no assurance forthcoming on the second, and we hope that the Government will consider the amendment seriously.

Amendment No. 153 leaves out clause 254. The Lotteries Council is fully supportive of measures aimed at countering the threat of problem gambling. However, no link has ever been established between society

otteries and problem gambling. There is no academic esearch to support the proposition and the view of experts is that lotteries are way down the list of potential causes of this phenomenon. Why lotteries should be the only form of gambling singled out for this treatment in the Bill is open to question.

Clause 254 could impact on the future ability of society lotteries to raise money for good causes. If the Government are concerned about particular types of lottery played on particular types of premises, they should bring forward proposals to address these issues specifically, either directly in the Bill or by restricting the scope of regulation-making power. The regulation-making power provided for in this clause goes far too wide and is open to abuse.

**Mr. Don Foster:** I wish to speak briefly to new clause 9, but I begin by saying that I entirely support the comments made by the hon. Member for North-East Cambridgeshire (Mr. Moss) and his amendments. The House will be aware that my name and that of my hon. Friends is linked to those amendments.

In Committee, it became clear to a number of us that ticketless lotteries that are run by charities, in many cases hospices, would be required by the Bill to increase significantly bureaucracy and administrative costs. That is the case because ticketless lotteries are run in such a way as to ensure that those who participate in them agree to do so week in, week out, paying up front a lump sum for every week's amounts, and get a single document informing them that their name will be included in the draw every week. It became apparent, however, that the wording of the Bill would have ensured that the organisers of such lotteries were unable to continue to do that and made it necessary for them to send out a document to every participant each and every week.

Hence the increase in bureaucracy and administrative costs. Many of us on the Committee were extremely grateful to a number of the people who run such lotteries, in particular the Ty Hafan children's hospice in Wales, which worked very hard to raise its concerns with members of the Committee. It is worth bearing in mind that, over the past 10 years, some £100 million has been raised by hospices using this fundraising approach. The Minister acknowledged that there was a problem. In Committee, he said:

"naturally, we do not want to subject any hospice lottery to the cost and inconvenience of unnecessarily printing many thousands of tickets on a weekly basis. That would be stupid . . . The object of the exercise is to make it as simple as possible for charities to run such lotteries, but equally, to provide the protection covered in clause 92(5)."—[*Official Report, Standing Committee B*, 2 December 2004; c. 309–310.]

I was grateful to him for that, and I note that he has tabled some alternative amendments covering the issue, for which I am also grateful.

Although I shall continue to press new clause 9—I shall probably not press it to a vote, however—may I ask the Minister to give me some assurance that, after his consultations with the relevant lottery organisers, he believes that they are now satisfied with the amendments that he has tabled? In particular, I draw his attention to the reference to electronic storage of information. Has he consulted on whether such provision is future-proofed? With the development of mobile phone technology, it is likely that, within a few years, some of those organising such lotteries might wish to use mobile phones. Would that be acceptable? The development of interactive television is a further example that we have already seen. Again, it may be possible to use such technology as a means of providing the necessary information. Will he assure me that those issues are covered by the terminology used in his amendments?

**Mr. Greenway:** This is a vital part of the Bill, which I think many colleagues will overlook at their peril. I endorse what the hon. Member for Bath (Mr. Foster) has just been saying about the importance of hospice lotteries to the hospice movement. The Government are to be congratulated on their intentions in the clauses relating to society lotteries. This is a highly desirable piece of work, because the present law on scam lotteries, which masquerade as prize competitions, is not being properly enforced, and society lotteries are hugely frustrated that they are required to be regulated as lotteries and that this Bill requires them to submit themselves to all the new proposals in respect of operating licences and personal licences, to face the wrath of the gambling commission and perhaps to be fined if they get things wrong, while lotteries masquerading as prize competitions are not to face any requirement at all. It is therefore crucial that the wording of the various clauses meets what the Government are trying to do.

We must understand the mischief that is involved. A number of the prize competitions are decided—let us make no bones about this—by chance. The real question is how we can include in the legislation a wording that requires a skill test that is easily understood by the courts and is meaningful. Skill is not skill if the test is derisory and just a handful of people would fail. I suppose that one could never anticipate that absolutely everybody would get things right. The example that was constantly put to the pre-legislative scrutiny Committee was that, on asking whether the capital of France was Paris or Berlin, one would assume that 100 per cent. of the population would answer correctly. There may be the odd person who, for whatever reason, might say Berlin, but that is not a skill test, and the Government are clear about that.

What we are faced with—this is the crucial aspect—is the wording in clause 14(5). I shall not read it out, as I have done so several times in several forums where I have been asked to speak about the issue, and people have smiled. I think that the wording is a genuine attempt to resolve the issue, but my hon. Friend the Member for North-East Cambridgeshire (Mr. Moss) has done the House a service in tabling his amendments, which I am sure that he does not intend to press to a Division. In suggesting that we change the words "significant proportion" to "substantial proportion", he is trying to raise the bar to ensure that a lot of people would fail and that the skills test is not derisory.

The various legal luminaries to whom I have spoken about the matter all rightly say that, in the end, the courts will decide. The value of this debate is in ensuring that the courts understand what Parliament was trying to say. That is the value of this short debate: what Parliament is trying to say is that the skill must be substantial or significant, not derisory. I hope that the Minister will agree with those remarks.

*[Mr. Greenway]*

I wish to make one other little point. My hon. Friend the Member for North-East Cambridgeshire suggested that, as there appears to be no evidence of problems with rapid draws, clause 254 might be deleted. I am not sure about that. The clause is permissive, and uses the word "may" in relation to making regulations or the gambling commission making recommendations. I know that the Government have a worry about some rapid draw schemes, but as was pointed out earlier in relation to category D machines and children, there is no evidence of a problem. None the less, from the point of view of the pre-legislative scrutiny Committee, the clause is a clear improvement on what went before, which included a 24-hour rule that was clearly a mistake. I suspect that the Minister will have to concede that this will be one of those issues at which the other place will have to take a look. I guess that the other place will also make other suggestions about the skill test and the wording that is used.

I hope that, if a change is made in the other place to improve the wording of those parts of the Bill, it will be made with the agreement of those on both Front Benches, so we will not get into difficulty towards the end of the Session.

**Mr. Caborn:** While we are discussing lotteries, and in particular charity lotteries, I want to put on the record that we will protect the national lottery.

Government new clause 6 delivers our commitment to retain provisions that make side bets on the national lottery illegal by including conditions in general betting, pool betting and betting intermediary operating licences, which is consistent with the Betting, Gaming and Lotteries Act 1963.

As the hon. Member for Bath (Mr. Foster) has said, Government amendments Nos. 3 to 7 are technical drafting amendments to ensure that clear and consistent language is used in those clauses that refer to participation in all lotteries, which follows up the commitment that I made after the Standing Committee on 9 November.

The Government agreed to revisit the provisions relating to lottery tickets after the Committee raised concerns that it would be difficult for societies that run membership lotteries to comply with the Bill. In a membership lottery, a letter is issued to a member when they first sign up, and it acts as a ticket for the purpose of each lottery that the member enters. Government amendments Nos. 51, 58 and 59 will allow that practice to continue, and they will also permit lottery tickets to exist in paper or electronic form. An electronic ticket must be capable of being printed out or stored electronically to ensure that entrants can retain proof of their entry in the lottery.

8.30 pm

**Mr. Don Foster:** Will the Minister give way?

**Mr. Caborn:** If the hon. Gentleman bears with me, I may be able to clear up the matter.

Amendment No. 56 delivers on our commitment to include national lottery licensees within the proposals for a statutory problem-gambling levy. It provides that the Secretary of State may introduce a levy on holders of national lottery licences only if she has already introduced a levy on holders of gambling operating licences and after consulting the national lottery commission.

Turning to amendments tabled by other hon. Members, the Government believe that amendment No. 148 would add an extra layer of complexity to a necessarily complicated clause.

On clause 14, I think that there is general agreement that arrangements in which the first process relies on skill or knowledge are competitions and not lotteries, and we do not want to prevent or regulate such arrangements.

I have some sympathy with amendments Nos. 149 and 150. However, clause 14(5) has been considered carefully, and it now strikes the right balance. We accept that the words "significant proportion" are likely to be subject to interpretation, but we anticipate that they will be subject to commission guidance, which is important. We do not think that a change to "substantial proportion" would add clarity to the clause. Indeed, there is a danger that such a change would permit competitions that are in fact commercial lotteries to continue to operate.

Amendment No. 151 would require companies offering prize competitions to ensure that a substantial proportion of those entering do so through a free entry route, rather than by paying via a premium rate telephone line. Although I understand the good intentions behind that amendment, it is misguided. Companies would be put in a position in which they might find they were inadvertently in breach of the law if, despite their best efforts to encourage free entries, not many people chose to participate in that way.

Amendment No. 152 would enshrine in the Bill the need for the gambling commission to carry out a triennial review of the limits on proceeds placed on large society and local authority lotteries. However, I firmly believe that there is no need to make the triennial review a binding, statutory obligation. Until now, the review has been a matter of custom and practice: it has worked satisfactorily on that basis in the past; we propose that it should continue to operate in that way in the future.

We cannot agree to amendment No. 153. Regulations under clause 254 can be made only with the intention of reducing repetitive-play lotteries. Such lotteries can be run swiftly, and are therefore very similar to gaming. They are often run in non-gambling establishments such as pubs, and could create great opportunities for chasing losses. We consider that they are a danger to the public and that it is imperative that the Secretary of State has the power to control them.

Lastly, new clause 9 would insert the concept of the sale of a "ticket or chance" into the Bill. That language is used in the current law and we have already ruled it out. We agree, however, that one document should be capable of permitting entry to a number of lotteries. I have explained how we propose to amend the Bill to achieve these outcomes. We also agree that electronic tickets should be permitted, and I have moved amendments to achieve that.

**Mr. Foster:** I receive receipts for paying my congestion charge on my mobile phone. I am not

required to retain those receipts for a particularly lengthy period—in a sense, it is my choice if and when I want to have a battle about my congestion charge. The Minister has indicated that it is necessary to store electronic information. How long would somebody have to store such information if they were to use, for instance, a mobile phone or interactive TV?

**Mr. Caborn:** I should make it absolutely clear that the Government amendment will allow lotteries to operate by mobile phone and other remote media. I shall write to the hon. Gentleman about the storing of information and the time for which it will run, and place that correspondence in the Library. I have no doubt that that issue will be taken up by the gambling commission.

We need to close the loophole in relation to non-school competitions that lead to a draw. Clause 14(5) provides that where the first stage in a competition is multiple choice or involves a derisory level of skill or knowledge, it is classed as a lottery.

*Question put and agreed to.*

*Clause read a Second time, and added to the Bill.*

**New Clause 8**

DAYS ON WHICH GAMING AND GAMBLING SHALL NOT TAKE PLACE

'An operating licence must include a condition proscribing the carrying out of gaming or gambling on

(a) Christmas Day and

(b) Any other day prescribed by the Gambling Commission.'.—*[Mr. Win Griffiths]*

*Brought up, and read the First time.*

**Mr. Win Griffiths:** I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker (Sylvia Heal):** With this it will be convenient to discuss amendment No. 99, in page 34, clause 79, leave out line 41 and insert 'shall prevent—'.

**Mr. Griffiths:** I shall be brief. New clause 8 would bring casinos within the laws that apply to shops under the Christmas day trading legislation. I hope that that will not cause a problem. I thought that while I was doing that, I would propose that the gambling commission be given the power to decide whether it would be right for casinos to close on any other day of the year, especially if there was a big groundswell of opinion regarding a particular day.

Amendment No. 99 underscores the issue of problem gambling. As it stands, the Bill allows people to use credit cards to raise money in order to gamble in casinos. I am completely opposed to that. According to Gamblers Anonymous, someone who is involved in problem gambling often has six or seven credit cards with which they can play about and run up debts that we can hardly bear to think about. My amendment would ensure that someone who is gambling could not raise money with their credit card. It is okay if they use their debit card to get money from their bank account, although I would not like to do it myself, but if they use a credit card they can build up huge debts.

I hope that the Government will accede to those modest proposals.

**Mr. Caborn:** I thank my hon. Friend the Member for Bridgend (Mr. Griffiths) for tabling new clause 8. As he knows, I have met faith groups several times during the passage of the Bill, and I have sympathy with their concerns about gambling on Christmas day. At present, betting offices and betting tracks are prohibited from offering bets on Good Friday and Christmas day. There is no equivalent prohibition in relation to gaming or lotteries.

Times have moved on since that restriction was put in place in the 1960s, so the Government did not propose that it be replicated in the Bill. However, I recognise the strength of feeling about Christmas day in particular, and I am happy to agree that it might be appropriate to enable the commission to prescribe certain days on which operators should be prevented from providing facilities for gambling. I am therefore happy to give the issue further consideration, but in the meantime I ask my hon. Friend to withdraw the new clause.

On amendment No. 99, I understand my hon. Friend's concerns, but we see no reason for imposing a blanket ban on all operators to prevent them from offering credit to their players. We agree that such matters must be regulated; that is what clause 79 is intended to do. It gives the commission the powers to attach appropriate conditions to licensing; to control when and, indeed, how credit is offered, and where inducements to gambling are perhaps provided. The clause expressly prevents casinos and bingo operators from offering credit to players. That is currently the law and will remain the law.

The Gaming Board has a successful track record of controlling improper inducements and I am sure that the new gambling commission will continue that. If problems emerge in future, the gambling commission will not hesitate to impose licence conditions that better protect consumers. I hope that, with those reassurances, my hon. Friend is content to withdraw the motion.

**Mr. Gummer:** I ask the Minister to think again about his refusal to prescribe in the Bill days on which gambling may not take place. It is odd that we protect people from having to open shops on specific days, yet we are not prepared to do the same for gambling establishments. Times may have moved on since 1960, but I am not sure whether they have always moved in the right direction. However, decisions about shop opening times were made much later than the 1960s and the Minister was one of those who took a strong view about protection for specific days. Is it reasonable to ask the gambling commission to do that? If that is all that we can get, I suppose that it is okay, but I should like the Minister to reconsider and ascertain whether the same restrictions that pertain elsewhere can be introduced in another place for gambling. Perhaps the gambling commission can also be given the ability, as the hon. Member for Bridgend (Mr. Griffiths) suggests, to extend that further. It would be odd not to do that, and the Minister goes in not for the odd but for the sensible and moderate answer.

**Mr. Griffiths:** In this case, I believe that I can rely on the direction that the Government are taking and, although it is not especially pleasant to look to the other place to put things rights, at least we will get the provision, and I am therefore happy for us to proceed to the next group of amendments.

I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**New Clause 10**

GAMING MACHINE PERMIT HELD BY ON-PREMISES ALCOHOL LICENCE HOLDERS

'(1) A person does not commit an offence under section 36 or section 232 if he makes a gaming machine of Category C or D available in accordance with a gaming machine permit.

(2) A gaming machine permit is a permit issued by a licensing authority authorising a person to make gaming machines of Category C or D (or both) available for use on premises to which this section applies.

(3) In this section, "gaming machine permit" means a gaming machine permit held by on-premises alcohol licence holders.'.—*[Mr. Foster]*

*Brought up, and read the First time.*

**Mr. Don Foster:** I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker:** With this, we may discuss the following: amendment No. 120, in page 23, line 21, clause 53, leave out 'A,'.

Government amendment No. 87.

Amendment No. 121, in page 26, line 21, clause 63, leave out 'A' and insert 'B'.

Amendment No. 122, in page 27, line 32, clause 66, leave out 'A' and insert 'B'.

Government amendment No. 88.

Amendment No. 123, in page 75, line 4, clause 167, leave out 'A,'.

Amendment No. 98, in page 75, line 43, clause 167, leave out 'B,'.

Government amendment No. 89.

Amendment No. 118, in page 105, line 4, clause 226, leave out from 'defining' to 'B' in line 5 and insert

'three classes of gaming machine, all of which shall be subject to a maximum stake and prize level, for the purposes of this Act (to be known as Categories'.

Amendment No. 106, in page 105, line 11, at end insert—

'(c) provide that the practice of allowing prizes to be exchanged known as "trading up" shall continue to be permitted without restriction.'.

Amendment No. 144, in page 105, line 11, at end insert—

'(c) not unfairly discriminate between equivalent adult only gaming environments, and

(d) provide that adult gaming centres and betting premises shall be entitled to the same categories of machine.'.

Amendment No. 130, in page 105, line 19, at end insert—

'(e) the price level for a category C machine which shall be not less than £35.'.

Amendment No. 109, in page 105, line 19, at end insert

'provided that regulations shall not reduce the level of stakes and prizes from those already in existence at the date of Royal Assent to this Act.'.

Amendment No. 1, in page 105, line 19, at end insert—

'(4A) Subject to subsection (4B)—

(a) the maximum amount paid in respect of the use of a machine shall be £1; and

(b) the maximum value of a prize for any machine shall be £2,000.

(4B) The amounts specified in subsection (4A) shall be varied by the same percentage increase between the retail prices index for January 2005 and the retail prices index for the base month in relation to the revision date in question.'.

Government amendments Nos. 90 and 91.

Amendment No. 124, in page 149, line 3, clause 340, leave out 'A' and insert 'B'.

Amendment No. 125, in page 149, line 3, leave out 'B,'.

Amendment No. 126, in page 149, line 4, leave out 'A (or B,' and insert 'B (or'.

**Mr. Foster:** The long string of amendments may appear to deal with rather technical issues, but many are important. The shortage of time means that I shall not do justice to them all, but I want to give other hon. Members an opportunity to raise issues about which they are specifically concerned.

Amendment No. 106 covers an issue that has been mentioned many times: the level of stakes and prizes in family entertainment centres. It deals with the value of a cuddly teddy bear in the grab machines that have been discussed. I therefore hope that we will have an opportunity to express a view on at least that amendment.

New clause 10 tackles an issue that we picked up in Committee. "Pub gaming machine permit" is the term in the Bill that covers a machine permit that is held by on-premises alcohol licence holders. The name is somewhat misleading since the permit does not apply only to pubs. It could apply to a range of other facilities, including bowling alleys, sports centres and so on. When I raised the matter in Committee, the Minister agreed with me. He said:

"we are aware that the name 'pub gaming machine permit' ... appears to limit the premises that may apply for it. That is not the intention, and we shall table further amendments to rectify that."—[*Official Report, Standing Committee B*, 14 December 2004; c. 559.]

Unfortunately, the Government have tabled no such amendments, so I have done it for them in an effort to be helpful.

Amendment No. 106 deals with another issue of great importance to the family entertainment centres, namely "trading up", in which a number of prizes in the form of a token or voucher can be collected and swapped for a larger prize. The Bill discontinues that practice, despite the fact that there is no evidence that it causes any harm. This is a similar issue to others that have already been raised, and the amendment seeks to enable the continuation of the practice. All the evidence suggests that discontinuing it would lead to problems.

Amendment No. 109, on which I hope hon. Members will have the opportunity to express their view, relates to the present level of prize values. The Government's argument is that those levels should be reduced. They have not provided for that in the Bill, but such a provision has been mentioned in the background papers and it is clearly their intention to introduce such a reduction. All the evidence suggests that reducing the value of prizes would be likely to affect business, which would reduce the profitability and viability of the organisations concerned.

8.45 pm

I note that several amendments in this group seek to withdraw any mention of category A machines from the Bill altogether. I was initially sympathetic to such proposals and, indeed, I tabled a number of amendments in a similar vein in Committee. However, the Government have subsequently introduced the concept of a pilot scheme or trial, and said that category A machines will be used only in the casinos in the pilot areas. In the light of that, we have agreed that it would be sensible at least to try these machines in the limited number of casinos that the Government are proposing. I am therefore unlikely to be sympathetic to the amendments tabled by the hon. Member for Bridgend (Mr. Griffiths).

The basis of many of the amendments in this group relates to what are known in the trade as grandfather rights. These rights are covered in schedule 18 of the Bill, and we hoped to have heard much more from the Minister on this subject. We have teased out some of the issues in earlier debates and the grandfather rights of some casinos are clearly fairly well covered. I hope, however, that the Minister will use his response to these amendments, which are in part about continuing existing practice, to say more about this.

I have been very brief, and I would have liked to raise a number of other issues. However, I know that other hon. Members want to raise other important matters and I want to give them the chance to speak.

**Mr. Frank Doran** (Aberdeen, Central) (Lab): I want briefly to refer to a point raised by the hon. Member for Bath (Mr. Foster), namely on the issue of prize values. In my constituency, there is a long-standing family business called Codona's seaside resort, which has been there for more than 30 years—long enough, perhaps, for my right hon. Friend the Secretary of State to have paid a visit to it when she was a young girl growing up in Aberdeen. I am sure that she will be familiar with it. It is a traditional business with a seasonal fairground alongside an all-year-round covered area that supplements and pays for the improvements to the traditional fairground. As with many such enterprises, the business is fairly fragile.

A key part of that business depends on the category D machines, which are mainly an attraction for children. As the hon. Member for Bath said, it is quite clear that the Secretary of State intends to reduce the maximum value of the prizes in such machines from £8 to £5, although there is nothing about it in the Bill. This would create a major problem. The main difficulty that my constituents would face is that the vast majority of the prizes are things that today's children want, which tend to be branded goods. It is no good just throwing in cuddly toys, teddy bears and so on. People now expect prizes that are linked to things that they want, which tend to be commercial goods linked to television programmes but, mainly, to films. They want models of Shrek, Spider-Man and so on. Because of the licensing costs, and the fact that those goods are now a major part of the marketing of any film, they are very expensive. Some costings have been done, and with a maximum value of £5, it will be impossible for the business to provide the sorts of toys that customers demand. As I said earlier, this business, like most such businesses, is fragile, and it is deeply concerned about the future.

I have considered carefully the various statements made by the Secretary of State, and I understand and support totally the precautionary principle. It strikes me, however, that the precautionary principle has gone a little too far here. I voted with the Opposition, if one likes, on amendment No. 100, as it is important to have such a reserve power if there is any evidence that this sort of gaming has an effect on children. The Secretary of State has sufficient powers, in terms of her ability to regulate prize levels, possibly when the Bill is enacted to bar children up to a certain age from using such machines. To strike now, at a time when the industry is learning to adjust to new legislation, and to threaten a significant reduction in prize money of more than 30 per cent., would be destabilising.

**Mr. Gibb:** What the hon. Gentleman says is absolutely right, and rings true with the experiences conveyed to me by my constituents who run Harbour Park in Littlehampton. It also rings true with the British Amusement Catering Trades Association survey, which showed that 88 per cent. of such businesses believe that if stakes and prizes are reduced, the impact on them will be hugely negative.

**Mr. Doran:** Obviously, I agree, at least on this one occasion, with the hon. Gentleman.

The Minister has been conciliatory tonight, and all that I can ask is that he take away this issue and consider it. If there is evidence that the proposal is necessary in the interests of protection of children, let us see it, because I am not aware that we have been shown any.

**Alan Simpson** (Nottingham, South) (Lab): I wish to speak in support of my amendment No. 1, and with your permission, Madam Deputy Speaker, I hope to put it to a vote. It gives the House an opportunity to place an upper limit on the level of prizes that can be awarded under the Bill as part of the gaming machine process. It seeks to challenge the presumption, which the House is being asked to contemplate, that there is pressure from the public for unrestricted prizes in the gaming industry. Ninety per cent. of the public believe that there are perfectly adequate gambling choices at present. There is no demand outside the House for the introduction of super-casinos. Under my amendment, category A gaming machines would be allowed, but the upper prize limit would be the same as for category B—£2,000.

We are set to face a dramatic increase in gaming machines. At the moment, we have about 800 category B machines in the country, but a single super-casino could have more than that on its premises alone. Does that bring any economic benefit to our society? The

*[Alan Simpson]*

Henley Centre suggests not. There will be gainers and losers, however. The gainers will certainly be the casino owners, and probably the Chancellor, with extra income for the Treasury of perhaps £400 million a year by 2010. What the gaming industry would make is its own calculation. Who would contribute to that? The level of Exchequer revenue is dependent on the punters being losers: people must lose that amount and more for the Chancellor to be able to take the Government's scoop. All the evidence from Australia suggests that the deregulation of the gaming industry caused a massive increase in gambling debt and that the biggest single contributory factor was the introduction of category A gaming machines with unlimited prizes.

According to the Budd report,

"A central question for us has been whether increasing the availability of gambling will lead to an increase in the prevalence of problem gambling. The weight of evidence suggests that it will do so."

The report also said:

"The possibility of winning a sufficiently large sum for it to effect a life changing experience seems to encourage a suspension of judgement in terms of making a balanced evaluation of the expenditure."

We now know that in Australia people spend more on gaming machines than they spend on food. That is the distorting impact that gambling has on the way in which Australia's economy works. We are told that the cost to Australian society is some 5.6 billion Australian dollars a year, with a further 1 billion Australian dollars of losses. In terms of scale, the cost to the UK economy would be comparable or larger. Do we need that in our society? We need it like a hole in the head.

**Angus Robertson** (Moray) (SNP): Will the hon. Gentleman give way?

**Alan Simpson:** I will allow a soupçon of time.

**Angus Robertson:** Is the hon. Gentleman aware that the Association of Chief Police Officers in Scotland fears that deregulation will lead to a surge in organised crime? It is not just an issue of personal debt.

**Alan Simpson:** That is a real fear, although I do not know how much weight should be given to it. According to a fair amount of evidence that we have seen in the House, we have proceeded with legislation against the advice of chief constables, and society has had to pay a heavy price.

Debt in our country is increasing by £1 million every four minutes. Today a statement from the Government considered ways of making it possible for low-income families to gain access to social housing by offering them discounts, but how can people pay for the mortgages that they have managed to acquire when they are running up debts? And the debts will be accumulated by the poorest: all the statistical evidence shows that three times as much gambling money comes from members of households earning less than £15,000 a year as comes from those earning over £32,000 a year.

The Chancellor's scoop, and the industry's scoop, of society's wealth will come disproportionately from the poorest. This is not a measure that will benefit the poor, redress inequalities in society and lift people out of poverty. It dangles before those people an inducement to gamble away the meagre incomes that their families have to survive on. We should be ashamed of feeling that we are under any pressure to introduce it in the interests of society. The only lobby in its favour that I have received has come from the gaming industry, and I am told that £100 million has been spent on its lobbying.

Not one person from the poor areas in my constituency has said, "Give us a break, guv, and bring this one in." In fact, we have been asked to put the brake on—and if 90 per cent. of people in the country are asking us to do that, that is what the House should do.

**Mr. Moss:** Amendment No. 106 is fairly straightforward. Its purpose is to ensure the continuation of the current practice known as trading up, which allows prizes, tokens and vouchers won on category D machines to be collected and swapped for larger prizes. Amendment No. 144 attempts to establish a level playing field between betting shops and adult gaming centres, especially in the context of fixed-odds betting terminals.

We tabled an amendment in Committee and there was a good discussion on it, but the Minister could offer no explanation in relation to adult gaming centres. He restricted his explanation of why a distinction was being made to bingo halls only. He said:

"Betting shops are adult-only and do not have a licence to sell alcohol." [*Official Report, Standing Committee B*, 2 December 2004; c. 379.]

We already knew about that point, which was made in the context of bingo halls, but he gave no justification as to why fixed-odds betting terminals were banned from adult gaming centres.

We are not saying now that we want the current number of FOBTs in betting shops—

*It being one hour before the moment of interruption,* MADAM DEPUTY SPEAKER, *put forthwith the Questions necessary for the disposal of the business to be concluded at that hour, pursuant to Order [this day].*

*Motion and clause, by leave, withdrawn.*

**Clause 170**

CASINO PREMISES LICENCE: OVERALL LIMITS

*Amendment proposed:* No. 143, in page 77, line 2, leave out "eight" and insert "four".—*[Mr. Whittingdale.]*

*Question put,* That the amendment be made:—

*The House divided:* Ayes 131, Noes 271.

**Division No. 40]** **[9.01 pm**

**AYES**

| | |
|---|---|
| Ainsworth, Peter *(E Surrey)* | Brady, Graham |
| Amess, David | Brazier, Julian |
| Arbuthnot, rh James | Browning, Mrs Angela |
| Atkinson, Peter *(Hexham)* | Burns, Simon |
| Bacon, Richard | Burt, Alistair |
| Barker, Gregory | Butterfill, Sir John |
| Bellingham, Henry | Campbell, Gregory *(E Lond'y)* |
| Beresford, Sir Paul | Clappison, James |
| Boswell, Tim | Clifton-Brown, Geoffrey |
| Bottomley, rh Virginia *(SW Surrey)* | Collins, Tim |

Conway, Derek
Davies, rh Denzil *(Llanelli)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Key, Robert *(Salisbury)*
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
MacDonald, Calum
Mackay, rh Andrew
Mackinlay, Andrew
Maclean, rh David
McLoughlin, Patrick
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Mitchell, Austin *(Gt Grimsby)*
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Osborne, George *(Tatton)*
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Randall, John
Redwood, rh John
Rohathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Watkinson, Angela
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Williams, rh Alan *(Swansea W)*
Williams, Hywel *(Caernarfon)*
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. David Ruffley and**
**Mr. Crispin Blunt**

**NOES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Beith, rh A. J.
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Breed, Colin
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, rh Robin *(Livingston)*
Cousins, Jim
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Gill, Parmjit Singh
Godsiff, Roger
Goggins, Paul
Green, Matthew *(Ludlow)*
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Holmes, Paul
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Illsley, Eric
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lawrence, Mrs Jackie
Laws, David *(Yeovil)*
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McDonagh, Siobhain
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis

Moore, Michael
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Öpik, Lembit
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Rendel, David
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Tonge, Dr. Jenny
Touhig, Don *(Islwyn)*
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Ward, Claire
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Roger *(Brecon)*
Wills, Michael
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

**Tellers for the Noes:**
**Mr. Nick Ainger and Paul Clark**

*Question accordingly negatived.*

**Mr. Frank Field** (Birkenhead) (Lab): On a point of order, Madam Deputy Speaker. An amendment has been moved to limit the number of category A gambling machines. Will you be putting that to a vote?

**Madam Deputy Speaker:** Amendment No. 1 has not been selected for vote. I will not be putting it to a vote.

**Mr. Field:** Further to that point of order, Madam Deputy Speaker. But it has been moved. I thought that, if it had been moved, we would have a chance to vote on it.

**Madam Deputy Speaker:** It was taken with a new clause and discussed, but it was not moved formally. It was grouped with other amendments and new clauses.

*Amendment proposed:* No. 142, in clause 170, page 77, line 7, at end insert—

"'(3A) In calculating for the purpose of subsection (1) the number of casino premises licences which have effect at any time, no account shall be taken of any established casino but—

(a) an established casino which meets the requirements of regulations made under section 7(5) as to the classification of large casinos shall for the purposes of section 167 be treated as if it is a large casino;

(b) an established casino which meets the requirements of regulations made under section 7(5) as to the classification of small casinos shall for the purposes of section 167 be treated as if it is a small casino; and

(c) an established casino which is below the minimum size for a licensed casino shall for the purposes of section 167 be treated as if it is a small casino.

(3B) In this section 'established casino' means any casino premises which are in use for the operation of a casino under the Gaming Act 1968 when this part of this Act comes into force."'.— *[Mr. Moss.]*

*Question put,* That the amendment be made:—

*The House divided:* Ayes 152, Noes 249.

**Division No. 41]** **[9.15 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Boswell, Tim
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Campbell, Gregory *(E Lond'y)*
Cash, William
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa

Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Öpik, Lembit
Osborne, George *(Tatton)*
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'rns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. David Ruffley and Mr. Crispin Blunt**

**NOES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cousins, Jim
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Illsley, Eric
Iranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McDonagh, Siobhain
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Purnell, James
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stuart, Ms Gisela

Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Wills, Michael
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

**Tellers for the Noes:**
**Mr. Nick Ainger and Paul Clark**

*Question accordingly negatived.*

9.25 pm

**Mr. Austin Mitchell** (Great Grimsby) (Lab): On a point of order, Madam Deputy Speaker. It was my impression that, previous to the votes on this group of amendments, my hon. Friend the Member for Nottingham, South (Alan Simpson) discussed amendment No. 1 and began and ended by expressing his wish to move it. In that circumstance, should we not be able to have a vote on amendment No. 1?

**Madam Deputy Speaker:** I advise the hon. Gentleman—I do not think that he was in the Chamber at the time—that I have already dealt with this point of order and explained why no vote was called on amendment No. 1.

## Clause 226

GAMING MACHINES: CATEGORIES A TO D

*Amendment proposed*: No. 109, in page 105, line 19, at end insert

'provided that regulations shall not reduce the level of stakes and prizes from those already in existence at the date of Royal Assent to this Act.'.

*—[Mr. Don Foster]*

*The House divided:* Ayes 163, Noes 240.

**Division No. 42]** **[9.28 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Boswell, Tim
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Campbell, Gregory *(E Lond'y)*
Cash, William
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Griffiths, Win *(Bridgend)*
Gummer, rh John
Hague, rh William
Hamilton, David *(Midlothian)*
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hoyle, Lindsay
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jones, Jon Owen *(Cardiff C)*
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Mitchell, Austin *(Gt Grimsby)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Öpik, Lembit
Osborne, George *(Tatton)*
Osborne, Sandra *(Ayr)*
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Tonge, Dr. Jenny
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Willis, Phil
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wright, Anthony D. *(Gt Yarmouth)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. Crispin Blunt and Mr. Roger Williams**

**NOES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Benton, Joe *(Bootle)*

Berry, Roger
Betts, Clive
Blackman, Liz
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Cabom, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cousins, Jim
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Illsley, Eric
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McDonagh, Siobhain
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Organ, Diana
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Purnell, James
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

**Tellers for the Noes:**
**Mr. Nick Ainger and Paul Clark**

*Question accordingly negatived.*

*Remaining Government amendments agreed to.*

*Order for Third Reading read.—[Queen's consent, on behalf of the Crown, and Prince of Wales's consent, on behalf of the Duchy of Cornwall, signified.]*

9.42 pm

**The Secretary of State for Culture, Media and Sport (Tessa Jowell):** I beg to move, That the Bill be now read the Third time.

I thank hon. Members on both sides of the House who have brought the legislation to this stage, and in doing so I should like to recognise that this is an issue that for many presents fundamental difficulties and conflicts of moral principle, but I am grateful to the House for the spirit of tolerance in which all stages of the Bill so far have been conducted.

It is important to recall the principles that underpin the legislation—that children and vulnerable adults should be protected, and that gambling in Britain should be kept crime-free, and conducted according to the principles of fair play. Everything in the Bill will be judged against those principles. If we secure the legislation, we shall have the toughest, most

*[Tessa Jowell]*

comprehensive regulatory framework in the world to protect the public interest and to prevent the exploitation of children.

This is legislation that has been shaped over the past five years. A major contribution has been made by the Joint Committee, to whose members I pay tribute, particularly to the hon. Member for Ryedale (Mr. Greenway). I hope that hon. Members on both sides of the House will recognise that the Government have listened to the concerns raised, as we undertook to do on Second Reading.

It is a curious thing in modern British politics that in one breath Ministers are accused of being arrogant, out of touch and refusing to listen, and in the next breath, when they have listened and responded positively, they are accused by the same people of a humiliating climbdown or a screeching U-turn. Ministers are damned if they do listen and damned if they do not, so they may as well listen—otherwise, what is the point of Parliament? We have listened to the concerns raised about the Bill, and it is a better Bill as a result, in relation to casinos, bingo, charity lotteries and the important issues raised by colleagues in connection with seaside arcades.

**Mr. Dennis Turner** (Wolverhampton, South-East) (Lab/Co-op): I rise briefly to express the sincere thanks of the parliamentary group for non-profit-making members clubs to the Minister, and to the hon. Member for Barnsley, Central (Mr. Illsley), for accepting in Committee the amendment increasing the clubs' weekly bingo jackpot from £1,000 to £2,000. That will be welcomed by the whole clubs movement. May I say that I never cease to be amazed at the fairness and reasonableness of this Government and this Secretary of State?

**Tessa Jowell:** I thank my hon. Friend; I am tempted to stop now, while I am on top.

I believe that we now have a Bill that will give greater protection to the public, a vital role for local authorities, a fair deal for the industry and the prospect of more and better jobs for industry employees. Indeed, right hon. and hon. Members on the Labour Benches will know about the strong support given to the Bill by the GMB and the Transport and General Workers Union, and also by the Labour group of the Local Government Association, all of which I warmly welcome.

In conclusion, the Bill is essential because without such legislation, gambling technology is leaving the law in its wake. If we do not modernise, people will not be protected. Without the Bill, there would be no gambling commission with the objective of social responsibility in gambling at its heart, internet gaming would continue to go unregulated, and there would be no powers to deal with roulette machines in bookmakers' shops, or the chain gifting schemes about which I know hon. Members will have received representation from constituents, and which continue to exploit women.

For all those reasons and many others, I commend the Bill to the House and ask that it be read the Third time.

9.47 pm

**Mr. Whittingdale:** We have always made it clear right from the start that there is much in the Bill that we agree with. It contains a number of important measures that will help to introduce controls over remote gambling, for instance, and give new powers to the gambling commission. Since Second Reading there has, however, been the most extraordinary saga.

The Government rightly began their preparation of the Bill by consulting widely and then subjecting the draft Bill to scrutiny. I join the Secretary of State in paying tribute to my hon. Friend the Member for Ryedale (Mr. Greenway) and his Committee for their work. There is no doubt that the scrutiny Committee improved the Bill. Indeed, the Government's troubles started when they departed from its recommendations on regional casinos. Having done that, they appeared surprised at the chorus of opposition that they encountered. That led to not just one but two U-turns, reverses or whatever the Secretary of State chooses to call them, during the Committee stage.

The Government certainly appeared for a long time to be in a state of blind panic. What they have done has completely changed the whole thrust of the Bill, and at the very last stage of its passage. They have done so without any consultation with the industry and without any proper scrutiny. In some areas, they have turned a Bill that began life as a liberalising measure into one that will put in place a more restrictive regime than exists at present. By doing so, they have ended up satisfying almost no one. The overseas investors who were led to believe that there would be an opportunity for them in this country now feel betrayed because they will be restricted to a small number of locations. The domestic industry saw £0.5 billion wiped off its share values as a result of the Minister's statement in the Committee. The local authorities, many of which looked on the Bill as offering potential regeneration benefits, also feel let down. Those who are concerned about the dangers of gambling addiction still feel that the Bill may allow too many regional casinos and too many category A machines.

**David Winnick** (Walsall, North) (Lab): The Government should listen. As there was so much criticism from both sides of the House—indeed, more criticism probably came from the Labour side—about the unlimited number of casinos, what is wrong with the Government responding to the views of Members of the House of Commons? They have taken the right turn, and I therefore support the Bill.

**Mr. Whittingdale:** In some areas, we welcome the fact that the Government have listened—indeed, we would have preferred them to listen rather earlier. As I said earlier, many of the problems would have been avoided if the Government had listened to the Joint Committee's original recommendations. Obviously, we welcome the fact that on some matters, the Government have moved in the direction in which we have urged them.

The Government have now agreed to introduce a pilot scheme for regional casinos, but the proposed number of casinos is still too large. We also regret the fact that they are unwilling to introduce or maintain an identity requirement for those using casinos.

On seaside arcades—a matter of great concern to many hon. Members—I welcome the commitment from the Minister for Sport and Tourism this evening to conduct a review. However, we would have liked him to make it clear at this stage that the Government will remove the clause giving the Secretary of State reserve powers to ban children from using those machines. Because of the movement by the Government, and because we support the measures to give powers to the gambling commission and to tackle remote gambling, we do not intend to vote against Third Reading.

Despite the enormous amount of preparation time, the Bill has not received proper scrutiny. It was changed dramatically on the last day in Committee, when we did not have a proper opportunity to examine those changes. Even tonight, there were five whole groups of amendments that the programme motion did not allow to be debated. I hope that those in another place will now subject the Bill to the scrutiny that it still badly needs. I accept the Secretary of State's point that the Bill is better than when it started, but it is still flawed, and the fact that we do not propose to divide the House tonight does not mean that we do not believe that the Bill is capable of significant improvement in another place.

9.52 pm

**Mr. Win Griffiths:** My remarks this evening are tinged with sadness. Although I recognise that the Government have moved significantly on a number of important issues, as the hon. Member for Ryedale (Mr. Greenway) said in support of the number of experiments, once the genie is out of the bottle, it is difficult to put back.

The concept of responsible gambling is a contradiction in terms. All Governments have a pathetic history of dealing with addiction problems—for example, alcohol. We are not coping with the problems. I tabled amendments, which we unfortunately failed to reach, to introduce specific references to finance and expertise, both to try to prevent gambling problems from developing and to treat people with gambling problems.

When my hon. Friend the Member for Nottingham, South (Alan Simpson) spoke to amendment No. 1, which unfortunately, we did not have an opportunity to vote on, he mentioned that there are three times as many problem gamblers in households earning less than £15,600 a year as in households earning more than £32,000 a year. A wide body of opinion suggests that the Bill will at least double the number of problem gamblers to about 750,000; some estimates are even higher. For each problem gambler, the lives of half a dozen people in their immediate vicinity are seriously damaged, so the Bill will affect millions of people. As the Opposition do not intend to vote against it, it will go to the other place, where I sincerely hope that it will be substantially amended.

I remain unable to support the Bill. In many ways, it does a lot to control gambling, but it throws open the barn doors for casinos, and I find that totally unacceptable.

9.55 pm

**Mr. Don Foster:** The Secretary of State began by saying that the Bill had been a long time coming, and she was right. I, too, pay tribute to the many people who have been involved in the deliberations that have gone on during those years. In particular, I praise the hon. Member for Ryedale (Mr. Greenway) and members of his Committee for their work. It is interesting to note that we have needed all that time just to work out the precise number of casinos in this country—only tonight did we finally get the definitive answer of 136.

As the Secretary of State observed, many parts of the Bill have a great deal of support on both sides of the House, and outside the House—for example, the provisions concerning internet gambling, tougher social responsibility requirements, and a tougher regulator in the shape of the gambling commission, which will replace the Gaming Board—but many people have deep concerns about other aspects. That is particularly true in relation to casinos. The Secretary of State said that the Government should listen. Of course they should, but the real question is this: to whom were they listening when they first came up with those proposals? I know of very few people who have expressed any real desire for the massive increase in gambling opportunities proposed by the Bill in its initial form.

I am delighted that the Government have belatedly listened and made a welcome U-turn. It is right to have a pilot period, and a cap on the number of casinos during that time. However, much remains to be done in another place. The hon. Member for Bridgend (Mr. Griffiths) raised several issues, not least trying to ensure that casinos do not open on Christmas day. Because of the shortage of time, or the Government's unwillingness, we have been unable even to determine the value of a teddy bear in a family entertainment arcade.

Although a great deal of work remains to be done, I have no doubt that the Bill is far better than it was on Second Reading. I pay tribute to all those who have worked to make it a better Bill during its passage in Committee and tonight.

9.58 pm

**Tessa Jowell:** The House has had an opportunity for full discussion. Clearly, there are issues to be raised in another place, but I echo the sentiments of several hon. Members of all parties who have said that scrutiny has made the Bill a better measure. The people of this country need the protection that the Bill offers, and I commend it to the House.

*Question put*, That the Bill be now read the Third time:—

*The House divided:* Ayes 236, Noes 38.

**Division No. 43]** **[9.59 pm**

**AYES**

| | |
|---|---|
| Ainsworth, Bob *(Cov'try NE)* | Blackman, Liz |
| Allen, Graham | Bradley, rh Keith *(Withington)* |
| Armstrong, rh Ms Hilary | Bradley, Peter *(The Wrekin)* |
| Atkins, Charlotte | Bradshaw, Ben |
| Bailey, Adrian | Brennan, Kevin |
| Baird, Vera | Browne, Desmond |
| Barron, rh Kevin | Bryant, Chris |
| Battle, rh John | Buck, Ms Karen |
| Beard, Nigel | Burgon, Colin |
| Begg, Miss Anne | Burnham, Andy |
| Benton, Joe *(Bootle)* | Cabom, rh Richard |
| Berry, Roger | Cairns, David |
| Betts, Clive | Campbell, Alan *(Tynemouth)* |

Campbell, Mrs Anne *(C'bridge)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cousins, Jim
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Godsiff, Roger
Goggins, Paul
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Illsley, Eric
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Jones, Helen *(Warrington N)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McDonagh, Siobhain
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickles, Eric
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

**Tellers for the Ayes:**
**Mr. Nick Ainger and Paul Clark**

**NOES**

Bennett, Andrew
Campbell, Gregory *(E Lond'y)*
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Dodds, Nigel
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Gibson, Dr. Ian
Griffiths, Win *(Bridgend)*
Hamilton, David *(Midlothian)*
Hermon, Lady
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Hunter, Andrew
Llwyd, Elfyn
MacDonald, Calum
McDonnell, John
Mackinlay, Andrew
Mitchell, Austin *(Gt Grimsby)*
Price, Adam *(E Carmarthen & Dinefwr)*
Robertson, Angus *(Moray)*
Sayeed, Jonathan
Simpson, Alan *(Nottingham S)*
Skinner, Dennis
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, Llew *(Blaenau Gwent)*
Smyth, Rev. Martin *(Belfast S)*
Spink, Bob *(Castle Point)*
Taylor, David *(NW Leics)*
Thomas, Simon *(Ceredigion)*
Wareing, Robert N.
Williams, rh Alan *(Swansea W)*
Williams, Hywel *(Caernarfon)*
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*

**Tellers for the Noes:**
**Mr. Kelvin Hopkins and Mr. Harry Barnes**

*Question accordingly agreed to.*

*Bill read the Third time, and passed.*

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation).*

### Representation of the People

That the draft Representation of the People (Variation of Limits of Candidates' Election Expenses) (City of London) Order 2005, which was laid before this House on 9th December, be approved.—*[Joan Ryan.]*

*Question agreed to.*

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),*

VALUE ADDED TAX

That the Value Added Tax (Food) Order 2004 (S.I., 2004, No. 3343), dated 16th December 2004, a copy of which was laid before this House on 16th December, be approved.—*[Joan Ryan.]*

*Question agreed to.*

## DELEGATED LEGISLATION

*Ordered,*

That the Southern Regional Flood Defence Committee Order 2004 (S.I., 2004, No. 3165), dated 30th November 2004, be referred to a Standing Committee on Delegated Legislation.—*[Joan Ryan.]*

## BUSINESS OF THE HOUSE

*Ordered,*

That at the sitting on Wednesday 26th January, the Speaker shall put the Questions necessary to dispose of proceedings on the Motions in the name of Mr Peter Hain relating to sitting hours, connecting Parliament with the public, and car mileage allowance not later than three hours after the commencement of proceedings on the first Motion; such Questions shall include the Questions on any Amendments selected by the Speaker which may then be moved, except that the Speaker shall put a single Question on any Amendments which are consequential on an Amendment to which the House has already agreed; proceedings may continue after the moment of interruption; and Standing Order No. 41A (Deferred divisions) shall not apply.—*[Joan Ryan.]*

## COMMITTEES

**Madam Deputy Speaker (Sylvia Heal):** With permission, I shall put together motions 7 and 8.

*Ordered,*

EDUCATION AND SKILLS

That Mr Robert Jackson be discharged from the Education and Skills Committee and Mr John Greenway be added.

OFFICE OF THE DEPUTY PRIME MINISTER: HOUSING, PLANNING, LOCAL GOVERNMENT AND THE REGIONS

That Mrs Eleanor Laing be discharged from the Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions Committee and Mr Richard Page be added.—*[Mr. McWilliam, on behalf of the Committee of Selection.]*

## Bristol-Portishead Rail Link

*Motion made, and Question proposed,* That this House do now adjourn.—*[Joan Ryan.]*

10.12 pm

**Dr. Liam Fox** (Woodspring) (Con): I am grateful to Mr. Speaker for giving me this opportunity to raise an issue that is of immense importance to many of my constituents in Portishead. Over the past decade, and even longer, we have been subjected to a rollercoaster ride, where expectations for a passenger rail link have been raised only to be dashed soon after.

The consequence of the growth in housing and population in Portishead, combined with inadequate transport infrastructure, has resulted in what is now probably the most overcrowded cul-de-sac in Britain. If I may, I will outline the history of the railway line in question, the rate of population growth in Portishead, the current transport problems, the transport studies already undertaken and a proposed solution. Much of what I intend to say is contained in the eloquent and succinct document produced by the Portishead railway action group, entitled "Reopening the Portishead line—an outline proposal", which I will give to the Minister at the end of this debate. I recommend that she adds it to her list of essential reading.

The original railway line came into being to meet one of Brunel's schemes to operate a steamship service to America. It was opened in 1870, was converted to standard gauge in 1880, and passenger services continued until 1964. In 2000, a freight facilities grant enabled a new spur to be constructed to serve royal Portbury dock, and the line to Bristol to be relaid for freight traffic. To put it in perspective, the basic length of track needing to be relaid from this spur to a platform at the allocated station site within the development area at Portishead is a mere 3.3 miles.

In the mid-1950s, Portishead had a population of about 8,000. By 1995, this had risen to some 15,000, and the current figure is around 18,000. Perhaps more importantly, however, recent redevelopment of the area around the dock has created the largest marina and housing development in the country, and the population is now predicted to rise to around 28,000—a startling increase.

The biggest problem is that Portishead has only one primary road route out of the town, the A369. Traffic heading for Bristol must cross the M5 at junction 19 at Portbury. The Greater Bristol strategic transport study described it as a "heavily trafficked junction", which many will consider to be an understatement. The study also explained that development growth in Portishead and on the royal Portbury dock site continues to place pressures on the performance of the partially signalled roundabout that forms the junction. Not only does the roundabout accommodate eight entrances and exits; there is high traffic use of the local access roads to the village of Portbury, which joins the A369 close to the motorway junction. Severe congestion is a regular occurrence, especially during the evening peak period.

Public transport in the area is limited, and bus services to Bristol are not well supported for a number of reasons—not least the journey time, which is heavily influenced by road congestion at key times.

*[Dr. Liam Fox]*

Employment opportunities in Portishead are limited as well. While provision for employment development has been made in east Portishead, the town as a whole is constrained by green belt requirements, so further expansion is restricted. The 2001 census showed that 63 per cent. of the town's adults in employment travelled out of Portishead to work. Many of those people will work in Bristol, but it is interesting to note that the percentage of Portishead residents travelling to work by car is higher than those in any of the other three north Somerset towns.

Into this complex environment have come a number of initiatives, studies and strategies. The introduction of local transport plans in 2000 was intended to reduce reliance on the private car, particularly for commuting purposes, and to make alternative forms of transport attractive and safe. Studies for both North Somerset council and the Government office for the south-west have recommended the introduction of passenger rail services to Portishead as a partial solution of the transport problem.

North Somerset council and Wessex Trains were having discussions with the Strategic Rail Authority about a bid for rail passenger partnership funding to reopen the Portishead line when the funding scheme was terminated early in 2003. Continued upheaval in the rail industry and the general funding shortfall seem to have put line reopenings out of the frame in the short term. Despite uncertainty over who will operate franchises after April 2006, however, there has been renewed activity in the promotion of community rail partnerships on several routes, including the local Severn Beach line.

The Portishead railway action group has carried out an extensive analysis of the possibility of extending the current service to Severn Beach and on to Portishead. It has shown that with a running time of 24 minutes to Portishead, trains arriving at Bristol Temple Meads on the Severn Beach line could continue to Portishead and return to Temple Meads without disrupting current schedules. The proposed service could be operated without conflicting with other passenger services at key junctions, and safety margins could be maintained.

The scheme delivers on all four regional transport strategy objectives. It would reduce the impact of transport on the environment, securing better access to work and creating a modern, efficient and integrated transport system. It would also support the regional planning guidance note 10 spatial strategy. What all of us find so difficult to understand is that a scheme which is so clearly needed, and which would meet so many of the Government's declared objectives, never seems to get off the ground. Despite the involvement of so many agencies, bodies and interested parties, there never seems to be the cohesion and momentum that are needed to make the change happen.

My aim in bringing this matter to the attention of the House and the Minister is to help create that momentum. Unless the situation is dealt with comprehensively, the quality of life for many residents of an expanding Portishead will diminish unnecessarily. If that happened, the real tragedy would be that it could have been prevented.

10.19 pm

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** I begin by congratulating the hon. Member for Woodspring (Dr. Fox) on securing this debate and on providing an opportunity for the House to discuss the potential for reinstating passenger services on the line between Bristol and Portishead. The Government are aware that support exists for introducing passenger services on this line, which was re-opened in 2002 as far as Royal Portbury docks for freight traffic. The re-opening was secured with funding from the Strategic Rail Authority's freight facilities grant scheme. However, in order to serve Portishead with passenger services, the remaining three and a quarter miles of track would need to be reinstated and new stations at Portishead and elsewhere on the line would need to be built, along with car parking facilities and, preferably, interchanges with other transport modes. Even if the funding existed to achieve this necessary work, further obstacles exist that would need to be overcome.

The freight trains currently using the line operate at irregular intervals, depending on the particular assignment in hand. Introducing regular passenger services that are compatible with these irregular freight movements would be problematic. Infrastructure enhancements would be required, including, most notably, a large amount of additional signalling.

The cost of all of this work would be significant, and to date, no source of funding has been identified. The potential for rail passenger partnership funding was considered in 2001, following completion of a study by consultants Scott Wilson for North Somerset council. However, the SRA, which administered the fund, was concerned about several areas of weakness in the study—notably, that no account had been taken of the integration of passenger and freight services on the line, or of the need to accommodate new passenger services on the main line between Parsons Street Junction and Bristol Temple Meads. Furthermore, the SRA believed that more evidence of third-party support would be needed than the £1 million secured by the council. The SRA could not foresee a successful application being made under the rail passenger partnership scheme unless these issues were addressed. In the event, no official bid was submitted for funding.

Since that time, the SRA has remained in dialogue with North Somerset council and the Portishead rail action group, and it has undertaken a site visit and met those bodies to discuss the issues further. However, the overriding barrier remains the capital costs of the project, which Scott Wilson estimated as being between £5 million and £7.5 million, depending on the number of trains operating per hour. Although the SRA has not carried out its own assessment, it believes that those figures could constitute a huge underestimate. On top of those capital costs, an additional subsidy for the train operator would be needed to cover the ongoing operational costs. Such costs would not be covered by the income generated from fares, which would only recoup between 50 and 60 per cent. of the annual operating expense. If the Scott Wilson report's recommendation for two trains an hour were pursued,

the operational costs could amount to some £2.5 million per annum. So the overall cost is likely to be more than £15 million—well above the report's estimate.

Any call on the SRA for support has to be backed up by a positive, value-for-money business case and linked with what can be afforded nationally. The rail industry's current priorities are focusing on maintaining the existing network and improving the performance and quality of existing services. So the reinstatement of the Portishead line to passenger traffic would rely on other avenues of funding being found. This could form the focus for stakeholders wishing to promote the project.

In the longer term, the reopening of lines may well have to be considered in various areas of the country where the current transport infrastructure's capacity is likely to be insufficient for the forecasted increase in demand. The SRA has a number of initiatives in hand in order to consider the future development required in each region. These could be taken forward in due course by Network Rail and the Department for Transport through implementation of the proposals in the White Paper "The Future of Rail".

Initially, the SRA is looking at how we can get the most out of the current network through application of its "Capacity Utilisation Policy", which was published in 2003. A series of individual route utilisation strategies are being taken forward, including one for the Great Western main line, the consultation draft for which was published earlier this month.

**Valerie Davey** (Bristol, West) (Lab): Those of us who are aware of the history of the line certainly welcome the possibility of passenger usage. We also recognise the cost that my hon. Friend has outlined and would like her assurance that the rail and road networks in the area will be considered together—as the hon. Member for Woodspring (Dr. Fox) suggested, they could be in need of enhancement in the future—when looking at the demand for passenger rail in the area.

**Charlotte Atkins:** I am grateful for that intervention because it raises the important point about the role of the local authority and the region in identifying the priorities for transport in the area. That is why we have local transport plans and are considering regional prioritisation of particular projects. I know that my hon. Friend has campaigned for better transport in the area for many years, both as a Member of Parliament and as a former councillor.

**Dr. Doug Naysmith** (Bristol, North-West) (Lab/Co-op): Will my hon. Friend take into account the fact that Conservative-controlled North Somerset local authority has never committed any funds to the project, although it has commissioned studies? Does she think that it would be a good idea if the local authority were to commit some funds to it and would that assist the project in making progress?

**Charlotte Atkins:** Local stakeholders, including the council, have to show a commitment to such projects. When Conservative councils—and, indeed, shadow Ministers—call for massive cuts in public expenditure, it is not surprising that money cannot be found for such projects.

**Dr. Fox:** The hijacking of this debate to make party political points is not something that I expect in an Adjournment debate and is in poor taste. However, my more general point is that the problems are indicative of a lack of forethought in the planning process. The Government insisted on more housing and there has been a big increase—in fact, the biggest housing development in the country is in the area—but no prior thought was given to the transport infrastructure. How bad does it have to get before it becomes a priority?

**Charlotte Atkins:** As I indicated to the hon. Gentleman earlier, we look to the region and the local council to come up with their plan for local transport. That is why we have moved to local transport plans instead of a wish list of projects that local councils and regions want. We are working in partnership with local councils and the regions and we expect them to work with their local stakeholders to ensure that they produce priorities that have the support of local stakeholders. The hon. Gentleman suggested earlier that the council had not fully engaged in taking forward the project. My point was that we have to find the funding for such projects in the context of local, regional and national priorities.

In conjunction with their capacity utilisation policy work the Strategic Rail Authority is also carrying out a series of regional planning assessments, which will consider the need for developing rail services over a five to 20-year horizon. Those assessments will cover each English planning region and will consider the function of the railway within current and future land use transport systems, and its role in supporting the economic and wider development objectives of local, regional, devolved and central Government.

The RPA for south-west England is due to commence this spring, with publication expected at the end of this year. Local stakeholders, including local transport and planning authorities, will be consulted throughout its development. The final outputs will include the identification of the key markets to be served by rail; a prioritised set of interventions for further examination that the SRA considers to be deliverable and realistic; and regional plans for the delivery of wider national SRA policies. The outputs are intended to provide a strategic framework for more detailed planning work and to answer the question of whether a proposed scheme has a strategic fit with the SRA's plans for a particular part of the network. The regional planning assessment will highlight where follow-up work needs to be commissioned by the SRA and rail industry partners and, where appropriate, in conjunction with stakeholders.

In the Bristol area, such work will be complemented by the greater Bristol strategic transport study. That has been commissioned by the Department for Transport and is being taken forward by the Government office for the south-west to address current and future strategic transport needs specifically in the greater Bristol area up to 2031. It will build on the south-west area multi-modal study, which reported in May 2002, and will contribute to the formulation of regional spatial strategies, the identification of priorities for investment in the regional transport strategy, and the next round of local transport

*[Charlotte Atkins]*

plans. In addition to forecasting the growth in general travel demand, the study will also examine specifically the future demand for heavy rail services, as well as establishing the preliminary business case for any rail schemes.

Funding for the study is shared among seven organisations, including the four local councils and the South West of England Regional Development Agency. Atkins was appointed as the study consultants in 2003 and will produce a report in June 2005, which will make recommendations for a range of strategies to be taken forward.

In summary, I can offer no assurance that a passenger service will be reinstated on the Bristol-Portishead line in the foreseeable future. The first step towards that would be for the significant funding required for such a scheme to be identified and secured. However, initiatives are being taken, or are planned to begin shortly, to consider in detail what is required in the Bristol region for future transport development, including heavy rail. Those areas of work are being conducted with the active involvement of local stakeholders and will allow solutions to be developed cohesively and coherently. When the conclusions from those aspects of work are known, the potential for new passenger services on the Portishead line will be better understood, and the issue of funding can be considered by the project sponsors on a more informed basis.

*Question put and agreed to.*

*Adjourned accordingly at twenty-nine minutes to Eleven o'clock.*

# House of Commons

*Tuesday 25 January 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## FOREIGN AND COMMONWEALTH AFFAIRS

*The Secretary of State was asked—*

### Israel

1. **Angela Watkinson** (Upminster) (Con): What discussions he has had with his counterparts in the European Union regarding the recent violence in Israel. [210381]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Bill Rammell):** May I first pass on the Foreign Secretary's apologies for not being here today, as he is in Washington? I know that he has passed those on to you, Mr. Speaker, to the shadow Foreign Secretary and to the hon. Member for Tweeddale, Ettrick and Lauderdale (Mr. Moore), who is leading for the Liberal Democrats today.

The Foreign Secretary has had recent discussions with a number of European colleagues on recent events in Israel and the occupied territories, and will hold further talks at the General Affairs and External Relations Council on 31 January. We and our European colleagues continue to condemn all violence and urge appropriate restraint by all parties.

**Angela Watkinson:** The recent election of Abu Mazen in Palestine and the willingness of Israel to co-operate give us the best opportunity that we have had for a long time to break the dreadful cycle of suicide attacks and reprisals. May I urge the Minister to redouble his discussions with the European Union to take best advantage of the situation, so that we can make progress before any more atrocities take place and that good will is lost?

**Mr. Rammell:** I wholly agree with the hon. Lady that we have a real opportunity. There is still too much death and hardship on both sides, but the election with a strong majority of Mr. Abu Mazen, who has a clear and unambiguous commitment against violence, is a positive step forward. We are looking forward to his visit here on 1 March so that we can show our political support for reform in the Palestinian Authority and take the process forward.

**David Cairns** (Greenock and Inverclyde) (Lab): In 2004 alone, 232 Qassam rockets were fired from the Gaza strip into Israel, and there were 18 such attacks in the first two weeks of this year. Given Abu Mazen's recent welcome announcement on cracking down on terrorism in the Gaza strip, what help and assistance can the EU give to increase the security capacity of the Palestinian Authority, with specific reference to stopping the rockets being smuggled into Gaza through Egypt in the first place?

**Mr. Rammell:** My hon. Friend highlights a key concern. It is critical that the Palestinian Authority make it abundantly clear that it will step up its security efforts to tackle the challenge. We are doing everything that we can through aid and training to bolster and support the Palestinian Authority. A real effort in tackling terrorism at the same time as the Israeli Government are making efforts to ensure that they act proportionately and with due regard for civilian life, although we recognise their right to defend themselves, provide us with the best opportunity to move forward.

**Mr. David Tredinnick** (Bosworth) (Con): Does the hon. Gentleman recall that much equipment sent by the European Union over the past two or three years has been destroyed during incursions by Israelis into the west bank, for whatever reason? That has included computer, air traffic control and hospital equipment. Has he held discussions with his European counterparts about replacing that equipment, and if so, when does he expect replacements to be delivered?

**Mr. Rammell:** The contributions that both we and the European Union are making to bolster the security effort of the Palestinian Authority are ongoing, and we maintain that commitment. I appreciate what the hon. Gentleman says, and such actions have been regrettable. Nevertheless, there are still significant resources in the Palestinian Authority, especially manpower, and it is crucial for it to use that, with our support, to tackle terrorism and beef up its security efforts.

**Mrs. Louise Ellman** (Liverpool, Riverside) (Lab/Co-op): What action will be taken against Iran and Syria, which continue to back attacks on Israeli citizens, such as the rocket attack that killed a teenager in Sederot in Israel last week?

**Mr. Rammell:** We have consistently urged all neighbours in the region to desist from supporting terrorist attacks, and we will continue to make that abundantly clear. Both sides must make a real effort to tackle terrorism. The statements made thus far by Mr. Abu Mazen present a real opportunity, so it is crucial to take that forward.

### Ukraine

2. **Mr. Mark Lazarowicz** (Edinburgh, North and Leith) (Lab/Co-op): What meetings he has had with representatives of Ukraine since the recent presidential elections. [210382]

**The Minister for Europe (Mr. Denis MacShane):** I represented the United Kingdom at the inauguration of President Yushchenko in Kiev last Sunday and had talks with senior officials who are expected to take up ministerial posts. I expressed our Government's support for the ambitious programme of President Yushchenko to develop Ukraine as a European democratic market economy under the rule of law.

**Mr. Lazarowicz:** A Vice-President of the European Commission was reported yesterday as saying that the idea of Ukraine's future membership of the EU was "realistic". Does my hon. Friend agree with that assessment?

**Mr. MacShane:** In broad terms—but let me quote President Yushchenko himself. In his policy statement, "The European choice for Ukraine", he said:

"We are realists: Ukraine's membership in the EU is not a question for today."

Yesterday, Javier Solana published an ambitious 10-point programme on how the EU can help Ukraine. I welcome the fact that Ukraine has chosen to direct its future towards Europe and developing European norms of a market economy, the rule of law, respect for human rights and cleaning up corruption. I only wish that more Members of this House were as enthusiastic about the EU.

**Mr. Francis Maude** (Horsham) (Con): Of course Ukraine's membership of the EU is not a matter for today, for tomorrow or for next year. Does the Minister recognise that Ukraine has been through an incredibly fraught period since the end of the Soviet Union? Now, it has made the difficult decision to lock itself into the path of the rule of law and market reform, as he says, and President Yushchenko deserves huge support in his efforts to accomplish that. Ukraine's directing itself toward eventual membership of the EU is very much in its interest and ours, and I hope that there will be no diplomatic timidity about encouraging that.

**Mr. MacShane:** There is certainly no diplomatic timidity on my part. I entirely agree with the right hon. Gentleman's comments—he is right. I said all that on the record yesterday in Kiev. Regrettably, my support for Ukraine's European ambitions did not get the wide front-page coverage that I might have hoped for—but we live for the next day. I encourage all hon. Members with an interest in Ukraine to travel there; I want more tourism and more trade contacts with that country. Let us not underestimate the democratic revolution that occurred between mid-November and the inauguration on Sunday: to see hundreds of thousands of Ukrainians demanding a new country was a marvellous moment in European history, and we should celebrate it. I hope that Britain will be a strong friend of Ukraine in the coming years.

**Sir Patrick Cormack** (South Staffordshire) (Con): Few people would accuse the hon. Gentleman of ever being timid—or often being diplomatic. Does he agree that Ukraine has every bit as much right as Turkey to count itself a European nation?

**Mr. MacShane:** Quite so—I leave diplomacy to diplomats. The Government have clearly expressed their support for Ukraine as an entirely European country, and for Kiev's position as one of the cradle cities of European civilisation. I hope that in the coming years, Britain will continue to give Ukraine every possible assistance in realising its European ambitions.

## Afghanistan

3. **Mr. Andrew Mackay** (Bracknell) (Con): if he will make a statement on his Department's assistance to Afghanistan. [210383]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Bill Rammell):** The Foreign and Commonwealth Office has consistently provided a high level of assistance to Afghanistan since late 2001. That includes financial and political support to President Karzai's Government and the election process, to counter-narcotics efforts and to reform of the Afghan security sector.

**Mr. Mackay:** Does the Minister accept that, with the welcome election of President Karzai, much more needs to be done? Does he share my criticism of some of our NATO allies who, unlike ourselves, have done very little to offer support and assistance? What will he and the Foreign Secretary do through NATO to put pressure on the recalcitrant states and name and shame them?

**Mr. Rammell:** First, it is important to recognise the real progress that has been made in Afghanistan. I attended President Karzai's inauguration just before Christmas. The first nationwide democratic election is a huge step forward and 3 million refugees have returned to the country, but we need to maintain our assistance and support. I agree that NATO should do more. The recent force generation conference noted some welcome progress—the United States, Italy and Lithuania made some additional contributions—but we need more. I recently spoke at the NATO Council urging NATO to do more, especially on the counter-narcotics front. We shall continue to make that argument.

**Joan Ruddock** (Lewisham, Deptford) (Lab): May I take this opportunity belatedly to welcome the publication of "Inclusive Government: Mainstreaming gender into Foreign Policy" and to thank my hon. Friend for the fact that there is a gender strategy in Afghanistan? How are the British Government using that strategy to support women in the forthcoming elections?

**Mr. Rammell:** I pay tribute to my hon. Friend, who ever since the demise of the Taliban has consistently argued for women's rights in Afghanistan. There has been a dramatic improvement. In the recent presidential election, a woman stood for the presidency and three for the vice-presidency, and 25 per cent. of the seats in the lower house are reserved for women; those are important steps forward. However, as we move towards the parliamentary elections, we need to continue to support women. We, the European Union and our other partners are determined to undertake that task.

**Mr. Adrian Bailey** (West Bromwich, West) (Lab/Co-op): Does my hon. Friend agree that crucial to the future of Afghanistan is the provision of alternatives to the poppy cultivation there? Will he outline what steps we and other countries have taken to achieve this?

**Mr. Rammell:** I thank my hon. Friend for that question. To tackle narcotics in Afghanistan we need what we have, which is a multi-faceted strategy including eradication, interdiction and the spread of the criminal justice system. If we are genuinely to move farmers away from the poppy, we need to provide alternative livelihoods. The Department for International Development has recently increased its commitment to £30 million over three years, and £13 million of that is now being spent on local community development councils in 5,000 villages, focusing on the bare basics of water pumps, irrigation channels, bridges and roads, which is the first step. We certainly need to take that effort forward.

## Eritrea/Ethiopia

4. **Mr. Laurence Robertson** (Tewkesbury) (Con): what recent discussions he has had with the Government of Eritrea about the boundary dispute with Ethiopia; and if he will make a statement. [210384]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Chris Mullin):** We discuss the border dispute with Eritrea, Ethiopia and other interested parties on a regular basis. I had a long discussion on the subject with Eritrean President Isaias in Asmara in January last year, and with Ethiopian Prime Minister Meles in Addis Ababa on 26 October. I hope to be able to discuss the matter again with representatives of both Governments at the African Union summit in Abuja this weekend.

**Mr. Robertson:** I thank the Minister for that response. At a meeting with the Prime Minister of Ethiopia in November, he affirmed his commitment to a peaceful solution with Eritrea and, indeed, wanted to accept what he did not like in terms of the border dispute—he accepted the ruling of the boundary commission. Indeed, in November the Parliament of Ethiopia passed a motion to that effect. Recently, however, Ethiopia has been expressing deep concern about the attitude of Eritrea towards the boundary solution. There is concern that that country, which is not democratic and does not have a free press, might seek to return to war. That would, of course, cause devastation in the area, loss of life and loss of aid. Will the Minister redouble his efforts to discuss the situation, particularly with Eritrea, with a view to persuading that country that the peaceful way forward has to be the only way forward?

**Mr. Mullin:** I take a close personal interest in the border dispute, having been engaged with it, one way or another, for about the past 18 months. Our assessment is that neither side wants a return to war, but it is correct to say that there is always a danger that a small spark on the border will reignite the conflict. Our approach is based on three principles: no return to war; that the findings of the boundary commission are binding; and that dialogue between the two parties must take place. Professor Lauterpacht, who was the chairman of the Eritrea-Ethiopia boundary commission, has said that any issue can be discussed, provided that both parties agree. We think that that should happen, and that is the view that we are making clear to all parties, including the Eritreans.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): With the deterioration of the situation in Eritrea, are not the Government there beating the drums of war as a diversionary tactic to draw attention away from their numerous failings, and to strengthen their own position? Will my hon. Friend commit himself, when we next meet the representatives of either Eritrea or Ethiopia, to pursue the question with Ethiopia, whose attitude to the Eritrea-Ethiopia boundary commission's final recommendations is not entirely unambiguous? Indeed, it is already entering qualifications. The removal of those would defuse the tension, would it not?

**Mr. Mullin:** A settlement of this dispute will require both sides to move. We welcome the recent movement by the Ethiopians, which we had been urging upon them. In due course they may have to make some further concessions. At the moment it would be welcome to have some sign from Eritrea that it is willing to engage in discussions. So far there have been no such signs from Eritrea.

## Iraq

5. **Andrew Selous** (South-West Bedfordshire) (Con): What assessment he has made of the conclusions of the Iraq survey group. [210385]

**The Minister for Trade and Investment (Mr. Douglas Alexander):** The Government have read the conclusions of the Iraq survey group carefully. My right hon. Friend the Prime Minister has publicly accepted its principal conclusion that Saddam Hussein's regime did not possess stockpiles of weapons of mass destruction.

**Andrew Selous:** The Joint Intelligence Committee warned the Government that the limitations of its intelligence on weapons of mass destruction were not made sufficiently clear. Does that not mean that any future threats to the UK under this Administration may not be treated by Parliament and the public with the seriousness that they deserve?

**Mr. Alexander:** I do not accept that. Since May 2003 there have been four inquiries—by the Intelligence and Security Committee, the Foreign Affairs Committee, Lord Hutton and Lord Butler. A central question, of course, for those inquiries was whether the Government had in any way acted improperly or dishonestly in using the intelligence available to them. All four inquiries concluded that such allegations were unfounded.

**Mr. Malcolm Savidge** (Aberdeen, North) (Lab): Are Britain's arguments against further military adventures strengthened by the fact that Bush's Iraq survey group not only failed to find any weapons of mass destruction but could only speculate on Saddam's future intentions

on the basis of his perceived need to deter Iran and Israel? Surely, that proves that the imminent WMD threat to the United States, which the Bush Administration used to justify war, was absolute fantasy?

**Mr. Alexander:** The report is extensive; if I recollect correctly, it is more than 800 pages long. Its central conclusions included the fact that Saddam never abandoned his intentions to resume a chemical weapons effort, and indeed was pursuing an aggressive strategy of subverting the UN sanctions and the oil-for-food programme. The report therefore comes to a range of conclusions, and I do not accept the point made by my hon. Friend. Frankly, the issue has been well ventilated in the House on a number of occasions.

**Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): In the light of the survey group's findings, does the Minister agree that Hans Blix was right to ask for more time? Does he not agree that if Dr. Blix's pleas had been heeded, conflict could have been avoided?

**Mr. Alexander:** Dr. Blix's views on this issue are clearly important. As the executive secretary of UNMOVIC, mandated under United Nations Security Council resolution 1284, he was shown a draft of the Government's September 2002 dossier and commented that he felt that some sections of it understated Iraq's capabilities. It is too often forgotten by people who disagreed with the Government's action that UN resolution 1441 was adopted unanimously by all members of the Security Council.

**Mr. Tam Dalyell** (Linlithgow) (Lab): On what date was the British Government first consulted by the Americans about the winding up of the survey group?

**Mr. Alexander:** In relation to what my hon. Friend describes as the winding up of the survey group, it is the case that it continues to undertake work inside Iraq. It is certainly the case that Charles Duelfer has returned to the United States. None the less, the group continues to work closely with the multinational force.

**Mr. Michael Ancram** (Devizes) (Con): Given the Iraq survey group's failure to find any weapons of mass destruction, and the Prime Minister's persistent assertions when questioned on WMD that we should await the outcome of the survey, when will the Government report to the House why the Prime Minister, in his insistence that weapons of mass destruction existed, got it so wrong?

**Mr. Alexander:** It is of course the case that people have made criticisms of the Government's action, but they can hardly include in that a failure by the House to discuss the issue. Quite reasonably, as I said, we have had four inquiries looking into the matter. The House has had the opportunity to discuss the issue on numerous occasions, and there is little that can be added to the extensive debates that it has already had on the subject.

**Mrs. Claire Curtis-Thomas** (Crosby) (Lab): Does my hon. Friend agree that although people are seeking, and have sought, weapons of mass destruction, Iraq's capability to produce those weapons was unquestionable? Moreover, it had demonstrated its capacity to use them extensively in northern Kurdistan. It retained that capability until the invasion of Iraq, which sought to reduce the problem completely and for ever.

**Mr. Alexander:** I concur with my hon. Friend. No other country in modern times has used chemical weapons against both its neighbours and its own civilian population. That is an important corrective to some of the arguments that we have heard in the House in recent months. It is important to recognise that whatever the divisions in the House—which were present at the time the action was taken—there is now common ground across the House about the need to support the efforts of the Iraqi people as they look ahead to the democratic elections at the end of the week

**Hugh Robertson** (Faversham and Mid-Kent) (Con): As the Minister said, the Iraq survey group report highlighted the link between corruption at the UN during the oil-for-food scandal and the current security situation in Iraq. Does the Foreign Office believe that responsibility for that scandal rests inside the UN itself, owing to a lack of accountability and transparency, or with the countries of the Security Council, who knew that it was going on but failed to take any action?

**Mr. Alexander:** That is an important question, which is why we have supported fully the decision to set up a high-level inquiry within the United Nations. We fully support Paul Volcker in his efforts. It would be injudicious for me to comment on specific allegations while that inquiry continues, but I can assure the House that the Government continue to co-operate fully with the inquiry as it moves forward.

## Nigeria

6. **Mr. Bill Tynan** (Hamilton, South) (Lab): What recent discussions he has had with the Government of Nigeria on the situation in the Niger delta. [210386]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Chris Mullin):** I am going to the Niger delta later this week to see the problems at first hand. I look forward to reporting back to the House in due course.

**Mr. Tynan:** My hon. Friend's visit to the Niger delta is very welcome. Non-governmental organisations in particular welcome the fact that he is going to Nigeria and will pay special attention to the Niger delta. Amnesty International and Nigerian groups have reported that 600 people have been killed in the area, and tens of thousands displaced. Will my hon. Friend press the Nigerian Government to put an end to the conflict in the Niger delta by disarming the gangs roaming there and causing untold misery for the population?

**Mr. Mullin:** Yes, I accept that there are serious problems in the Niger delta, of which criminal violence is one. Neglect of the non-oil economy is another. There

are extremely high levels of unemployment, which gives rise to the fact that large number of youths engage in violence: There is endemic corruption and large-scale theft of crude oil—up to 100,000 barrels a day are disappearing. There is also environmental degradation and a proliferation of weapons. All those problems need to be addressed, and we are encouraging the Nigerian Government to do that.

**John Robertson** (Glasgow, Anniesland) (Lab): What about the gangs that my hon. Friend the Member for Hamilton, South (Mr. Tynan) mentioned? Does the Minister agree that they pose a threat to the oil industry in the area, and to British companies? What are the Government doing to protect British companies?

**Mr. Mullin:** The gangs certainly pose a threat, not just to British companies but to all proper activity in the Niger delta. We are working with the Nigerian Government to try to improve the situation in the delta, which includes providing technical advice. But it is primarily a matter for the Nigerian Government to assert control over the delta, and we judge that they are capable of doing so. What is necessary is to find the political will.

## Middle East Peace Process

7. **Mr. Andrew Dismore** (Hendon) (Lab): If he will make a statement on the implications of the Palestinian elections for the Middle East peace process. [210387]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Bill Rammell):** We welcome the success of the recent Palestinian presidential elections, and congratulate President Abu Mazen. We hope that his victory with a strong majority will provide an opportunity to move the middle east peace process forward. We look forward to welcoming the new Palestinian leadership to London on 1 March. We are committed to helping them build the institutions that are needed to underpin a future viable Palestinian state.

**Mr. Dismore:** Given the commitment of Abu Mazen to end the intifada and return to the road map, which requires an end to terrorism and the reform of the Palestinian Authority security services, will my hon. Friend say what progress has been made towards a ceasefire by Hamas, Islamic Jihad and the al-Aqsa Martyrs Brigade, among others? Although the deployment of PA security forces in Gaza is welcome, will he confirm reports that PA Gaza security head, General Saeb el-Ajez, has said that his forces will not arrest terrorists?

**Mr. Rammell:** I am not aware of that specific report, but I will contact my hon. Friend about it. Abu Mazen's credentials and commitment to tackling terrorism are clear and unambiguous. That gives us an opportunity. Part of the way in which he looks to deal with the security situation is to reduce the capacity and will of those who espouse violence. If he believes that he can do that through political dialogue, that should be welcomed.

**Mr. Michael Moore** (Tweeddale, Ettrick and Lauderdale) (LD): The Liberal Democrats also welcome the success of the Palestinian elections and wish President Abbas every success for the future, not least in his early serious efforts to improve the security situation in the Gaza strip. The peace process outlined in the road map is now at least two years behind schedule. Does the Minister see recent Palestinian developments as a positive step forward? How does he expect the Israeli Government to respond?

**Mr. Rammell:** As I said earlier, I think that there is a real opportunity with the election of Abu Mazen. We are doing everything we possibly can to take that opportunity to help the process forwards. On the subject of the conference that we are calling here for 1 March, I was talking this morning to my noble Friend Baroness Symons, who has been travelling in the middle east in the past week, and she informed me that that initiative has been widely welcomed there. We will continue to undertake that commitment, while at the same time making it clear that the road map remains the best way forward for the peace process. There are commitments on both sides that need to be fulfilled, and we urge that that should happen as quickly as possible.

**Dr. Brian Iddon** (Bolton, South-East) (Lab): As an election observer, I can tell my hon. Friend that the elections went very well throughout the west bank, with the possible exception of Jerusalem, where there were immense problems. Is he aware, however, that the Israeli Government decided last summer to invoke the 1950 Israeli absentee property law to confiscate more property that Palestinians own in east Jerusalem? What hope is there for peace when the Knesset provokes the Palestinians in such a way?

**Mr. Rammell:** There are faults on both sides, and actions in accordance with the road map that need to be undertaken by both sides. One of the key commitments under the road map is for the Israeli Government to freeze settlement activity. It is important that they are cognisant of that and take those actions forward, and we will continue to press them to do so.

**Rev. Martin Smyth** (Belfast, South) (UUP): I join others in welcoming President Abbas, but does the Minister agree that in a week when we are thinking of the holocaust, it is important that the states around Israel recognise its right to exist, and encourage it and the Palestinians to come to better terms?

**Mr. Rammell:** The 60th anniversary of the holocaust is a very significant event, and should be an opportunity for us all to make clear our opposition to anti-Semitism and racism in all its forms. That should be a clear message, but on the second part of the hon. Gentleman's question, we have consistently made it clear to regional neighbours that they need to do everything possible to stop support for terrorism. What is abundantly needed is an acceptance of the right of the state of Israel to exist, while we rightly continue to push for a viable Palestinian state.

**Mrs. Anne Campbell** (Cambridge) (Lab): I, too, was privileged to be one of the thousands of international observers who travelled to the west bank for the Palestinian elections. Under the gaze of those international observers, the Israeli army considerably eased the restrictions on Palestinians passing through the checkpoints. Does my hon. Friend agree that the presence of international observers could have a huge impact on the way in which the Palestinians are allowed to travel around the west bank, and so engender a much better atmosphere for peace?

**Mr. Rammell:** May I first—I should have done so previously in response to my hon. Friend the Member for Bolton, South-East (Dr. Iddon)—thank the observers for the efforts that they made in observing those important elections? That was a crucial part of ensuring not only free and fair elections, but a very high turnout. The point that my hon. Friend the Member for Cambridge (Mrs. Campbell) makes about the general importance of international observers is crucial in ensuring that the conditions needed to underpin the road map are taken forward. That is an argument that we will continue to press.

**Mr. Mark Simmonds** (Boston and Skegness) (Con): The Opposition join other hon. Members in congratulating the Palestinians on their successful elections and Abu Mazen on his decisive victory. We all hope that that will contribute to a lasting peace settlement in the middle east and facilitate the two-state solution. What specific steps are the British Government taking to assist the new Palestinian President and the Palestinian Authority to suppress terrorist activities and improve Palestinian security, thereby establishing calm and the atmosphere for constructive dialogue and negotiations with Israel, including a peaceful and orderly Israeli withdrawal from Gaza?

**Mr. Rammell:** I thank the hon. Gentleman for that question. It is clear that, with this Government's lead and the Prime Minister's personal commitment, we are taking a significant lead to support Abu Mazen and the Palestinian Authority. We are doing that in political terms with the meeting that is taking place here on 1 March, but we are also doing it in practical terms, through the Department for International Development and through advice and funding support. We will continue to do that, and if those efforts are made and there is an increased focus on the part of the Palestinian Authority on improving its security performance, we will be better able to urge the Israeli Government to move forward with their commitment to the disengagement plan as a first step along the road to fulfilling the objectives of the road map.

## Iraq

9. **John Mann** (Bassetlaw) (Lab): What action he is taking in conjunction with allies of the UK and the Iraqi Interim Government to protect Iraqi trade unionists. [210389]

**The Minister for Trade and Investment (Mr. Douglas Alexander):** The transitional administrative law makes specific provision for the right of all Iraqis to join trade unions, and at least 12 national trade unions have already been established. We follow closely trade union issues in Iraq and are working with the TUC and other trade union organisations to support Iraqi trade unions.

**John Mann:** We have seen beatings, kidnappings, mortar attacks on the Transport and Communications Workers Union headquarters and the torture and murder of Hadi Saleh, one of the trade union leaders. What are the Government doing to let the British people know about the magnificent efforts of Iraqi trade unionists—not least the rail workers of Basra, who are striking against the terrorists—and Iraqi trade unions in the battle for democracy in Iraq?

**Mr. Alexander:** I pay tribute to my hon. Friend's work in publicising such issues, and we condemn without reservation the atrocities that he has described. Only this morning, our ambassador in Baghdad gave an interview in which he made clear both our determination to continue to support the people of Iraq as they move through this difficult period immediately prior to the elections, and the scale and significance of what is at stake in Iraq. There is a clear choice between civil society, which my hon. Friend has described, with all the people of Iraq being given a true say in the future of their country, and a group of terrorists who are determined to deny them that opportunity.

**Mrs. Alice Mahon** (Halifax) (Lab): I am deeply saddened by the recent torture and death of the well known trade unionist. Is not the truth, however, that the interim Government take their orders from America? We should all deplore the carnage in Falluja and the fact that this unnecessary war has claimed 100,000 victims. A support group has grown up around the Prime Minister, and it has singled out trade unionists as victims, which does the anti-war movement no good. Would it not be better to set a timetable to withdraw troops from Iraq and let the Iraqi people rule themselves after the election?

**Mr. Alexander:** Any deaths are to be regretted, but Prime Minister Allawi made a clear statement on Falluja: the insurgents were given the opportunity to lay down their arms and take part in the democratic elections. It is, of course, a matter for regret that the insurgents chose not to do so, but they should not be able to deny the Iraqi people the very civil rights that the prospect of democracy offers them.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): I had the privilege of meeting the late Hadi Saleh, the former international secretary of the Iraqi Federation of Workers Trade Unions, when he came to the House and I chaired a meeting that he addressed. During his hideous murder, lists of members of the IFTU were stolen from his home by terrorists. What can be done to allow trade unions to exercise security over information so that they are not dealt with in that way?

**Mr. Alexander:** I pay tribute to my hon. Friend's long-standing interest and work on behalf not only of trade unions in Iraq but of the people of Iraq. The United Kingdom, working as part of the multinational force, will stand with the Iraqi people and work closely

with the interim Government to try to implement the necessary security measures to defend the Iraqi people against the insurgency. We are, of course, concerned about trade unionists, but we are concerned about all the people of Iraq, which is why we shall continue to work hard in the coming days to make sure that security is in place to allow them to have their say in free and fair elections.

### Democratic Republic of the Congo

10. **Mr. Bob Blizzard** (Waveney) (Lab): If he will make a statement on the situation in the east of the Democratic Republic of the Congo. [210390]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Chris Mullin):** The situation in the eastern DRC remains unstable, although fighting recently seems to have subsided. However, human rights abuses continue and the humanitarian situation remains critical for many displaced civilians. The UK is pressing all sides to calm the situation.

**Mr. Blizzard:** As my hon. Friend knows, some 3 million to 3.5 million people have been killed in that part of Africa in the past five or six years alone, which is, in a continent of disasters, perhaps the greatest disaster of all. As we rightly make Africa the priority in our chairmanship of the G8, we should urge the international community to focus on that particular part of Africa, support the work of the United Nations and do everything we can to bring international pressure to bear to achieve a political solution. We should also use our relationship with Rwanda to urge it to keep its troops out of the DRC and to play a more constructive role in bringing peace to that country.

**Mr. Mullin:** We keep in close touch with Rwanda regarding its activities in the eastern DRC. There is no hard evidence of Rwandan troops having been there recently. As regards the international community, we and our main allies are well aware of the Congo's central significance to stability in Africa, and my hon. Friend is right to draw attention to the scale of the catastrophe that has occurred there. MONUC—the United Nations Mission in the Democratic Republic of the Congo—has recently been strengthened and is the largest United Nations mission anywhere in the world. The international community is making a major effort because, like my hon. Friend, we recognise the possibilities there. It does, however, require political will on both sides of the argument, and that cannot necessarily be supplied by the international community. Nevertheless, we can encourage, and we do. We can also discourage people on the ground from doing bad things, and we do that too. The most important priorities in the Congo are these: first, to start to integrate the army and the various armed bands that exist there into a unified army and stop them preying on their own people; and secondly, to make progress towards an election, which is scheduled for June.

### Maldives

11. **Mr. David Amess** (Southend, West) (Con): What recent discussions he has had with the British high commissioner of the Maldives on the political situation in the Maldives. [210391]

**The Minister for Trade and Investment (Mr. Douglas Alexander):** I spoke to the British high commissioner yesterday to receive an update on the elections. The final results have not yet been announced because of a delay in polling on one of the islands. They are expected on Wednesday 26 January.

**Mr. Amess:** Does the Minister have concerns about the allegations of irregularities regarding those elections? It seems a little strange not to allow political parties. Will our Government do everything they can to assist the incoming Government with reconstruction, particularly as regards the tourism industry?

**Mr. Alexander:** Yes, we are concerned to assist the people of the Maldives as they try to respond to the terrible tsunami that affected that part of the world on 26 December. We are aware of the allegations of vote rigging and intimidation during the elections. That is why we await the outcome of the work being done on these matters by the Commonwealth Secretariat and by SAARC—the South Asian Association for Regional Co-operation. I look forward to sharing that information in due course if it would be helpful.

### Turkey

12. **Mr. Ben Chapman** (Wirral, South) (Lab): If he will make a statement on the application by Turkey for membership of the European Union. [210392]

**The Minister for Europe (Mr. Denis MacShane):** The Government strongly support Turkey's bid to join the EU. A stable, democratic and prosperous Turkey anchored in the EU would be a powerful demonstration that Islam, democracy and economic success are compatible. The Government therefore welcome the European Council's decision in December to open accession negotiations on 3 October this year.

**Mr. Chapman:** Does my hon. Friend accept that for the cultured Turkish nation, entry to Europe has effectively been work in progress since the time of Ataturk, and that accession is as important to existing members as it is to Turkey itself? However, does he also agree that taking that forward means finding a solution to the Cyprus issue? Does he recognise that the Turkish northern Cypriots, who voted for the Annan plan, find themselves in isolation as regards trade, sporting links and direct flights, while the Greek Cypriots, who voted against the plan, have full membership of the European Union? Will he ensure that the Turkish northern Cypriots get a fair deal as matters move forward?

**Mr. MacShane:** My hon. Friend is right to set the matter in a broader context, and I recommend to all hon. Members a visit to the Royal Academy to see the wonderful exhibition on the roots of Turkish culture. My hon. Friend is right to draw attention to the plight

of the inhabitants of northern Cyprus, principally the Turkish Cypriot community there. I have urged the Government of the Republic of Cyprus—the only Government of that republic when it was involved with Turkey in the events of 1974—to accept that the time has come to allow all Cypriots to trade 360° around the compass. My hon. Friend is also right to say that normalisation and the resolution of the Cypriot question remains an important issue on the agenda. The Government hope that Ankara will take the necessary steps to find some solution as soon as possible.

**Mr. Graham Brady** (Altrincham and Sale, West) (Con): Many of our EU partners, most notably the German Chancellor, believe that change in the voting weights under the proposed constitution is necessary to accommodate Turkish membership. Would the British Government support such a change?

**Mr. MacShane:** Under the existing treaties and the new treaty, voting weights are for those who are already members of the European Union. Clearly, when and if Turkey joins, the exact number of Turkey's Members of the European Parliament, for example, would have to be discussed. Voting weights relate to the size of the population. None of us knows what our population size will be at the moment of Turkish accession. I hope that Britain's population will continue to grow, and I know that the hon. Gentleman, as the father of happy and handsome young children, is doing his best to help in the right direction.

**Mr. Wayne David** (Caerphilly) (Lab): Does my hon. Friend agree that the prospect of Turkey joining the EU has already proved an important catalyst in improving human rights in Turkey?

**Mr. MacShane:** Very much so. Only five years ago, we would have been worried about the death penalty in Turkey, the number of Kurdish people in prison in Turkey, the journalists and writers in prison in Turkey, and the complete ban on the use of the Kurdish language. Many of those problems no longer exist. Rather than condemning, or demanding that Turkey adopt our levels of human rights from one day to the next, we should applaud the fact that the Turkish Parliament and Government have made more strides towards human rights in the past three or four years than at any time in the previous 300 years.

**Simon Hughes** (Southwark, North and Bermondsey) (LD): As part of the support for Turkey's joining the EU, what will the Minister do to ensure that Turkey understands that it must withdraw its troops from Cyprus as part of a settlement to restore the integrity of Cyprus? What will we do to monitor human rights in Turkey so that there are guarantees that faith minorities, ethnic minorities and other minorities have full rights at all times throughout Turkey?

**Mr. MacShane:** On the first point, under the Annan plan, the number of troops would have been reduced to the number contained in the 1960 treaty—from some 25,000 or 30,000 today to fewer than 1,000. Unfortunately, the Greek Cypriot population voted massively to reject the Annan plan, which would have helped to solve that problem. The hon. Gentleman is right about the second point. I stress that we do raise the specific issue of different faiths in Turkey, especially different Christian faiths and the rights of their members to have their churches and seminaries. Under the EU's charter of fundamental rights, which is part of the new treaty, an absolute condition of EU membership is respect for everybody's right to manifest their religion. Again, that is a reason to support the new constitutional treaty. It is remarkable that the Turks want in to Europe, while the Tory party wants out.

**Mr. Eric Illsley** (Barnsley, Central) (Lab): Does my hon. Friend agree that Turkey's accession and the attitude of the Greek Cypriots towards it might have been helped if Turkey had agreed to withdraw some of the 35,000 troops before 2019, as the Annan plan envisaged? Does he accept that recognition of the Government of the Republic of Cyprus is an absolute prerequisite of Turkey's accession to the EU?

**Mr. MacShane:** Again, my hon. Friend makes a fair point. I have gone on record as questioning whether the high number of Turkish troops stationed in northern Cyprus is justified by any legitimate concern for the security needs of the Turkish Cypriot people there. My hon. Friend is also right to say that, at the moment when Turkey joins the European Union, it must clearly have fully normal diplomatic relations with every other member of the Union. These points are well known; I have certainly made them both privately and on the record. It is important to allow all the inhabitants of Cyprus to trade, travel and operate freely, and I would encourage all sides to move forward in a more positive direction.

## China (Arms Embargo)

13. **Mr. Tom Harris** (Glasgow, Cathcart) (Lab): What recent discussions he has had with his EU counterparts on the EU arms export embargo on China. [210393]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Bill Rammell):** The European Council in December 2004 discussed the EU arms embargo on China. The UK and partners invited the Luxembourg presidency of the EU to take forward work on the review of the embargo. That work is ongoing. Until the review process is complete, the Government continue fully to implement the arms embargo.

**Mr. Harris:** The embargo was imposed after the merciless slaughter of innocents in Tiananmen square in 1989. Since then, China's human rights record has barely improved in any discernible way. At the same time, it has continued to make belligerent overtures towards Taiwan. Exactly how much of a threat must the Chinese Government pose to their own people and to their neighbours before the EU finally concludes that the embargo must remain?

**Mr. Rammell:** There needs to be some clarity on this issue, although it has not been apparent in some of the media reporting. If and when the embargo is lifted, there will not be arms sales being undertaken that are not

being undertaken at the moment, because the embargo has been overtaken by the code of conduct. However, because we are aware of the concerns, we are reviewing the code of conduct to ensure that it is as effective as we believe it to be. We are also looking to develop a toolbox for countries coming out of EU embargoes. Hon. Members can be absolutely clear that arms sales that are refused under the embargo at the moment would not take place in a post-embargo situation.

**Mr. Michael Ancram** (Devizes) (Con): In the light of the Foreign Secretary's ongoing discussions in Washington about the proposed lifting of the embargo, does the Minister agree with the EU High Representative Javier Solana, who says that he expects that Washington

"will be able to live with"

the lifting of the ban? That is certainly not what the Americans are saying at the moment. Is it not crazy, by lifting the ban, to put at risk transatlantic co-operation on the sharing of military technology within NATO on which our national security could depend?

**Mr. Rammell:** I do not believe that that co-operation is at risk. We understand the concerns expressed by the United States Government. That is why we are actively engaged in discussions with them. Part of the issue is that there is not a sufficient understanding of the effectiveness of the code of conduct. That is the message that we are communicating to our US colleagues at the moment. It is also why we are reviewing the code to ensure that it is effective, and looking to implement a toolbox for countries in a post-embargo situation.

**Mr. Ancram:** It is a most extraordinary argument to say that we are lifting the embargo because that will not make any difference. Is it not a little disingenuous to suggest that a non-enforceable code of conduct will have little effect in changing what is happening at the moment? If that is the case, why are the French so keen to have the embargo lifted so that they can sell military technology to the Chinese, and why is China so keen to see the ban lifted so that it can buy that technology from the French? Is it not a classic example of this Government's policy of surrender in Europe that they are prepared to put at risk our national security simply to curry favour with the French?

**Mr. Rammell:** First, let me deal with the right hon. and learned Gentleman's point about legal force. I have read his comments on this issue, and I simply do not understand his arguments. I say emphatically that the embargo has no greater legal force than the code of conduct. Arguably, it has less. Secondly, I know that there is an obsession with anti-European hysteria on the Conservative Benches, but the European Union is united on this issue and has made a strong statement that the lifting of the embargo will not lead to an increase in arms sales, either qualitatively or quantitavely. Given the right hon. and learned Gentleman's statements on this matter, I must point out that the former Prime Minister John Major was the first European Union Prime Minister to visit Beijing in the aftermath of the events in Tiananmen square, in 1991—so the statement that we are now going soft on China rings a bit hollow.

**Mr. Lindsay Hoyle** (Chorley) (Lab): I listen to what my hon. Friend the Minister has to say, but may I express the great concern among Labour Members about the lifting of the EU arms embargo? First, there is the threat to Taiwan. Secondly, the threat to Tibet continues, and China does not recognise the rights of the people of Tibet. Thirdly, there is China's religious intolerance in relation to whatever faith wishes to practise there. China needs to improve on human rights before such action is considered.

**Mr. Rammell:** I take my hon. Friend's points about human rights, which we raise regularly with the Chinese Government. His concerns about the situation in Tibet are valid. We are encouraging the process of dialogue between the Chinese authorities and representatives of the Dalai Lama, and it is important that that process be taken forward. I need to reiterate to my hon. Friend the fact that the lifting of the embargo, which is the fundamental point, will not allow arms sales that are currently prohibited to take place. We have made it abundantly clear at the December European Council that we are not looking for an increase in arms sales to China from the European Union, in either qualitative or quantitative terms.

**Dr. Jenny Tonge** (Richmond Park) (LD): I certainly do not suffer from anti-European hysteria—rather the reverse, in fact. Will the Minister assure the House that the Government will stick to their policy of never selling arms to countries that will use them for internal repression or external aggression? If he does give us that assurance, how can he possibly consider selling arms to China?

**Mr. Rammell:** I was pondering what the opposite of hysteria is—but that is by the by. Let me be clear: under the European Union code of conduct, which we pushed for and initiated once we brought in our code of conduct, criterion four is about the preservation of regional peace, security and stability, and criterion two is about not undertaking an arms sale if there is a clear risk of internal repression. Both those categories will apply in any post-embargo situation. It is therefore simply not the case that by lifting the embargo we will suddenly see a flood of arms exports to China. We have made that abundantly clear, and we will continue to do so.

### Banja Luka

14. **Mr. Richard Bacon** (South Norfolk) (Con): If the Minister for Europe will meet the Rev. Donald Reeves to discuss the situation in Banja Luka. [210395]

**The Minister for Europe (Mr. Denis MacShane):** Yes, I shall be delighted to meet the Rev. Donald Reeves, the former vicar of St. James's in Piccadilly, whose wonderful organisation, the Soul of Europe, is doing valuable work in Bosnia Herzegovina, particularly in Banja Luka.

**Mr. Bacon:** I thank the Minister for agreeing to meet the Rev. Donald Reeves. Bosnia is somewhat out of the news at the moment, but important work is still going on there. Notwithstanding the difficulties that may attend

the use of taxpayers' money for religious buildings overseas, will he agree that the reconstruction of the Ferhad Pasha mosque in Banja Luka is a tremendous symbol of reconciliation, and that the endorsement of the British Government, the Turkish Government and others would be of great assistance in drawing international attention to the project and ensuring its successful completion?

**Mr. MacShane:** As with the reopening of the Mostar bridge, the British Government strongly welcome and support the rebuilding of the Ferhad Pasha mosque. In this 10th anniversary year of the Srebrenica massacres, when 8,000 Europeans were slaughtered in cold blood because they happened to be of the wrong religion, it is vital that we do all we can to put right—in a sense, through supporting the rebuilding of the mosque—that great evil. As far as I am concerned, the Rev. Donald Reeves has my full support. We have given money to his organisation in the past, and I am happy to examine as positively as I can any concrete proposals to continue the good work that he does.

### China (Arms Embargo)

15. **Dr. Julian Lewis** (New Forest, East) (Con): If he will make a statement on the EU embargo on arms sales to China. [210396]

**The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Bill Rammell):** I refer the hon. Gentleman to my earlier answer to my hon. Friend the Member for Glasgow, Cathcart (Mr. Harris).

The European Council in December 2004 discussed the EU arms embargo on China. The UK and partners invited the Luxembourg presidency of the EU to take forward work on the review of the embargo. That is ongoing. Until the review process is complete, the Government continue fully to implement the arms embargo.

**Dr. Lewis:** I listened to the Minister's earlier answers, and particularly to the penetrating questions put from both sides of the House. If the code will not allow any more arms to be sold to China than under the existing embargo, as he asserts, what it the point of lifting that embargo, and why are the Americans so strongly opposed to doing so?

**Mr. Rammell:** There is an issue over whether progress has been made since the immediate aftermath of the events in Tiananmen square. While we continue to have significant concerns about the situation in China, there has undoubtedly been some progress on human rights since those events, as has been acknowledged by past Governments. Given that, we must ask ourselves whether it is right, through the arms embargo, to lump China into the same block as Burma, Sudan and Zimbabwe. That is why we are reviewing the embargo. I repeat, however, that no arms sale that has been refused until now under the embargo would, to all intents and purposes, be possible under the code of conduct. It should also be made clear that most applications for arms exports to China that have been refused in recent years have already been refused under the EU code of conduct, not under the arms embargo.

## BILLS PRESENTED

### European Union

Mr. Secretary Straw, supported by the Prime Minister, Mr. Secretary Prescott, Mr. Chancellor of the Exchequer, Secretary Margaret Beckett, Mr. Secretary Hoon, Ms Secretary Hewitt, Mr. Secretary Clarke, Mr. Peter Hain, the Solicitor General, Mr. Denis MacShane and Mr. Christopher Leslie, presented a Bill to make provision in connection with the Treaty signed at Rome on 29th October 2004 establishing a Constitution for Europe; and to require a referendum to be held about it: And the same was read the First time; and ordered to be read a Second time tomorrow, and to be printed. Explanatory notes to be printed [Bill 45].

### Cystic Fibrosis (Exemption From Prescription Charges)

Mr. Archie Norman, supported by Bob Russell, presented a Bill to exempt persons with cystic fibrosis from charges for drugs, medicines, appliances and pharmaceutical services: And the same was read the First time; and ordered to be read a Second time on Friday 8 April, and to be printed. [Bill 46].

## Succession to the Crown and Retirement of the Sovereign

12.31 pm

**Mr. Jonathan Sayeed** (Mid-Bedfordshire) (Con): I beg to move,

That leave be given to bring in a Bill to provide for Sovereigns to be chosen by the House of Commons from among the immediate family of the preceding Sovereign; to provide that all Sovereigns so chosen shall cease to be Sovereign upon reaching the age of 75; to make consequential provision relating to Regencies, succession to the Duchies of Lancaster and Cornwall, and the private estates of the Crown; and for connected purposes.

I am a strong supporter of the monarchy. I believe that as a nation we owe this institution and its present incumbent a debt of gratitude as well as our allegiance. It is because of the selflessness of many recent monarchs, exemplified by Her Majesty the Queen, and the curb on elected tyranny that the institution provides that this apparently anachronistic institution continues to receive such widespread support. But if the monarchy is to continue to be the popular apex of an otherwise democratic pluralist state, it is right to consider whether it would be beneficial if, while retaining its traditional role, it evolved to meet modern demands and expectations. The danger is that without such evolution, the continued existence of an hereditary unreformed apex in a modern state will be pilloried as incongruous, and will be used to promote republican views.

My proposals would enact three principles. The first is the end of succession based on male primogeniture. No account should be taken of either gender or order of birth in the determining of succession to the Crown, but this proposal would not affect the current heir. The second is the retirement of the sovereign at 75 years of age, although not in the case of our current monarch. Finally, public support for a successor should be demonstrated, possibly by Parliament sanctioning the choice of the heir from within the immediate children of the monarch, and members of the Commonwealth in which the sovereign remains the head of state should have the right to be consulted.

It is important to make it clear at the outset that nothing in the Bill should be construed as an attack on the current sovereign, the heir or the institution of the monarchy. The changes that I propose would not affect the status of Her Majesty the Queen, or the role of His Royal Highness the Prince of Wales as her heir. Her Majesty has sworn the existing coronation oath, and Prince Charles has already been invested as her heir. It is only fair and proper that their position remain unchanged.

The laws determining succession to the throne have their historical origins in the 17th century and the struggle between two different conceptions of monarchy: divine right, and the view that the sovereign's title rests on a willingness to rule within the law and through Parliament. The Queen rules not by simple hereditary right, as did James II, but because of the agreement by William and Mary to accept the constitutional arrangements in the 1689 Bill of Rights, then strengthened by the Act of Settlement. These rules of succession are based on the concept of primogeniture: male heirs take precedence and the Crown is offered automatically to the eldest son. It is a tradition that was historically reinforced by the feudal belief that men were better able to defend property and to lead armies into battle. This assessment of the differences in the capabilities of men and women has since been rendered irrelevant, as the modern responsibilities of the monarch have not extended to fighting in battle since 1742, when George II fought in the battle of Dettingen.

A law of succession under which female and male heirs are considered equal has both historical and international precedence. Such precedence is found under the ancient Irish Brehon law and in the Iceni. In 1980, Sweden modernised its Act of Succession and moved to full cognatic primogeniture; a similar debate has since arisen in Spain. Her Majesty the Queen has proved that a woman is capable of fulfilling the modern leadership and advocacy roles of the British monarch as well as any man. Some of the finest English monarchs have been female, and some of the worst, male. We no longer live in need of a feudal monarchy, and the monarchy will be strengthened if it acknowledges that fact.

Secondly, I propose that the requirement placed upon the monarch to serve until death be removed and replaced by retirement at 75. In an age when people are living longer, and in which the monarch has fulfilled a lifetime of responsibility, service and duty, it seems sensible that they should have the right to a retirement away from the commitments of the Crown, and without thereby calling the institution of monarchy into question. This change is more likely to ensure a suitable and able monarch by virtue of age, and it would allow the heir to succeed to the Crown earlier, rather than waiting all their life in the wings. It is reasonable to expect that without such changes, an heir will only ascend to the throne having reached an age at which most of their contemporaries are already drawing their pensions.

My third proposal—that public support for a successor be demonstrated, perhaps by Parliament sanctioning choice of the heir from within the immediate children of the monarch—is the oldest idea of the three. It is witnessed in European history through the Elector of Hanover, and in Britain by the Act of Settlement of 1701, which states that it is for Parliament to decide the title to the throne. It is reinforced by the elective element at the coronation ceremony, for through the coronation oath, the sovereign acknowledges their duty to preserve the liberty of their subjects, while their representatives symbolically—and consequentially—pledge their allegiance to the sovereign.

My ideas go further than simply bringing the monarchy into line with the basic legal and societal values of equality; they move towards reflecting a value that is at the heart of our democratic society: choice. The populace could have an indirect input into choosing the monarch, and the potential monarch could choose whether to accept the responsibilities and duties of the position. For an unwilling monarch is more likely to be an unfit monarch, and not all offspring wish to follow in their parents' footsteps. In this respect, the royal family is probably no different from our own.

Historical precedents for these proposed changes exist alongside modern impetus, but inertia risks the monarchy being portrayed as increasingly remote and anachronistic. With that in mind, support for considering these ideas would, over time, allow change

*[Mr. Jonathan Sayeed]*

to be carried out calmly and with due consideration, rather than waiting until our hand is forced. For I want us to continue to have a sovereign—fit by the virtues of age, inclination, ability and history of service—whom we both need and from whom our nation will continue to benefit.

12.39 pm

**Sir Patrick Cormack** (South Staffordshire) (Con): Well, I have heard a few things in my time, but my hon. Friend the Member for Mid-Bedfordshire (Mr. Sayeed), who has performed such signal service as the chairman of the parliamentary choir, should stick to singing. Not only does he make a nicer noise and rather more sense then, but he generally reads from a better script. If I had had that text before me when I was a schoolmaster many years ago, I would have given it a gamma minus as a sixth-form essay and would not have allowed it to be discussed at great length. My hon. Friend has produced a most extraordinary tissue of ridiculous arguments. *[Interruption.]* First, as my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth) reminds me in an interjection, his speech contained an extraordinary amount of ageist claptrap. The present sovereign is above the retirement age that he would prefer, which is also an oblique attack on my hon. Friend the Member for Louth and Horncastle (Sir Peter Tapsell). We believe that people can serve extremely well way beyond the age of 75.

My hon. Friend the Member for Mid-Bedfordshire did a little historical research, but he did not investigate the Hanoverians much. His proposal would bring back the heir's party and the sovereign's party all over again. It would politicise the monarchy by making people in this House take sides for or against a particular potential heir.

The whole thing is absurd. In all my time in the House, I have never heard a less credible argument. I never thought that the day would come when a Conservative colleague—one who belongs to the constitutional party—would propose so much claptrap and nonsense to the House. This Bill should be seen off immediately.

*Question put, pursuant to Standing Order No. 23 (Motions for leave to bring in Bills and nomination of Select Committees at commencement of public business), and negatived.*



# Opposition Day

[3RD ALLOTTED DAY]

## Licensing Act 2003

**Mr. Speaker:** I inform the House that I have selected the amendment in the name of the Prime Minister.

12.41 pm

**David Davis** (Haltemprice and Howden) (Con): I beg to move,

That this House calls for a delay in the implementation of the Licensing Act 2003 in the light of concerns expressed by doctors, senior police officers and members of the judiciary that the Act will lead to increased health and policing problems; is concerned about the increase in violent crimes since 1998, half of which are attributed to alcohol misuse; recognises that drunken revellers are turning town and city centres into no-go areas, thus putting an increasing burden on health and police resources, and predicts that the implementation of the Act will exacerbate these problems; is further concerned about increased alcohol consumption and believes that extended opening hours will have an adverse serious effect on health of the nation; and regrets that the Government has fundamentally failed to deal with the problem of binge drinking before proceeding with the implementation of the Licensing Act 2003.

I am conscious of a slight irony as I open this debate. After all, in recent times the Government have shown a distinct interest in telling us what to eat, what to do in our spare time and how to raise our children. In terms of sheer nannying, the Government have few equals. However, although there is genuine concern about this matter among experts, professionals and the general public, the Government are taking the exact opposite approach. I shall argue today that, by pressing ahead with 24-hour drinking, the Government are neglecting their responsibilities. Once again, they are displaying a perverse sense of priorities and an arrogant disregard for all contrary opinion.

Britain is now one of the worst countries in Europe for binge drinking. It begins with the young. Young people under 16 drink twice as much as they did a decade ago. A third of all British 15-year-olds say that they have been drunk at some time in their lives. That compares to just one in 10 in France and Italy. The *British Medical Journal* reports that more than 2,000 drunken children are admitted to hospital every year.

However, it is not just a young person's problem. Overall, Britons are drinking 12 per cent. more today than in 1997. One adult man in three now exceeds the recommended guidelines on alcohol consumption, and the figure for women is one in five. UK consumers spend more of their disposable income on alcohol than they do on personal goods and services, fuel and power, or tobacco.

Some might say that that is their choice, but the annual cost of crime and antisocial behaviour linked to alcohol misuse is estimated to be more than £7 billion. The cost of productivity lost as a result of alcohol misuse is estimated to be more than £6 billion. Every year, 17 million working days are lost because of alcohol-related absence.

The problem is about more than just money. First, there is the cost to our health. Liver disease is now an increasingly frequent cause of death. The incidence of

liver cirrhosis is rising among 20 and 30-year-olds, and 70 per cent of all weekend night-time admissions to accident and emergency departments are linked to alcohol. That is a problem that our already overworked doctors and nurses could do without.

Secondly, there is the crime and disorder cost. Since 1998, violent crime has increased by 83 per cent. There are now over a million violent crimes each year, and the police say that alcohol is largely to blame for this increase. Every week in England and Wales, there are 23,000 incidents of alcohol-related violence and 360 drink-related sexual assaults. Around a third of all domestic violence is related to alcohol misuse.

Third, there is the cost to us all of binge drinking. The rise in binge drinking is having a disastrous effect on our towns and cities. The delicately termed night-time economy can mean a lifetime of misery for those unfortunate enough to live in the vicinity of late-opening pubs and clubs. Their sleep is disturbed. Their gardens get filled with litter, and worse. They fear to go out on to their own streets at night, and they cannot escape because the value of their houses is cut by 20 per cent. or more. Ask any family in a town or city centre up and down the country what is the biggest threat to their quality of life and it will not take them long to mention drunken louts hanging around the streets.

**Mr. Frank Dobson** (Holborn and St. Pancras) (Lab): Will the right hon. Gentleman give way?

**David Davis:** I will give way to the right hon. Gentleman in a minute, because he has a long and honourable record on the issue.

In those same towns and cities every weekend—and indeed on some week nights too—revellers pile out of pubs and bars so intoxicated that they are beyond coherent speech or reason. Young women are so inebriated that they are oblivious to how they are going to get home. Young men stagger around looking for fights. One serving policeman wrote to me last week and said:

"I don't want to work even more late and night shifts to cater for drunken idiots. Why should we put ourselves at risk to clear up the mess on the streets?"

Another police officer described 90 per cent. of his job on a Friday and Saturday night as falling under the "mopping up category".

The culture of excess and violence being allowed to develop was evocatively described by Judge Charles Harris when, sentencing some hooligans, he said:

"People, or people like you, are making the towns of England revolting and dangerous places at night . . . It is being assisted by legislation to make alcohol available at all times of day and night, which is OK for reasonable human beings, but you are of the attitude of trying to drink as much as you can for as long as you can. You became ugly urban savages by your behaviour, which resulted in serious violence".

Indeed, under this Government, things have got worse. And it should not be that way.

The Secretary of State for Culture, Media and Sport said in a memo to the Prime Minister, leaked to the Sunday Times recently:

"It is already an offence to sell alcohol to people who are drunk or to permit drunkenness or disorderly behaviour on licensed premises. We need to ask why the existing closure powers are so rarely used by the police".

Indeed we do. The previous Home Secretary, the right hon. Member for Sheffield, Brightside (Mr. Blunkett), made it clear that drunkenness and disorderly behaviour was spiralling out of control. On that basis, convictions for drunk and disorderly behaviour should have grown rapidly. However, since this Government came to power, the number of people found guilty or cautioned for drunk and disorderly behaviour has fallen by 10,000—about 20 per cent. In that time, the number of minors convicted or cautioned for buying alcohol has fallen by 80 per cent. Under-age drinking has been virtually decriminalised under this Government, and only five pubs have had their licence revoked in recent years.

The Prime Minister recently said that the police would be given new powers to shut down problem pubs, but the powers that already exist have simply not been used.

**Mr. Dobson:** I agree with virtually every word that the right hon. Gentleman has said. What I cannot understand is why his predecessor as shadow Home Secretary, the right hon. Member for West Dorset (Mr. Letwin), never said any of this when the Bill was introduced in 2003. Some of us who were concerned about those issues might have welcomed a little support from Tory Front Benchers.

**David Davis:** I am coming to exactly that point now. Just before the 2001 general election, the Labour party texted voters saying:

"Cldnt give a XXXX 4 last ordrs? Vote Labour 4 xtra time".

That is the motive behind what we hear today. When the Licensing Bill was first introduced, the Conservative spokesman raised concerns about the potential for a decline

"in civilised behaviour on our streets as a result of flexible drinking hours".

She described it presciently as a "leap in the dark", a phrase that was used later by the previous Home Secretary when he expressed his fears about it. But it is undoubtedly true—as the right hon. Member for Holborn and St. Pancras (Mr. Dobson) pointed out—that people on both sides of the House largely accepted the Government's arguments that relaxation of the licensing laws would improve the situation, not make it worse. Hon. Members accepted those arguments on the basis of information provided by the Government.

There have been a number of allegations in the press about Government cover-ups and misleading information, and it is an extremely serious charge to allege that the Government have misled the House. If proven, it would normally require a Minister to resign. I do not know whether the Government's extremely partial stance was deliberate, the result of incoherence between Departments, or a matter of simple incompetence. My review of the Government's pronouncements during and since the proceedings on the Licensing Act 2003 have led me to believe that they have been literally economical with the truth. I listened very carefully to the explanation from the Home Secretary and the Secretary of State for Culture, Media and Sport.

**Jim Knight** (South Dorset) (Lab): The right hon. Gentleman is making insinuations, but is it not the practice in Standing Committee debates—I was a member of the Standing Committee that considered the Act—to table probing amendments? I recall amendments on, for example, whether we should start a clause with a conjunction. We had long debates about that, but I do not recall a single amendment from the Conservative party on flexible drinking hours.

**David Davis:** If the hon. Gentleman listens to what I say next, he will understand why. We now discover that, before, during and for a short while after the Act went through its proceedings in Parliament, the Government led us to believe that the police were content with these proposals. We now discover that more than half of all police forces are deeply concerned by this Act. Steve Green, the chief constable of Nottinghamshire police and, incidentally, the spokesman from the Association of Chief Police Officers on alcohol-fuelled violence, warned that

"24 hour drinking under the current drinking culture . . . would make for a far greater violent crime problem".

Or as he put it on another occasion, it would make for "a 24 hour . . . hell".

In its assessment of the impact of the Licensing Act—it was not shown to the public or the Opposition—the Metropolitan police said that the Act would "fuel" Britain's drinking culture and

"increase the potential for victims of crime".

There was also no indication during the passage of the Act that the medical fraternity had concerns.

**Charles Hendry** (Wealden) (Con): Does my right hon. Friend understand the police's concern at the effect that the measure will have on recruitment? If they see more and more of the job as policing the unruly people who have come out of the pubs late and the antisocial behaviour that is fuelled by alcohol, it will become more and more difficult to recruit people into the police in the first place.

**David Davis:** My hon. Friend is entirely right. The measure will affect many aspects of policing. It will draw the police away from the other crimes that they should be dealing with. As he said, they will become demoralised as they have to deal with rather unpleasant tasks.

**Kevin Brennan** (Cardiff, West) (Lab): I take it from the right hon. Gentleman's remarks that he is telling the House that today's debate is the result of the Conservative party's abject failure as an effective Opposition.

**David Davis:** The hon. Gentleman should read a little more. If he reads John Maynard Keynes, he will find that Keynes said, "When the facts change, I change my mind. What do you do?" That is clearly what the hon. Gentleman does not do. He simply has a prejudice that he starts and ends with.

**Mr. Jonathan Sayeed** (Mid-Bedfordshire) (Con): Is not the question that Ministers should answer whether, overall, society would benefit from 24-hour boozing? We now know that much more information was given to the Government at the time and that it was not released to the rest of us. There is now even further information and each of the bits of information, apart from that from the drinks industry, suggests that 24-hour drinking would be very bad for Britain.

**David Davis:** My hon. Friend makes an apposite point. As I was about to say, there was no indication during the passage of the Act that the medical fraternity had concerns. When the Government published their alcohol harm reduction strategy paper, the report highlighted the adverse impacts of binge drinking on the nation's health, and on levels of antisocial behaviour. However, evidence has now come to light that the Government withheld several criticisms of their policy on licensing. *The Sunday Times* has reported that the paper was redrafted to remove evidence of a link between drink and 19,000 sex assaults a year and the "adverse" effect 24-hour opening might have on local residents.

Many experts consulted by the Government concluded that the increased alcohol consumption resulting from liberalisation of licensing laws would have a severe negative impact. These concerns were included in a draft of the report that was circulated to the Cabinet in August 2003. However, they had been removed from the report by the time an interim report was published in September. One of the report's expert contributors, Professor Griffith Edwards, said at the time:

"I have seldom seen a consensus of informed scientific advice so trashed and ignored".

According to Professor Colin Drummond, professor of addictive psychiatry at St. George's hospital medical school:

"One of the striking things was that when the final report was published there were a great number of things that really just didn't appear there at all. I think it's extremely important and certainly the academics and the Royal Colleges that commented on the Strategy are very concerned that these things had been left out."

Professor Drummond also said:

"I think it's an example of sexing down a dossier on alcohol problems really . . . evidence that was clearly available to the review team that was compiling the interim analysis was not included in the final report, and there must be reasons behind that."

**Mr. Adrian Bailey** (West Bromwich, West) (Lab/Co-op): Given that the logic of the right hon. Gentleman's argument and the evidence that he has put forward seem to imply that there will be more binge drinking and antisocial behaviour if the licensing hours are relaxed, will he argue that, to curb binge drinking, there should be a less flexible licensing regime and shorter drinking hours?

**David Davis:** If the hon. Gentleman waits a few minutes, he will hear exactly what I am going to argue. It is not quite as foolish and short-term as that.

Let us consider what else was not said. We finally discover that the Home Office itself had very serious concerns about the Act. The former Home Secretary, as I said earlier, described the proposal as

"a leap in the dark". .

Ellie Roy, the Home Office's crime reduction director, told a meeting of officials from Downing street, the Treasury and the Department for Culture, Media and Sport that there was

"widespread concern that the licensing act will make matters worse".

She was supported by Leigh Lewis, a permanent secretary at the Home Office and the Government's most senior crime-fighting mandarin. At a meeting in February to discuss "Home Office concerns with the Licensing Act", Lewis outlined official unpublished research showing links between binge drinking and violence. He said:

"Violent crime was up 14 per cent., a significant proportion was taking place in proximity to licensed premises . . . Stranger crime was increasing significantly; and 47 per cent. of the victims of violent crime believed that their assailant was under the influence of alcohol".

None of these facts or expert opinions, available to the Government at the time, was put into the public domain during the passage of the Act—not one of them—and many of them were actively withheld.

**David Winnick** (Walsall, North) (Lab): This debate and the debate in Westminster Hall this morning have, at least, enabled us to focus on alcohol misuse. The right hon. Gentleman said that when the Act went through Committee, the Government did not provide this or that information. However, was it not the job of the Opposition to try to find out from the medical profession and the police their views and criticisms of what was proposed? Is it not the case that the Opposition have decided that this is a popular issue to exploit and, late in the day, are jumping on the bandwagon?

**David Davis:** The hon. Gentleman has an interesting view of government and opposition. He assumes that we have to assume that the Government will tell lies. That is what his remarks amount to.

Let us be clear. No one objects to anyone having a good time; no one wants to stop people having fun or enjoying themselves. Of course, it is true that the vast majority of people can be trusted to behave responsibly and not to cause trouble for others, but that is not what we are talking about today. We are talking about the Government's clear decision to allow pubs to open for 24 hours a day—a decision that international evidence suggests could lead to greater irresponsible drinking.

In Western Australia, an extension of bar closing times to 1 am led to a rise in alcohol consumption, violence and drunkenness. In Scotland, one newspaper reported a

"huge increase in violent crime in some of Edinburgh's most lively areas",

with one senior police officer directly linking this to the increase in the number of licensed premises. In Ireland, the Intoxicating Liquor Act 2000 ushered in an era of more violence, more damage, and more disorder. *The Irish Times* reported that

"the consequences of excessive drinking are visible late at night on the streets of our cities, towns and villages. They are reflected in crowded accident and emergency wards in hospitals and, all too frequently, victims of alcohol-related violence end up on mortuary slabs".

The paper was clear what was responsible: It said:

"The rise in alcohol consumption was facilitated by longer pub opening hours."

The mess caused by Ireland's Intoxicating Liquor Act 2000 had to be followed by tough measures in the Intoxicating Liquor Acts 2003 and 2004. We can avoid the need for such a legislative onslaught here simply by delaying the implementation of the Licensing Act 2003.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): The right hon. Gentleman complains that the Government failed to bring relevant statistics into the public domain when the Licensing Bill was considered, but surely the Opposition receive Short money so that they can reveal obvious points. For example, an Office for National Statistics survey in 1998 showed that 22 per cent. of men and 8 per cent. of women were binge drinkers, but six years later, each of those figures had increased by 1 per cent. I am not trying to minimise the issue, but the facts are there and it is up to the Opposition to oppose.

**David Davis:** The approach is wonderful: the Government lie and we are at fault.

Let me address the solution for which the hon. Member for West Bromwich, West (Mr. Bailey) asked. In the Government's scramble last week, they probably realised that their original underpinning principle of 24-hour opening was wrong. Rather than stretching hours to decrease disorder, the new laws will actually increase violent and antisocial drunken behaviour. The Government still claim that 24-hour opening will lead to more responsible drinking, but I doubt that very much, as do most experts.

One only has to look at what happens when the youngsters who stagger out on to our streets at closing time go to places such as Faliraki or Ibiza. They drink for 24 hours, become drunk and disorderly and create trouble for the locals. In Britain, the front-line services will pick up the pieces. The impact on our already overstretched police and medical services will be huge. Chief Constable Steve Green said that in Nottingham, officers are diverted away from where they should be to cover the policing of the city centre. The Metropolitan Police Federation said that

"most police areas will be bereft of police officers from"

2 am

"because time is spent dealing with the consequences of binge drinking".

Ireland had to learn the hard way, with three years of misery followed by two major revisions of the law. We should not make the same mistake. The right hon. Member for Birkenhead (Mr. Field) has called for pilot schemes in a small number of towns. His call has been supported by the hon. Member for Wakefield (Mr. Hinchliffe), the Chairman of the Select Committee on Health, and also *The Guardian*, which reminds us that the Government were elected on a pledge to pursue "evidence-based policies". I agree with them. As the Chief Constable of Nottingham said when he gave evidence to the Home Affairs Committee, there are a huge number of unknowns.

As part of the plans cobbled together last week, the Government announced alcohol disorder zones. How will those zones work? If they are drawn up

*[David Davis]*

geographically, they could end up penalising establishments that have never had any problems. If they are drawn up by establishment, they could force rowdy drunks to go to normally quiet pubs, thus ruining other customers' pleasure and destroying the reputation of decent landlords. Could a police force legally establish and sustain a zone, and could a zone be challenged? We do not know how robust the proposed regulatory regime will be.

**Mr. Frank Field** (Birkenhead) (Lab): Will the right hon. Gentleman give way?

**David Davis:** No.

The proposal to exclude individuals from local pubs is equally naive. First, it requires the individual to be caught misbehaving in our under-policed cities in the early hours of the morning, and secondly the exclusion must be policed, presumably by bar staff, who are often young or temporary, in large drinking establishments. If it does work, what will it do but force people to different, more distant, pubs? It would encourage them to undertake a more extended pub crawl and perhaps to compound the felony with a drink-driving offence, thus putting the innocent public at even more risk. I hope that I am wrong, but remember that it took the Government nearly six years to get antisocial behaviour orders into a workable form.

The intelligent and reasonable approach is obvious: defer 24-hour drinking until these and other methods of dealing with binge drinking have been tested and made workable, and then pilot the liberalisation in a few local authority areas. We should only then let the Act come into full effect. That approach would cost nothing, and could indeed save a great deal. All it requires is a Government who will face the facts and put the interests of the many before the excesses of the few.

1.4 pm

**The Secretary of State for the Home Department (Mr. Charles Clarke):** I beg to move, To leave out from "House" to the end of the Question, and to add instead thereof:

"considers that failure to implement the Licensing Act 2003 without delay would deny the local community increased powers of intervention and improved democratic accountability with regard to licensing, deny the police the expanded powers that are vital to their efforts to tackle alcohol-related crime and would prevent licensing authorities from receiving income from licensing fees needed to recover on-going expenditure in preparing for the new regime; believes that any delay in the implementation of the Act would undermine the prevention of crime and disorder and public nuisance, damage public safety and hinder the protection of children from harm; further believes that the Act will complement the delivery of the Alcohol Harm Reduction Strategy for England which aims to reduce excessive drinking and the harms that causes; and, furthermore, commends the proposals for Alcohol Disorder Zones and the extension of fixed penalty notices and other measures set out in 'Drinking Responsibly', the consultation paper published jointly by the Home Office, the Department for Culture, Media and Sport and the Office of the Deputy Prime Minister on 21st January 2005."

I am absolutely delighted that we are having the debate because I hope that it will bring clarity to a matter that has become confused in a wide variety of ways.

Let me start with common ground. I agreed with every word of the first four or five minutes of the speech made by the right hon. Member for Haltemprice and Howden (David Davis). His description of the state of affairs that we must address was genuinely shocking and he was right to highlight the situation. The figures that I shall cite simply reinforce the points that he made. Half of all violent crime is alcohol related, and one in five violent crimes occurs in or around pubs and clubs. Alcohol misuse costs up to £20 billion a year, and up to 70 per cent. of entrants to accident and emergency departments in hospitals overnight are fuelled by alcohol. The problem exists, but it is important to acknowledge that the situation that the right hon. Gentleman eloquently described—and that my statistics reinforce—exists today without any change to licensing hours whatsoever.

**Mr. Sayeed:** Will the Home Secretary tell us the number of road accidents resulting in injury or fatality that are caused by alcohol or drug abuse?

**Mr. Clarke:** I do not have the figures to hand, but the hon. Gentleman is correct to say that alcohol is a major aspect of fatalities among people who drive. Such abuse is serious, but that is the case whether we have the current licensing arrangements or the new flexible arrangements that have been established.

**Several hon. Members** *rose*—

**Mr. Clarke:** I shall give way a couple more times and then make progress.

**Mr. Eric Illsley** (Barnsley, Central) (Lab): Will my right hon. Friend bear it in mind that the genesis of licensing law reform came in 1995 when the then Conservative Government produced a measure, as part of their deregulation initiative, to extend the opening hours of pubs until midnight? That was passed in the House without question and failed only when it was voted down in the House of Lords. The idea of extending licensing hours came from the last Conservative Government.

**Mr. Clarke:** My hon. Friend is exactly right. To be fair to the Conservative Government, they were trying to examine the matter on its merits, rather than being driven by a populist response to specific issues as they came up.

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): The right hon. Gentleman has been talking about drink-related accidents on our roads. There is a problem in this country because there is insufficient knowledge about the length of time for which alcohol stays in the bloodstream, and thus the time for which one can be over the limit after having a drink. Does he not think that that problem could get worse under 24-hour licensing?

**Mr. Clarke:** No, I do not, but I shall address that point in a second.

There is common ground among hon. Members about the problems caused by alcohol consumption in our society, but the argument has confused two separate

questions, as the motion deliberately tries to do: first, what will be the effect of flexible licensing hours; and secondly, what can we do to address alcohol-fuelled crime, especially violent crime? I want to try to disentangle those important questions.

**Mr. Mark Field** (Cities of London and Westminster) (Con): Will the Secretary of State give way?

**Mr. Clarke:** I am going to make a little progress.

On the first question, evidence shows that liberalising licensing hours does not necessary lead to the increased use of alcohol. The right hon. Member for Haltemprice and Howden says that he is looking for evidence, so let me simply cite the effect of changes in this country.

Several well documented conclusions were drawn from the change to all-day opening in Scotland in 1976, which I shall cite to inform the House, as the right hon. Gentleman would want me to. In 1974, average spending on alcohol in Scotland was greater than in England and Wales, but following the change to the licensing laws, the gap narrowed and in 1983—seven years after the changes—the average Scottish household was spending 7 per cent. less than the UK average.

To address the point made by the hon. Member for West Derbyshire (Mr. McLoughlin), drunk-driving convictions in Scotland increased by 1.2 per cent., compared with an increase of 36 per cent. in England and Wales over the same period. Violence against the person increased in Scotland by 16.7 per cent., compared with 43.8 per cent. in England and Wales.

Convictions for under-age drinking fell by 18.6 per cent. in Scotland in the four years after reform, compared with a rise of more than 23 per cent. in England and Wales. Convictions for drunkenness in Scotland fell by 13.6 per cent. in the five years following the change, compared with a rise of 13.1 per cent. in England and Wales. In the 19 to 26 age group, the decline in Scotland was 14.1 per cent., compared with a rise of 19.2 per cent. in England and Wales. Those were the effects of the changes—

**Mr. Frank Field:** Will my right hon. Friend give way?

**Mr. Clarke:** I shall give two more examples, then give way.

The second change was to all-day opening in England and Wales, for which the Conservative Government legislated in 1988. The introduction of all-day opening that year was followed by a decline in per capita alcohol consumption in each of the next five years. The consequence is clear. My final example before giving way is that of extended new year's eve opening in England and Wales after 1999. Most police forces and local authorities reported significant improvements as a result of the change. That is the evidence of the state of affairs resulting from changes made in this country, and it must be taken into account.

**Mr. Frank Field:** Could not the first set of statistics that my right hon. Friend presented be read differently, to show that although consumption in Scotland has increased, it has increased faster in this country? The question that the Government have to answer is whether further liberalisation of licensing laws will lessen consumption or increase it.

**Mr. Clarke:** My right hon. Friend is entirely right—that is the question that must be addressed. People of good will can come to different views of the potential change; I simply place in evidence the fact that where change has taken place, it has not led to the increase in consumption that was feared—in fact, the reverse has happened. I accept that many hon. Members, including my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) and others, have, for reasons of perfect propriety, taken the view that the proposed step is risky and undesirable—but the principal force of my argument is that we should not entangle the debate on licensing hours with the debate on how to fight the impact of over-consumption of alcohol, alcohol-related crime and so on. Both are important issues that must be given proper consideration, but they are separate: the link between the two is not made and should not be thought to have been made.

**Mr. Henry Bellingham** (North-West Norfolk) (Con): The Home Secretary reads our local newspaper, the *Eastern Daily Press*, so he is aware of the problems in King's Lynn affecting the residents of Pilot street in particular, and of the fact that most of the local police apparently oppose liberalisation. I do not know whether he has spoken to the chief constable of Norfolk about the proposals, but what have the Norfolk police told him about the Government's proposals?

**Mr. Clarke:** I shall mention the chief constable of Norfolk if the hon. Gentleman wants, but the fact is that the problems in King's Lynn have arisen without any of the proposed changes being made.

**Angela Watkinson** (Upminster) (Con): Will the Home Secretary come to the London borough of Havering and speak to local residents, police, councillors and accident and emergency department staff? The fallout from the largest concentration of late-night entertainment centres outside the west end, in Romford, monopolises the services of the police and the local hospital. I guarantee that he will not find anyone who wants licensing hours extended.

**Mr. Clarke:** I shall not accept the hon. Lady's kind invitation to Havering and Romford. However, I visit many places and discuss with people precisely those questions.

**David Davis:** The Home Secretary properly attempts to distinguish 24-hour licensing and binge drinking, but the former has two effects. The first is to allow perfectly normal, reasonable, law-abiding people more time for their leisure and pleasure, and we all agree with that—there is no argument between us. The other effect, shown by the operational evidence from Nottinghamshire, where Stephen Green is chief constable—the sort of evidence that has persuaded the right hon. Gentleman's own advisers—is that it creates the opportunity for further binge drinking. If he has answers to or effective

*[David Davis]*

methods of dealing with the problem of binge drinking, the opportunity opens up for a safer extension to 24-hour opening.

**Mr. Clarke:** I agree with part of that statement. The right hon. Gentleman is right to say that in places like Nottingham city centre we need a package of measures to deal with the ill. I know about Nottingham—many people have spoken to me about the situation there and I have discussed it with the chief constable. I understand that we need a set of measures to target that particular problem in a focused way. That is why, last Friday, my right hon. Friend the Secretary of State for Culture, Media and Sport and my hon. Friend the Minister for Crime Reduction, Policing and Community Safety announced a set of measures to do just that, including the establishment of alcohol disorder zones. I cannot predict what will happen, but I would be surprised if Nottingham did not fall within the relevant category. Also announced were powers to enable the immediate closure of establishments—for making under-age sales, for example—and to tackle irresponsible promotions. We shall also review the penalties for alcohol-related disorder. Why? Because with each of those measures, we acknowledge the truth of the right hon. Gentleman's words: it is necessary to move away from any idea of accommodating the problem of alcohol-fuelled disorder and towards its eradication through the type of measure that I have suggested. The key point is that those measures stand in their own terms. They are designed to deal with the situation in Romford, Nottingham and other areas, irrespective of the issues relating to licensing flexibility.

**Mr. Mark Field:** Does the Home Secretary not understand that having to announce all those new initiatives to deal with the problems in all our town centres under the current regime makes nonsense of liberalising the drinking laws? What is the point of the initiatives, if not to deal with the present situation?

**Mr. Clarke:** The aim of the police, including the chief constables of Nottingham and of Norfolk and the other chief constables with whom I have discussed the problems, is to make an impact on binge drinking through the type of measure that I have announced. That is why the president of the Association of Chief Police Officers accompanied my right hon. Friend the Secretary of State for Culture, Media and Sport on the platform of last Friday's press conference to commit ACPO as a whole to implementing the measures and making them work. I can tell the House confidentially—*[Laughter.]* I know that the right hon. Member for Haltemprice and Howden is concerned about confidentiality. The principal reason for the concern that is rightly adduced by some senior police officers was simple: there were resources issues and those who were causing alcohol-related crime—establishments in the areas in which binge drinking was common—were not, in the view of the police, making a sufficient contribution. We have addressed that problem; the measures announced by my right hon. Friend last Friday have to be carried through, but they explicitly answer those concerns.

Such measures reinforce the implementation of the recommendations in our alcohol harm reduction strategy. Those include close working with industry to draft a code of practice covering on and off trade and producers. As an aside, I observe that some of the problems to which the right hon. Gentleman referred are as much the result of off-licence purchases as of on-licence purchases. That problem needs to be dealt with, and alcohol disorder zones give us the powers to tackle it. The code will be supported by an accreditation scheme that incentivises good practice and highlights poor operators. We are working on making the sensible drinking message easier and clearer, so that people can make informed choices, and on establishing a range of fixed penalty notices. The police will have powers to close immediately an area or premises where disorder is occurring or anticipated, or where there is excessive noise.

I emphasise that, thanks to the legislation, we have a unique opportunity in the fact that all licences are up for renewal in the coming six months. Today, I ask that all applicants be properly assessed by the local authority on the basis of advice from the police regarding their appropriateness to hold a licence to sell alcohol. We therefore have a new mechanism for review.

**Mr. Mark Field:** Central London has particular problems. One of the grave concerns about the new initiatives felt by those who represent the area—including the right hon. Member for Holborn and St. Pancras (Mr. Dobson), with whom I have Covent Garden in common—is that many of them will simply give the green light to the larger-scale outlets of the alcohol and entertainment industry and that some of the small, independent, family-run businesses that lie at the heart of our communities will either be driven out of business, or forced to sell up to a larger organisation. In other words, we will be playing to the lowest common denominator.

**Mr. Clarke:** I do not accept that. I think that as a result of the proposed measures, the well run family pub will be in a far stronger position vis-à-vis the competition.

**Mr. Frank Field:** There is widespread support on the Opposition Benches for the approach that those who cause some of the disorder in our towns and cities should pay more to cover policing costs. In Wirral, the police have taken eight cases before the magistrates to try to deny a licence to those who produce many drunks at the end of the day, and they have lost all of those cases. Under the new system, will my right hon. Friend support local authorities, when they are pushed by highly paid QCs on the other side, to maintain the line against licensing continuing?

**Mr. Clarke:** I can answer that question unequivocally: yes. I cite an example not from the Wirral but from my own constituency, where precisely these events happened. A licence was granted on appeal. There were precisely the legal issues that my right hon. Friend has described. It was granted despite the opposition of both the local authority and the police. I strongly hold the view that these measures, for the first time, will give a

greatly increased power, compared with the previous situation, to tackle precisely the abuse that my right hon. Friend describes.

**Mr. Eric Pickles** (Brentwood and Ongar) (Con): The right hon. Gentleman speaks about the review of licences by local authorities that will take place. The figures for the fees were produced on Friday, and they are based on rateable value. This coincides with a general revaluation, which means that there will be a perverse incentive for local licensees to make an application during the transitional period. To ameliorate that, the Secretary of State for Culture, Media and Sport has announced a review. Will that review take into consideration the actual cost during the period of transition? Will it include the fee level? Will consideration be given to the structure of the licensing committees in terms of numbers?

**Mr. Clarke:** My right hon. Friend has made it perfectly clear—she will speak for herself when she replies—that the monitoring process will include all aspects of these matters with a view to assessing the best way to go forward.

**Jim Knight:** My right hon. Friend has mentioned some of the powers and initiatives that the Government want to have and to take to tackle binge drinking. I am a strong supporter of the Licensing Act 2003, but I shall be interested to know whether anything more can be done to support those in the alcohol industry who, voluntarily, are trying to do something about happy hours and incentives for people to binge drink. Can the Government take any more serious action to work with the industry in that direction?

**Mr. Clarke:** My hon. Friend is correct. One of the measures that my right hon. Friend the Secretary of State for Culture, Media and Sport announced on Friday was designed specifically to encourage that approach. We intend to offer support to the alcohol industry in banning irresponsible promotions. We want to see all promotions that encourage speed drinking ended. These are promotions such as, "All you can drink for £X.99", or, "All girls drink free between 11 and 12." We want to see a set of measures that will strengthen the voluntary regulation of the industry. We are supporting the British Beer and Pub Association and others in developing guidance to owners and operators that will ban irresponsible drink promotions. I hope that I have given my hon. Friend the assurance that he is seeking.

**Kevin Brennan:** Like my hon. Friend the Member for South Dorset (Jim Knight), I support the measures set out in the Licensing Act 2003. I was concerned enough about the guidelines issued by my local authority to write asking it to strengthen them. It was able to do so in some areas. It replied, tending to say that the Government's guidelines did not allow it to go as far as I wanted so as to have local control over these issues, as promised in the Act. Is my right hon. Friend happy that the Government's guidelines are robust enough to enable us to achieve our goals?

**Mr. Clarke:** I am happy with that. More importantly, my right hon. Friend the Secretary of State for Culture, Media and Sport is happy with that.

My hon. Friend is on to a correct point in saying that it is critical to ensure that Members and others press their local authorities to take the action that is necessary to deal with the situation. I know that my right hon. Friend the Secretary of State is of the view that in the process of implementing these changes, and if it emerges that there are genuine constraints in the guidelines that need to be addressed, the situation will be addressed. At present, we are categoric that the guidelines are right to deal with these matters. As I said a short while ago, I ask all applicants to ensure that all applications in this process of renewal are properly assessed and that the opportunity is taken to do that in detail.

The weakest position will arise where a local authority and a local crime reduction partnership have not properly assessed what strategically must be done to attack the problem in a particular community. It is part of the strength of our democracy that different issues arise in different areas. I hope that right hon. and hon. Members will put pressure on their crime reduction partnerships and local authorities to address the issue in the proper way.

The measures to which I have referred are substantial in range. A flexible range of measures will be available after review that hit profits in areas where there is abuse that needs to be dealt with through, for example, a temporary or permanent reduction in trading hours. The maximum fine for selling to under-18s is increased from £1,000 to £5,000. The new licensing fee package has been announced and we believe that it will make things more effective. I have referred to the banning of irresponsible promotions and other issues that need to be tackled in that area.

I shall focus for a moment on alcohol disorder zones, which will create a direct link between the level of disorder in a locality and the financial contribution that is required from the industry. I believe that the zones will act as a powerful incentive for the industry to get its own house in order in any given locality. That is why I so strongly support the zones. Before an alcohol disorder zone is imposed, operators will be given a warning. They will be given a chance to work with the police and the council to agree an action plan for improvement. This approach is not draconian or arbitrary. It is designed to ensure that everybody takes the issue seriously and addresses it properly. This is the right approach and the right way to go forward.

We are establishing a 24-hour closure power against premises that repeatedly sell to under-18s. I do not believe that the family pub will be threatened by that because they do not repeatedly sell to under-18s. The power will apply to both on and off-licences, which is a strength of the proposals. The power will be triggered where evidence is gathered to suggest persistent selling to under-18s.

**David Davis:** The right hon. Gentleman has announced a number of what appear to be sensible measures. One of the concerns that I raised earlier was that many existing measures are not being used. I take, for example, under-age drinking. There has been a halving of the prosecutions for sales to under-age drinkers and almost an elimination of cautions and

*[David Davis]*

prosecutions against under-18s who have bought drink. How will the right hon. Gentleman ensure that these measures are used?

**Mr. Clarke:** The right hon. Gentleman is right. It is a point that I raised with the police when I first met them to discuss these matters. There is an issue about resources, which we are tackling. There is also an issue about new powers, which we are addressing in the way that I have described. There is also an issue, as the right hon. Gentleman rightly says, about the use of existing powers so that there is proper enforcement.

I can say only two things at this juncture. First, the greater powers that we have given to local government, working with the police, will strengthen the ability to enforce. That will be their direct result. Secondly, my colleagues in the police have been clear in acknowledging that there is a need to act more on the enforcement side. To be frank, the fact that we have given them what they are looking for in this regard will enable us more effectively to carry through our policy.

We already have a number of measures in place to tackle the problem of alcohol-fuelled disorder. The police enforcement campaigns, the alcohol harm reduction strategy, the Christmas drinking campaigns and the introduction of the new fixed penalty notices are having an effect. Part of the industry is already raising its game and acting responsibly, and we welcome that. However, we need to do far more. The measures proposed last Friday in the consultation paper are a robust package to ensure that the industry and individuals take their full responsibility for their part in the problems of alcohol-related disorder. We must keep clear in our minds the need to have a focused strategy to tackle alcohol abuse, which is what we have put forward. We must not confuse that issue, which is very important, with the other important issue of more flexible opening hours, which I believe will be of benefit to the country as a whole.

1.28 pm

**Mr. Frank Dobson** (Holborn and St. Pancras) (Lab): I start by feeling somewhat embarrassed because both my right hon. Friends the Home Secretary and the Secretary of State for Culture, Media and Sport have been friends of mine for in excess of a quarter of a century. I hope that they will not take offence at some of the things that I have to say.

I fundamentally believe in representative government. Nobody gets into this place, nobody becomes a junior Minister, a Cabinet Minister or even a Prime Minister unless they purport to represent their constituents. In pursuit of trying to represent the interests of my constituents, for more than six or seven years I have been urging Ministers to take action to tackle the disorder, the nuisance and the loutish behaviour that is making life intolerable for people living in many parts of my constituency. It is not just the people living there whose lives are made intolerable but people who want to go to the theatre or a restaurant in the area where all that drinking is taking place. That applies to my constituency, Covent Garden, our part of the west end and Camden Town. I have been raising this issue for a number of years, but we have never had a jot of support from Tory or Liberal Democrat Front Benchers. I have been joined in my efforts by my hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) and, if I am truthful, the hon. Member for Cities of London and Westminster (Mr. Field), and his predecessor, Peter Brooke, who is now a Member of the House of Lords. We have pressed for the law to be toughened up to protect law-abiding people who are going about their business and, above all, to ensure that local residents can maintain the quiet enjoyment of their homes, to which everyone is entitled. My hon. Friend the Member for Regent's Park and Kensington, North can claim the credit for some of the best parts of the Licensing Act 2003.

When my right hon. Friend the Member for Norwich, South (Mr. Clarke) was a Minister of State at the Home Office, I took a delegation of local people to see him. When we came out of his office, they said that he really understood what they were talking about, and listened to their points about disorder. Partly as a result of that meeting, the law was changed so that licensed premises that are a source of disorder can be closed by the police for 24 hours without resort to magistrates or anyone else. That was greatly to my right hon. Friend's credit, and it was a big step forward.

About four years ago, along with my hon. Friend the Member for Regent's Park and Kensington, North, I met the then Home Secretary, my right hon. Friend the Member for Blackburn (Mr. Straw). We made many more points, and I remember confessing that I had not pressed my right hon. Friend the Member for Norwich, South enough. My right hon. Friend the Member for Blackburn agreed that 24-hour closures could be extended beyond premises causing disorder to premises causing serious nuisance. That provision has since become law. He agreed that councils should have a licensing plan so that if they received applications for a new premises they could say, "I'm sorry, this street has enough booze outlets already". That, too, is an important provision in the Licensing Act. He also agreed that all the costs of dealing with licensing, when transferred to local authorities, would have to be met in full from the fees charged to the licensing applicants. When he agreed to those three concessions, one or two officials, while not exactly grinding their teeth, were none too jolly about it. Nevertheless, it was the right thing to do.

When my right hon. Friend the Member for Dulwich and West Norwood (Tessa Jowell) became Secretary of State for Culture, Media and Sport, responsibility for the booze laws was transferred to her Department. I mentioned the three undertakings that we had been given, but she told me that her officials could not find any record of them. Fortunately, I had issued a press release, which was cleared by my right hon. Friend the Member for Blackburn, and when I passed a copy to my right hon. Friend the Secretary of State for Culture, Media and Sport, she accepted those undertakings, all three of which were included in the Licensing Act. There were further meetings with Ministers, and other issues were raised in debate. One of the problems was that change had become an article of faith for Ministers, and there was an unrelenting commitment to 24-hour opening which, it was believed, would end British binge drinking—everybody would be knocking back the odd

Campari in delicate circumstances à la Tuscany, I never believed that that would be the case, and we could have avoided many of the problems that have confronted the Government in the past few weeks and months if Ministers had listened more carefully to representations made by MPs on behalf of their constituents, to organisations such as Alcohol Concern, to academics who had studied the topic, and to the police. In fairness to Ministers, some of the police criticisms of the Government proposals came a bit late in the day. I exhorted the police to object when the Licensing Bill was going through Parliament, but they would not do so, so they only have themselves to blame.

I remain concerned about the extension of opening hours. To give a simple example, at one end of a street is the Dog and Duck, which still closes at 11 o'clock. In the middle of the street is a pub called the Pig and Whistle, which receives permission to close at 12 o'clock. A fancy wine bar at the other end of the street closes at 1 o'clock. Instead of being woken up and disturbed by people turning out at 11 o'clock from all three establishments, the residents are woken up at 11, 12 and 1 o'clock, with intermediate problems caused by shuffling and shouting as people move from the pub closing at 11 o'clock to the one closing at 12 o'clock and then to the wine bar closing at 1 o'clock.

**Jim Knight:** Will my right hon. Friend give way?

**Mr. Dobson:** I do not have time, I am afraid, and I will prevent other Members from making speeches if I accept interventions.

It is likely that the changes to opening hours will result in more booze being consumed. The Secretary of State for Culture, Media and Sport has said—and I hope that this will be the case—that if

"local people don't want 24 hour drinking or extended hours they won't have to have it—for the first time the Licensing Act puts control over licensing decisions in the hands of local people and their representatives."

I hope that means that councils can reject applications for longer opening hours if local people object to them. In my constituency, where my right hon. Friend lives, there will be objections to most applications, so I hope that the council will reject them. I hope that the Standards Board for England will not complain if local councillors start to lobby the licensing committee to look after the interests of local people.

**Mr. Andrew Turner** (Isle of Wight) (Con): Will the right hon. Gentleman give way?

**Mr. Dobson:** I do not have time, I am afraid.

We must remember that we are not dealing with the odd individual who runs the Rovers Return or the Queen Vic. We are usually dealing with large, well funded, nationwide chains and, in some cases, multinationals with lots of money that are likely to challenge court decisions, thus increasing councils' costs. We have been promised, however, that the fees charged will meet costs. I have made representations to Ministers, as have the hon. Member for Cities of London and Westminster and my hon. Friend the Member for Regent's Park and Kensington, North. The fee levels have been revised and improved, but they will still leave Camden council with a £2 million deficit over the next three or four years, so it is clear that the fees will not meet costs, which is quite unacceptable. The Government should make a clear commitment so that if they have got it wrong, Camden council, Westminster city council and other councils that operate at a loss can recoup their losses. I choose my words carefully in saying that it would add injury to insult if people had to pay for the licensing system for all those sources of nuisance.

There is one last point that I shall make. Several times we made representations to Ministers, drawing attention to the fact that many licences contain conditions and also undertakings, which are not quite as powerful as the conditions. We pressed Ministers to require someone applying for a new licence to disclose to the new organisation—the council—the undertakings, as well as the conditions, because many of those undertakings protected local people. Ministers rejected that. If there are to be the revisions in the law that have been proposed recently, I hope they include the requirement that applicants disclose to the council not just the conditions, but the undertakings that were introduced to protect people. That will be a step forward.

I hope that in future the Government will learn and that, instead of listening to ghastly organisations like the Portman Group, which is just a front for the booze industry, they will pay more attention to what elected Members of Parliament and local councillors are saying to protect their people.

1.40 pm

**Mr. Don Foster** (Bath) (LD): I am delighted to follow the right hon. Member for Holborn and St. Pancras (Mr. Dobson). Perhaps many more of us should have been listening rather earlier to his remarks. I hope he will consider me a repenting sinner. As the Liberal Democrats support the motion in the name of the right hon. Member for Haltemprice and Howden (David Davis), the House should be aware that we are being consistent with the concerns that we expressed during the passage of the Licensing Act 2003, and with our decision to vote against both the Second and Third Readings of that Act.

During the passage of the Act, we had some concerns about the Government's motivation for introducing the proposals. Reference has been made to that famous text message,

"Cldnt give a XXXX 4 last ordrs? Vote Labour 4 xtra time."

We wondered whether the motivation was to garner the youth vote, rather than to address the real problem of binge drinking that afflicts the nation. There are now real concerns on the part of the public and many hon. Members about various provisions of the Licensing Act. There is clearly not a great deal of public support for the provisions. A recent BBC poll for the "Breakfast" programme showed that 67 per cent. of people thought the legislation would increase the trouble on our streets and 62 per cent. thought the Act likely to make Britain a worse place in which to live.

If the right controls and the right support mechanisms are put in place, flexibility in our licensing laws could help address the problems of binge drinking. Our concerns are that we do not have the right support measures and controls in place. For example, as I shall

*[Mr. Don Foster]*

amplify, we do not believe that the powers of local authorities are adequate. We do not believe that support mechanisms—for example, the availability of public transport—are in place, and we continue to be worried about the fee structure so recently announced. However, we acknowledge that if we could develop the continental café culture, it could have some benefits.

We welcomed from the beginning the increased powers that the Act gives to police and others to close down institutions—pubs, clubs and others—which experience significant problems, but as others have pointed out, we do not seem to be using even existing legislation to combat such problems. Examples have been given of provisions that are not being fully utilised, and a couple of other examples serve to illustrate the point. Only 12 landlords on average each year since 1997 have been prosecuted for allowing drunken or riotous behaviour on their premises. In the same period only 11 people in total have been prosecuted for buying drinks for friends who were incapable as a result of binge drinking. We welcome some of the increased powers, but we hope that the existing powers will be more effectively used.

**Kevin Brennan:** Will the hon. Gentleman clarify his party's position? He said that he would vote for the motion, which states that

"extended opening hours will have an adverse serious effect on the health of the nation."

So are the Liberal Democrats against extended opening hours?

**Mr. Foster:** I hope I have made it clear that we believe that with the right control mechanisms and support mechanisms in place, extended opening hours may help. Our argument is that at present the support and control mechanisms that we believe are necessary are not in place. Without them extended opening hours will lead to increased harm.

**Jim Knight:** Will the hon. Gentleman sketch out what he thinks should be done? For example, he said that the existing powers were not being used sufficiently. When I speak to the police in my area about that, they say they do not have the resources to enforce those powers. They will welcome the new fees that have been announced and the new approach in the Act, which allows the cost of enforcement and inspection to be included in the fees, rather than just the administration costs for the licence.

**Mr. Foster:** Of course I intend to sketch out what we believe should happen. There would not be much point in making a speech if all I did was to criticise. I shall make some positive suggestions. The hon. Gentleman is right to draw attention to the fact that his police, and no doubt police all over the country, are deeply concerned that if they do not have increased resources, they will not be able to carry out the policing that is necessary. The increased fees that have been proposed will provide additional resources only to the local authorities to enable them to do the monitoring. We have still to see where the additional resources for the police are to come from. The Secretary of State may wish to say more about that when she winds up.

The debate has been unfairly characterised as being about 24-hour drinking. We recognise that the vast majority of pubs are unlikely to want to move towards that. The powers that pubs were given during the new year period to open for as much as 36 hours were not taken up by a single pub, as far as I am aware. The Home Secretary was right to point out that the debate is not just about pubs and clubs. With more than 50 per cent. of alcohol being purchased from supermarkets and other off-licence establishments, we need to address that as well, as is acknowledged in some of the measures being introduced.

In my constituency, Bath, a recent newspaper article sums up the nature of the problem that we face. On 18 December last year *The Bath Chronicle* reported:

"Insp Paul Mogg said yesterday that he and his officers could no longer keep pace with the rising level of drink-fuelled violence in the city each weekend.

Insp Mogg said that revellers and his own officers were being assaulted on the streets; and many residents were too scared to venture out in the evening.

And he said Bath's reputation was being tarnished by armies of drunks who caused 'mayhem' on Fridays and Saturdays."

Other Members have referred to the numerous statistics about the binge drinking problem in this country. The Secretary of State rightly points out that these are problems that exist now, before the introduction of the new legislation. Reference has been made to the health costs, the impact on crime, and the problems that face many employers because of days of work being missed. That represents a great deal of human misery and a significant cost to the country, estimated by the Government to be in the region of £20 billion a year. We need to focus more on the problem in relation to young people. As we have already heard, British teenagers are drinking far more than any of their European counterparts.

**Charles Hendry:** I know that it is Liberal Democrat policy to allow people to vote at the age of 16, because the Liberal Democrats believe that that is the age at which people become adults. Does the hon. Gentleman therefore also believe that that is the age at which people should be able to buy alcohol, and if not, why the inconsistency?

**Mr. Foster:** The hon. Gentleman rightly points out that we have a belief that the age of 16 should be consistently used for all issues, including the one that he is talking about. Our saying that 16-year-olds should be able to buy alcohol does not mean, however, that we are advocating that they should become involved in binge drinking. It is worrying that the figures demonstrate that about 33,000 children are admitted to hospital every year because of alcohol-related illnesses. In another debate on the same issue in Westminster Hall earlier today, my hon. Friend the Member for Southwark, North and Bermondsey (Simon Hughes) referred to the situation in the Grampian health authority, where two young people under 15 are admitted every single week with acute alcohol poisoning.

There are real issues, and the question is whether the 2003 Act as it currently stands and is intended to be implemented will work. When the legislation was introduced, many of us believed more passionately than

now that there was a chance that it would work. As has been said, much of the information provided by the Government told only half the story.

**Kevin Brennan:** Will the hon. Gentleman confirm that it is Lib Dem policy to legalise drinking at the age of 16? Does he think that that will contribute to a reduction in binge drinking?

**Mr. Foster:** The answer is yes. I do not think that I could explain the position more clearly. I have already set it out to the hon. Member for Wealden (Charles Hendry). I am clear about that policy, but I have no reason to accept any suggestion from the hon. Member for Cardiff, West (Kevin Brennan) that it would lead to an increase in binge drinking if we get the correct measures in place. Our concern is that the legislation does not provide us with the complete panoply of measures that we believe are necessary.

We were sold a false prospectus by the Government during the passage of the legislation in terms, for instance, of whether the police supported it. We now know that very many police are deeply concerned. The Commissioner of Police of the Metropolis, Sir John Stevens, made that clear when he recently said:

"The move towards 24-hour drinking needs to be slowed down. The fact that large groups of people will be coming out at 3am or 4am will mean that we have to man the streets to ensure they behave."

We now know that even some of the information that was to be included in the alcohol harm reduction strategy and that would have been helpful subsequent consideration of the issues was removed. According to the *Daily Mail*, that includes this initial warning:

"Relaxing availability increases general harm whether through more outlets (Finland), denser outlets (California), or longer hours (Western Australia)."

The consensus has certainly moved away from support for the measure. We have also heard that there were deep concerns even in the Cabinet. The Prime Minister has already referred to binge drinking as the British disease, and as we have heard, the former Home Secretary described the proposals as a leap in the dark.

If we were given a dodgy dossier, however, the real issue is whether we are being given a sensible set of proposals that will really work. We are being told that local authorities will have significant powers to deal with the issues, but the more we study the Bill, the more we see its deep flaws. For example, at the very last minute, the Government accepted Liberal Democrat proposals that there should be some measures in place to address the issue of cumulative impact. The idea of special saturation policies was referred to. It does not appear in the Bill, but it is included in the guidance. Nevertheless, that opportunity is a rather thin one. For example, the very same guidance says:

"nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden".

It does not give particularly special powers.

When local authorities such as mine, Bath and North East Somerset, considered whether to introduce a special saturation policy, they realised that there were two problems. First, in the area immediately outside the saturation policy areas a green light would be given to all sorts of developments that might be unwelcome to local residents. Secondly, and more importantly, the authorities recognised that there was a real possibility of legal challenge. Indeed, Andrew McNeill, director of the Institute of Alcohol Studies, recently said:

"I think it's going to be a legal minefield".

Local authorities are not very keen to pursue matters with the power of the big breweries that might challenge them and the legal costs that are likely to follow.

There are also concerns about the guidance relating to temporary event licences, as it will make it very difficult for local people to do anything about raves in their area. As the Secretary of State will know, only the police are allowed to object, and they have only 48 hours in which to do so. A rave organiser can simply put a letter through a rural police station letterbox on a Friday, and there will be no time whatever for action to be taken.

**Mr. Pickles:** I agree with the hon. Gentleman on that point, but I want to go back to his previous point. A number of local authorities have attempted to strike a balance between licensees and the local population. Does he appreciate that those agreements will now mean nothing unless the Government remove the "must" obligation to grant permission unless there is an objection?

**Mr. Foster:** I was about to come to that point. I am sure that the hon. Gentleman—perhaps he will have an opportunity to develop his argument later, if he catches your eye, Madam Deputy Speaker—will be well aware that, because of the problems that he mentions, the magistrates courts may become clogged up with all sorts of applications and we may have difficulty in implementing the measures anyway. I was going to make that point in a minute, but I am grateful to him for giving me the chance to do so now.

The local flexibility that the Government talk about is very one-sided. The Government say that, on licensing, they strongly recommend

"that statements of policy recognise that longer licensing hours"

are

"necessary to reduce the friction of late fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance".

Earlier, the right hon. Member for Holborn and St. Pancras asked the Secretary of State whether it would be possible for a local authority to say no to any increases. The problem is that local authorities are required to have a licensing policy saying that they recognise that increasing licensing hours is a good idea. That makes it very difficult for them to follow the line that he might want to suggest. To add insult to injury, the guidance on the special saturation policy areas that local authorities might wish to introduce states specifically that no rule can be introduced in those areas saying that all the pubs must close at the same time. The guidance forbids local authorities from doing that. When he asked the Secretary of State about that issue, she should have said that such an approach was not possible.

There are also concerns about the role of local councillors. How can it be right for a local councillor who represents a particular area of a town or city where there is a serious problem to be told that he or she cannot serve on the licensing committee considering licences in that area? Frankly, that is complete madness.

*[Mr. Foster]*

The fees themselves are another problem. The Secretary of State has introduced a new set of fees. Many people will welcome them, but it is worth pointing out that the fees on which she consulted extensively and those that were introduced are significantly different. The new fees have come as a huge shock to the pubs and breweries, and various other related organisations. I am not arguing about whether they are right or wrong, but the publication of the fees within days of the first named day, 7 February, makes it hugely difficult for those involved to decide what action to take. At the same time, many bodies—not least small sports clubs—are deeply worried that the fee levels are far too high. All those arrangements have been introduced at very short notice.

**Mr. Desmond Swayne** (New Forest, West) (Con): On small clubs, my constituent, Mr. John Crosthwaite-Eyre, who is treasurer of Dunwood Manor golf club, has informed me that the price of the club's licence will increase from £16 to £1,145, which is simply outrageous.

**Mr. Foster:** The hon. Gentleman's example is one of many that will undoubtedly be cited. I will give him advance notice of how the Secretary of State for Culture, Media and Sport will respond to his point: she will say that the Government have given local amateur sports clubs new powers to obtain additional money and that only 2,000 clubs have taken up the offer, although many thousands of them could do so. When the Government introduced that concession on rates, however, it was intended to provide additional support to sports clubs to help them carry out sporting activities. The tune seems to have changed, and sports clubs must use that benefit, if they take it up, to pay the increased fees to which the hon. Gentleman has alluded, which cannot be right.

The Government have recently introduced a set of new sticking-plaster measures. Stung by the criticisms, they have brought in proposals, which are only proposals, for alcohol disorder zones, a "three strikes and you're out" scheme and charges, which might or might not be made, to certain pubs and clubs to help pay for policing, which would be similar to the situation with football clubs. If the package of measures is going to work, we need to know where the new measures, which may or may not be sensible, are going and how they fit into the overall picture.

The motion calls for further time, which makes a great deal of sense: time to consider the new proposals; time to consider how we can improve education about alcohol misuse; time to consider how we can provide more financial support for those working to combat alcohol misuse; time to consider unit labelling on all drinks; time for the Government and the industry to consider how they can tackle unacceptable promotions, which many companies used to run and which many companies are, I am delighted to say, stopping under the voluntary code; time for more training for health workers; time for the Government to introduce their promise to make pubs a single use class—we have still not had the details—under our planning legislation; and, perhaps crucially, time to gather benchmarking statistics, which my noble Friend Lord Avebury proposed in another place, to allow us to assess the Bill at a future date. I genuinely believe that the public in this country do not want to see the immediate implementation of the legislation. At the least, they want to see a delay while we get some of the other measures sorted out, increase support for the police and local councils and provide local councils with greater flexibility.

I hope that the Secretary of State will comment on this final point. This House has welcomed the concept of pre-legislative scrutiny, which has been tried on a number of occasions. There is growing talk about post-legislative scrutiny being carried out by both Houses, and I hope that the Government will be willing to introduce the concept of post-legislative scrutiny whenever the Bill is implemented.

**Madam Deputy Speaker (Sylvia Heal):** Order. May I remind all hon. Members that Mr. Speaker has imposed a 12-minute limit on all speeches by Back Benchers?

2.4 pm

**Jim Knight** (South Dorset) (Lab): I refer hon. Members to my entry in the Register of Members' Interests in relation to my chairing the all-party leisure group. It is a pleasure to follow the hon. Member for Bath (Mr. Foster), who made some good points about sports clubs and the presumption in the guidance, which I have discussed privately with the Secretary of State. He sat on the fence on some other matters and I would have liked more detail on what he wants the Government to do. I was startled by his party's policy on extending the legal age at which one can buy alcohol to 16.

The hon. Member for Bath was less confused than the right hon. Member for Haltemprice and Howden (David Davis), who wants to suspend implementation of the Licensing Act 2003, but who intervened on the Home Secretary to say that he thinks that we should liberalise the licensing laws once we have implemented measures to stop binge drinking, which is the approach adopted by the Government and in the 2003 Act.

**Mr. Don Foster:** Perhaps the hon. Gentleman and I can join in recommending to the Government that full-blown implementation should not go ahead and that those areas that are interested should be given the opportunity to pilot some of the measures.

**Jim Knight:** I shall resist the temptation to join the hon. Gentleman in advocating that suggestion. The problems with binge drinking are severe and we should act now. The Licensing Act 2003 provides a balanced range of measures that we should get on with. I agree with Rick Naylor of the Police Superintendents Association, who told Radio 4's "PM" programme on 29 April last year that

> "The Superintendents' Association have always been in favour of relaxing licensing laws and bringing them into the twenty-first century, and it is slightly disappointing we can't get this piece of legislation implemented sooner, because I think it will have an effect on violence in the streets."

**Mr. Swayne:** Will the hon. Gentleman give way?

**Jim Knight:** I am only allowed to give way twice, so this is the last time.

**Mr. Swayne:** Given the hon. Gentleman's admission about the binge-drinking culture, is he not ashamed of the text message that his party put out before the last election:

"Cldnt give a XXXX 4 last ordrs? Vote Labour 4 xtra time"?

Is that an incitement to café culture? Is that a measured contribution to dealing with binge drinking?

**Jim Knight:** I am happy with the idea that the vast majority of our electors are responsible drinkers, including the vast majority of young people. I do not want to label young people as irresponsible. The irresponsible minority who cannot handle their drink and who cause alcohol-related violence must be dealt with, and the 2003 Act gives the police and local councils the powers to do that.

I was a member of the Standing Committee that scrutinised the 2003 Act, which is based on sound logic. Alcohol-fuelled violence is a problem on our streets and we need to liberalise the laws for the many, while clamping down on the few who abuse them. We are not discussing 24-hour drinking but flexible drinking. The British Beer and Pub Association conducted an extensive survey of its members and did not find anyone who wants to open for 24 hours. It is unfortunate that some people are getting on the bandwagon and labelling the policy as 24-hour drinking to score points with their friends at the *Daily Mail*. Who is the leader of the Opposition in this country? Is it the right hon. and learned Member for Folkestone and Hythe (Mr. Howard) or the editor of the *Daily Mail*? However, that is not the subject of this afternoon's debate.

My view has been informed by accompanying the police in Weymouth late on a Friday night and through into Saturday morning to observe the behaviour of some of the irresponsible members of the community, who mix with the many responsible people who enjoy their leisure time in Weymouth town centre. I observed the activity in Weymouth town centre on the extensive CCTV system, which is funded by this Government, and on the streets with police officers.

In Weymouth, there are pinch points between 11 pm and 11.30 pm, when the pubs chuck out, after 2 am, when the nightclubs chuck out, and in Westham road, where late-night refreshment establishments are concentrated, where people get kebabs, pizzas and chips and where the concentration of people towards the end of the evening and early in the morning causes a lot of disturbance and inevitably leads to fights, which can occur over taxis. I have spoken to the police, met local licensing officers and discussed the matter with taxi drivers in my constituency and they all agree that the most important way in which to tackle alcohol-fuelled violence is to remove the pinch points. That is why a flexible approach is the right one in dealing with alcohol-related antisocial behaviour.

The police want the resources to deal with the problem properly. That is why I welcome my right hon. Friend the Secretary of State's announcement of the fees structure, particularly the multiplier. That means that town centre licensed premises will have to pay considerably more than those with lower rateable values, so the full cost of inspection and enforcement can be recouped from those who make profits from selling alcohol and the community no will no longer have to pay through its council tax.

The Act introduces a complete policy that tackles late night refreshment as well as licensing. That is welcome. Licensing officers and police in Swanage in my constituency have told me that one or two establishments selling kebabs and the like, where people congregate after the pubs have shut, are the main cause of civil disorder and public nuisance.

The Act contains many powers that balance the liberalisation that I have advocated in respect of reducing the pinch points. They include the power of the police to close premises down for 24 hours where they see disorder, the inclusion of late night refreshments and the ability to introduce a special policy, although I have some concerns about that along the lines articulated by the hon. Member for Bath. I welcome the introduction of personal licences, whereby a licence is required not only for the premises but for the person who is responsible in that operation. That licence equates to their personal livelihood, which they put at risk if they flout the law. That is a powerful sanction.

At the heart of the approach taken in the Act is the principle of local accountability. People now have the power to object to their elected representatives, and if their elected representatives choose not to listen, they have the power to vote them out of office at the next election.

**Mr. Andrew Turner:** Will the hon. Gentleman give way?

**Jim Knight:** I have given way twice and used up all my available time, although of course I would love to listen once again to the wisdom of the hon. Gentleman, having heard so many of his wise words on all sorts of bizarre things in Standing Committee.

The Act also gives the police enhanced powers to object and introduces increased fines for certain people who are drunk and for those who serve children under the age of 18.

The aims of the new policy, which are stated at the beginning of the Act and in every licensing policy that every council will introduce, are to reduce public nuisance and disorder and to reduce harm to children. Every council has a responsibility to implement a policy that fulfils those aims, with which I am sure that every Member in the House agrees.

The views of the police were expressed clearly when we debated the legislation, but they seem, like many others, to have come under the influence of our friends at the *Daily Mail*. At the time of the White Paper, the Association of Chief Police Officers said:

"ACPO has been consistent in its support of the removal of rigid permitted hours and the introduction of more flexible opening hours because of the strong link to crime and disorder."

Chris Fox, speaking on Radio 5 Live on 25 October, said:

"Well, let's get it straight, we're not against twenty four hour licensing, that's not the issue at all. What we're saying at the moment is that if we continue to run licences for twenty four hours in the way that we're running them currently we're going to have more street disorder, more drunkenness, more bad behaviour over a longer period."

Voices in the police are clearly saying that the status quo is not working. We all know that that is the case and that we have to take action now, and that is why a delay in

*[Jim Knight]*

the implementation of the Act would be a mistake. I do not understand why Opposition Members are arguing for a such delay, which would deny to the police and local authorities new powers to act against the problems that we are experiencing in our town centres.

In my constituency, I am working on a campaign, which I have discussed with Feargal Sharkey and others on the Live Music Forum, to encourage licensed premises to promote more live music now that they will no longer have to pay extra to do so. That might be popular not only with our younger voters but with voters of all ages, as I saw on Sunday afternoon when I attended, as did more than 600 others, a fundraising concert in Weymouth for victims of the tsunami disaster, where we listened to the likes of Billy Bragg. About £20,000 was raised by the many music lovers in my constituency, who want the Act to be implemented as soon as possible so that we can encourage more venues to promote live music.

I urge hon. Members—and even right hon. Members, although I do not know if they will all listen—to support the Government amendment and wholeheartedly reject the opportunistic, bandwagoning approach of the Conservatives.

2.15 pm

**Sir George Young** (North-West Hampshire) (Con): It is a pleasure to follow the hon. Member for South Dorset (Jim Knight). He did not go out of his way to cultivate the support of the readers and editor of the *Daily Mail*, which might have been unwise given his small majority.

I do not normally contribute to debates on licensing, and feel a little like a stranger who has wandered into a bar where a few regulars are exchanging familiar arguments and anecdotes. Nevertheless, I want briefly to make two points. The first echoes what the hon. Member for South Dorset said about his experiences while out with the police. I spent 30 days on the police service parliamentary scheme. Several of those days and nights were spent in Southampton inspecting exactly the problem that we have been discussing. That is when I first came across the phrase, "the night-time economy." To begin with, I was suspicious of what I regarded as a new Labour phrase. However, it is true that Southampton has a night-time economy that complements its day-time economy and which will probably, with the passage of time, become more important as people have more money and leisure.

That economy relates not only to pubs and clubs, but to food outlets and minicabs and, going back a stage, to clothes, shoes and fashion accessories. There is an industry there of which we should be cognisant, and as a Conservative who is responsive to market forces, my overall instincts are not to stand in the way of such an expression of consumer power. It is important that those of us in the House of Commons, which is slightly detached from young voters, should not say anything that implies that we do not understand how young people like to use their leisure. They like to pub and club, at times of the day and night when most of us are asleep, and the vast majority do so entirely inoffensively. Indeed, when I went round the pubs and clubs in Southampton, the vast majority of people, including several off-duty policemen and women, were enjoying themselves and acting entirely responsibly.

I was struck by the all-pervasiveness of CCTV, not only at fixed points run by the local authority but as mobile cameras operated by the police. Young people should realise that, if they commit an offence in a city centre, it is almost certainly recorded on CCTV somewhere and will be used in evidence. On one occasion, I saw a young man being chased by potential assailants just outside the city centre. He headed for a spot that he knew was covered by CCTV, and the moment he got there his assailants stopped chasing him. Although CCTV may be criticised on libertarian or displacement grounds, I am all in favour of it as regards bringing law and order to the city centre. I was worried not so much by the alcohol as by the noise, which struck me as far more likely to injure people's health than alcohol. Several of the young people were not drinking alcohol at all, but soft drinks.

Of course there are problems, as my right hon. Friend the Member for Haltemprice and Howden (David Davis) rightly said. There are some very aggressive people, and I was interested to see how well informed many of them are as to exactly how far they can go with the police without getting arrested. They know that they can abuse the police without getting arrested because they have to be cautioned first. Once they are arrested, it is clear that everything that people say about police bureaucracy and filling forms is true. When we took one inebriated young man to the custody suite, the policeman had to fill in a form before he could be taken in. One of the questions was: "What is your religion?" If one asks a man inflamed with alcohol what his religion is, one is likely to spark a theological discussion in which everybody else in the custody suite feels free to join. I am sure that one could consider more critically the number of questions on the form that people have to answer before they are allowed to go through. In one case, a man, once arrested, had to be detained under the Mental Health Act 1983. That meant that the policeman who arrested him had to spend the whole of the rest of his beat in the cell sitting next to him. He was therefore off duty.

Many policemen who should be policing the city centres do not do so because they are back at the police station, filling in forms and getting tied up with bureaucracy. There is enormous scope to streamline that. If people are charged, the defence solicitors are up to every trick in the book. Even though they know that their client is guilty, they will advise him to plead not guilty in case the witnesses or the police do not turn up. If they do, the plea is switched to guilty in the hope of a lenient sentence. Much can therefore be done in the existing framework to improve the effectiveness of policing.

My second point is based on what happens in Andover. The brewing industry appears to focus on the city centres. In my part of Hampshire, it drives up the rents of the village pubs, which are closing, and opens fresh outlets in the city and town centres. I ask it to consider what it is doing. Viable village pubs become unviable if the rents are jacked up in the rent review. We have lost the Hare and Hounds outside Andover, and other pubs are threatened.

Yesterday, I spoke to the landlord of the Southampton Arms in Andover, where we have pubwatch, which I am sure that other hon. Members have in their constituencies. There are some 26 individuals on the Andover pubwatch scheme. I found it interesting that the police implement it in Andover. The police rather than the landlord impart the good news to the individual that he is banned from every pub in Andover. That obviously removes a point of friction between the customer and the landlord.

The application forms for the new regime that starts on 7 February are not available at the local authority in Andover. The people to whom I spoke yesterday believe that the Department for Culture, Media and Sport is responsible for ensuring that the forms are available. It is unlikely that any pubs in Andover will open for 24 hours but the position may be different in other constituencies.

Some people are reluctant to go to the town centre, especially at weekends. To deal with that, the police are piloting a new strategy for eight weeks. It has two key personalities. The first is PC Ken Crosby, who is based on a bicycle. That enables him to access the many alleyways and pedestrianised areas of the town. He has CCTV on his helmet and his job is to identify potential trouble makers—groups of young people who could cause difficulty. He is backed up by a 4x4, which has CCTV front and rear. It also has three directional microphones that pick up sounds 100 yd away and is backed up by a community patrol vehicle.

Another key personality is Amara, a black Labrador, who sniffs out a wide range of drugs. She can smell crack cocaine at 40 ft and she examines people who stand in line for the clubs. To keep her on her toes, there are two stooges with 10 g of cocaine somewhere in Andover. They ensure that she is alert.

The new scheme covers the off-licences as well as licensed premises. As we have heard, off-licences are often the problem. It is supported by the local authority licensing officer, the community wardens and the fire service. It focuses roughly on 2 am when there is a mass exodus and concentrates on the taxi ranks and fast food outlets.

The initial evidence from the pilot scheme is encouraging. Proactive arrests early in the evening send a clear signal to the rest of the community. There is some evidence that the licensees are acting more responsibly and that revellers are more aware of what is going on.

Although the House needs to tackle big strategic issues such as whether it is the right time to change the regime and the impact on consumption of longer or more flexible licensing hours, whatever the regime, much could and should be done now. My experience of Andover shows that genuine progress can be made through the police and local authorities working together and sending out a strong signal to minimise the irresponsible minority who threaten the pleasures of the vast law-abiding majority.

2.24 pm

**Mr. John Grogan** (Selby) (Lab): It is a great pleasure to follow the right hon. Member for North-West Hampshire (Sir George Young), who clearly had a couple of informative nights out in Southampton and Andover. I learned a great deal from listening to his account of good practice in his area.

I support the Government. My Whip would probably say, "About time, too." I support them on this occasion for several reasons. First, although I share views with the hon. Member for Bath (Mr. Foster) on a range of issues, such as gambling and broadcasting, I was surprised that he committed himself to drinking in pubs by 16-year-olds. Whatever the differences between the parties, I believed that there was a fair consensus that the law on under-age drinking had not been properly enforced, as the right hon. Member for Haltemprice and Howden (David Davis) said at the beginning of the debate.

It was announced last week that, for the first time, it may become an offence for someone who is under 18 to try to purchase alcohol at a bar. Many people in the industry and in government have put much effort into the pass scheme, which will permit the use of a commonly recognised proof-of-age card throughout the country. That will be popular with many 18-year-olds who experience social embarrassment if they have to prove their age. As a friendly gesture towards the hon. Member for Bath, I ask him to reflect on his view because I have seen what some of my Whips and perhaps less scrupulous friends have done with Liberal promises in the past. I fear that the hon. Gentleman has given a hostage to fortune on 16-year-olds drinking.

I want to put the subject of the debate in context. At the weekend, I looked at a picture the like of which we have all become familiar with in recent weeks on television and in newspapers. It depicts several young men fighting in the background, an older man falling over with a drink still in his hand and some young women who are clearly inebriated. It was an engraving by Hogarth in 1761 entitled "Gin Lane". I do not say that to diminish the current problem—we clearly have a problem with binge drinking, which has been graphically described—but to illustrate the fact that the problem has occupied the House many times over the years.

I contend that we have had a century-long experiment in fixed opening hours and closing times for pubs, ever since Lloyd George proclaimed when he introduced the liquor licensing laws that we were fighting three enemies: the Hun, the Austrians and the drink, and that the greatest was the drink. Since then, our licensing laws have been framed in that context. I believe that they encourage binge drinking. The various early-day motions that support the Government were not generally inspired by big pub companies or civil servants with links to such companies. I shall not embarrass hon. Members by reading out the names of some who signed the early-day motions in the previous Session and the previous Parliament.

The early-day motions were largely inspired by CAMRA, the Campaign for Real Ale. It is unfair to characterise its members as middle-aged men with beards. Its current president is a woman and it represents beer drinkers of all ages. However, it does not represent the cutting-edge youth drinking market yet it supports more flexible opening hours. The right hon. Member for North-West Hampshire mentioned the phrase "the night-time economy." He is probably right that it is a bit of a new Labour phrase but the words have tripped off my lips occasionally.

*[Mr. John Grogan]*

The problem with the night-time economy is, as many hon. Members have pointed out, that it is often the province of the young. The only places that can stay open after 11 pm are those with entertainment licences. A bar or a club can stay open after 11 pm only if it makes noise. An ordinary pub cannot stay open except in special circumstances. That is nonsense and distorts the evening economy. It stops people who come out of cinemas and theatres going for that last drink.

Some chief constables have latterly said that they are against the new measures and my chief constable in North Yorkshire has made such signals. However, when I asked her local police whether that means that they will clamp down on all the lock-ins in villages and suburban areas about which they know, they say that they will not because they do not cause problems. The situation should be regularised, because the law should not be flouted in that way. If a well managed pub in a village or suburb is not causing a nuisance to anyone, why should it not stay open later if that meets a demand? Such regularisation would have a civilising effect, as it has in Scotland and in the Isle of Man. The Isle of Man is perhaps not the most socially liberal part of Europe, but it reformed its licensing hours two or three years ago in much the same way as we are doing. That resulted in a decrease in violent crime in the capital, Douglas, which had been having problems until then.

**Mr. Andrew Turner:** I thank the hon. Gentleman for giving way, although I am not intervening on him because of his reference to another offshore island. Will he go back for a moment to his recollections of the views expressed by CAMRA during the passage of the Licensing Bill, and compare them with those of the Association of Chief Police Officers? Hon. Members across the House know that the problem is not that we did not want reform, but that we wanted reform that was well thought through and would achieve the objectives that the Government said that it would. In Committee, we were told that licensing authorities could not reject licences unless to do so was in line with the licensing objectives in the Bill. Those objectives, narrow as they were on Second Reading, were even narrower when the Bill came out of Committee, because Labour Members, and the Minister in particular, rejected our amendments to widen them.

**Mr. Grogan:** In regard to the licensing objectives, why else would a licensing authority reject an application for a late licence if a pub was not causing disorder, nuisance or harm to children? Some of the powers to do with saturation were, in fact, widened. My right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) made progress in those areas. A pub has to pass quite a tough test to get later opening hours and I think that many will apply for them and not get them, because they will not pass that tough test. The hon. Gentleman also mentioned ACPO. The presence of its representative, Chris Fox, at the press conference last week was illustrative.

There has been creative tension between the Home Office and the Department for Culture, Media and Sport in recent months, but the package that was announced last week has great merit. I urge the industry not to mount blanket opposition to it, but to examine it carefully. Most small village pubs, for example, will not pay higher fees than was originally intended. They will not pay for extra policing. The pubs that will pay extra fees as a result of last week's announcement will tend to be the larger pubs and clubs, and they will probably end up paying much the same as they did under the old regime, if they take into account the effect of public entertainment licences.

The alcohol disorder zones will probably be used only as a last resort, because town and city councils will want to try to solve any problem with the industry before declaring such a zone. Obviously, it would not do much for the image of a town to admit that creating such a zone was the only way of solving the problem, but it is nevertheless a useful power of last resort for councils.

I also urge Ministers to look carefully at some of the existing powers. Exclusion orders exist under the present law, for example. They allow anyone convicted of a violent offence in a pub to be excluded not only from the pub in question but from others within a certain distance, if the magistrates so wish. I and others have urged Home Office Ministers for some time to ask magistrates to consider automatically imposing an exclusion order in such circumstances. That move is backed by publicans and the trade unions that represent people working in pubs.

I want to return to the fundamental point about whether we should postpone the introduction of more flexible hours or experiment with them, as the hon. Member for Bath and others have suggested. I am against experiments or pilots because I cannot imagine anything worse than having just six or seven towns or cities being given the authority for much later licensing. Some young British people behave badly on holidays abroad because they regard drinking after 11 pm as exceptional and different. Pilot schemes here could have the same effect.

We suffer from a similar effect in parts of central London, where people think that they can behave badly because late night drinking is outside the norm. It should be very much the norm to be able to have a drink after 11 pm in civilised circumstances if people are behaving well. There should be nothing wrong with that. It will take a while to change our drinking culture, which goes back a long way, but that principle is an important one. I am anxious, as is the Police Superintendents Association, to give councils—which are much better placed than magistrates to deal with these matters—these powers urgently, so that we can regulate our night-time economy.

**Mr. Turner:** The hon. Gentleman and the hon. Member for South Dorset referred to the role of councillors. Does he accept that it is unreasonable that, if a resident who lives next door to a pub speaks to their councillor about that pub—or even if they do not—that councillor is disbarred from being involved in any decision relating to the licensing of the pub, even if he represents a ward as big as some of those in Birmingham, which have 20,000 voters?

**Mr. Grogan:** My understanding is that nothing can prevent a councillor, or an MP, from making representations to a licensing committee on behalf of

their constituents. However, just as we would not expect a representative of a particular ward to take part in certain planning decisions, equally we must ask whether the councillor in the hon. Gentleman's example would be the best placed person to take such a decision. On the whole, I do not think that they would be.

**Mr. Pickles:** Will the hon. Gentleman give way?

**Mr. Grogan:** No, I want to bring my remarks to a close.

In confessional mode, I agree that the text message was not a product of Millbank's finest hour. It gave entirely the wrong signals at the last election, because it implied that the main beneficiaries of licensing reform would be the young. I would argue that that is not the case. Whatever happens with licensing reform, young people will be out and about on the town at midnight or 1 am. The main beneficiaries of the new Licensing Act will be those in the more mature market—which is well represented in the Chamber today—who will, for the first time, be able to find somewhere conducive to having a drink after 11 pm. Their very presence in our town and city centres will have a civilising influence. The other main beneficiaries will be residents who, for the first time in a long while, will be able to make representations to their local councillors about their immediate situation, instead of having to go to a rather remote magistrates court.

I want to end with the perspective not of the big brewers, CAMRA or the consumer, but of a barmaid who wrote to me some time ago to describe what happens when she calls last orders. She said:

"You spend hours, days, weeks cultivating a relationship with the regulars, charming newcomers, learning to pour that perfect pint, yet, the moment you ring that bell, it all goes out the window. Suddenly all eyes are upon you, then all eyes are upon the clock and the muttering begins: 'That clock's fast', 'Is it that time already?', 'Give us a takeout', 'I've just put two quid in the jukebox', 'Down it, we'll squeeze one more in.'

And the bar that you have served so efficiently all evening becomes THE place to be, no joking, no social niceties now. It is each for their own, digging that elbow space, thrusting fivers in your face, no-one is going to risk returning to their mates empty handed . . . You have to wander round the pub forcing people to down their drinks, shouting, 'Come on, drink up, folks. Can I have your glasses please?' In under half an hour you have gone from being a right laugh and everybody's friend to public enemy number one."

I honestly cannot believe that the English and the Welsh are alone among the civilised peoples of Europe. Are we the only people who cannot cope with having a drink in the right environment and not annoying their neighbours after 11 o'clock at night? I enthusiastically support the Government's amendment.

2.39 pm

**Mr. Eric Pickles** (Brentwood and Ongar) (Con): It is a great pleasure to follow the hon. Member for Selby (Mr. Grogan), who suggested that some of us in the Chamber are mature. I suppose that many of us are approaching maturity, but sadly from the wrong direction. He took us on a tour of Hogarth's London and the gin joints, and mentioned the great thundering voice of David Lloyd George, who may be starting to rotate at the thought that his once great party now advocates the extension of drinking to 16-year-olds.

I want to make a relatively narrow point—putting aside the rights and wrongs of 24-hour drinking—on implementation and the effect on local authorities, on which several Members have touched briefly. I was very much in favour of the transfer of powers from magistrates to local authorities. Councils have a responsibility for crime reduction partnerships, with specific responsibilities for tackling youth disorder. Licensing in many ways has some commonality with planning, and most importantly, councils are democratically accountable to the population. It was therefore a brave decision, as it was in the face of opposition from many in the drinks industry.

I cannot understand, however, what the point was of giving all those powers if they were to be made worthless once the guidance was produced. Under the regulations, unless an objection is made to a licence application, it will automatically be approved in full without amendment. The point that the hon. Member for Bath (Mr. Foster) made about raves is a good one. Local ward councillors are considered to be biased in favour of local residents and will be prevented from voting on late licences within their ward. They can object only if they live in the vicinity, in which case they must declare a prejudicial interest, which prevents them from attending any licensing application hearing. Therefore, it is somehow bad for democratically elected people to be biased in favour of their populations.

I confess that I am biased in favour of the electors of Brentwood and Ongar. I doubt whether many Members of Parliament are not biased in favour of their electorate. That does not blind me to individual justice or the merits of an individual case. A balance must be struck—it happens in decisions made in this Chamber and in council chambers across the country—between individual rights and democratic accountability. The guidelines remove the one person who probably knows the local ward better than anyone, and to whom local residents look for guidance and leadership. That person is not only removed from voting, but cannot give evidence at any hearing. The representative nature of democracy, to which the right hon. Member for Holborn and St. Pancras (Mr. Dobson) referred, is wholly pushed to one side because of the new guidelines.

Councils are being advised that under the Human Rights Act 1998 they should not allow local ward councillors to sit and consider applications for their own wards, because of bias against pubs and clubs. That prejudice will lead to some strange circumstances. For example, Councillor Smith lives in Applegate ward, but two miles from the public house subject to the application. Councillor Black lives in the adjoining Mayflower ward, but one mile from the pub. Councillor Black can vote, but Councillor Smith cannot. There is no logic to that. Only in the never-never land of the Human Rights Act or the guidance would electoral divisions be regarded as natural catchment areas for licensed premises.

Parish councils will not be recognised as objectors, but residents associations will. The guidance specifically defines interested parties as

"a person living in the vicinity of the premises in question; a body representing persons living in that vicinity, for example a residents' association; a person involved in business in the vicinity of the premises in question; and a body representing persons involved in such businesses, for example, a trade association."

*[Mr. Eric Pickles]*

It is unlikely that many residents associations are coterminous with parish councils—I am not aware of any. Again, that marginalises councillors. Councillors will not be able to object to the saturation of pubs and clubs if existing premises apply to extend their licensing hours. They will not even be able to introduce a staggering of opening hours. The guidance says:

"Above all, licensing authorities should not fix predetermined closing times for particular areas."

It continues:

"Licensing authorities should not seek to engineer 'staggered closing times' by setting quotas for particular closing times".

That was supposed to be the great advantage of the new licensing laws.

My belief is that local councils should be free to decide that there are already enough bars and pubs in a neighbourhood. Clusters of pubs and bars can create disorder and disorder hotspots. Local councils should be able to take into account the proximity of existing licensed premises when considering a new application. Such decisions would not be taken in isolation—there are examples from other parts of the world. In New York, for example, a bar would not be licensed were it within 500 yd of another bar. I see my hon. Friend the Member for Cities of London and Westminster (Mr. Field) in his place, and I look forward to his contribution. He represents a council that is a shining example of deciding on a set of policies that balance the rights of consumers and publicans and ensure that visiting those parts of Westminster is an enjoyable experience. All that hard work counts for nothing because of these new regulations.

**Mr. Andrew Turner:** Would my hon. Friend be surprised to hear that when the Bill came from another place, one of the requirements for local authorities to take into account when deciding whether to grant licences was

"the prevention of unreasonable diminution of the living and working amenity and environment of interested parties in the vicinity of the premises balancing those matters against the benefits to be derived from the leisure amenity of such premises"?

But the Government, with their amendment No. 8, removed the whole of that, and merely put in some words along the lines of a public nuisance provision. Public nuisance is a narrowly defined legal concept, however, and their lordships were sensible to bring forward their provision. I cannot for the life of me understand why the Government wanted to remove it.

**Mr. Pickles:** I agree with my hon. Friend, who makes an extremely good point. In preparation for the debate, I spent many hours going through the new regulations, which are beautifully reproduced on the Department's website. It seems to me that the points that the right hon. Member for Holborn and St. Pancras was making, and the concessions, have been whittled away stealthily by the guidelines. That seems fundamentally wrong, and if the House will forgive me for saying so, fundamentally deceitful.

It seems to me that the way in which pubs and clubs are managed is a key factor in explaining why some venues generate disorder and others do not. Local councils should be able to attach conditions to licences, for example, on drinks promotion. All those things are denied, however, by the guidelines.

I want to make another point on the question of fees. Much has been said about the fees, and the hon. Member for South Dorset (Jim Knight) mentioned the idea that they would perhaps cover the costs of councils. The new multiplier for town and city pubs will have little impact, however, as most such premises are in rateable value bands of A and B. It will have only a limited effect in London. Most high-band premises are likely to be town halls, hotels, supermarkets and schools. In most local authority areas, only 5 to 10 per cent. of licensed premises are in bands D and E. I represent a prosperous part of Essex with high levels of council tax in terms of capital value, but although one would expect that to be reflected in the rates, in the Brentwood borough council area just 6.7 per cent. of premises are in bands D and E, and 80 per cent. are in bands A and B. In hard numbers, there are seven premises in band D and 11 in band E. Those 18 are Brentwood leisure centre, a number of supermarkets and the secondary schools. No public houses are involved.

Given that revaluation is about to occur, any licensee with an eye to cost will put in for a new licence immediately to benefit from what are currently relatively low rateable values. Revaluation will mean dramatic changes in the figures. Licensees will put their applications in early to save money, and from February onwards authorities will be smothered in sacks upon sacks of applications. That is why the figures given by the Home Secretary and the Minister are so far off the mark.

There has been a move towards a concession in the review. I am glad that the Home Secretary committed himself today to a review that will examine local authorities' transition costs, the level of fees and the size of committees, for all those things are important.

An important transfer of responsibilities to local authorities has been seriously undermined by the diminution of the role of councillors in speaking up for their local populations and the people whom they represent. What was sold to us as local democracy and local people working things out together has deteriorated into what is simply local management of a licensing system that is devoid of democratic accountability.

2.52 pm

**Charles Hendry** (Wealden) (Con): It is a pleasure to take part in this important debate. I agree with my right hon. Friend the Member for North-West Hampshire (Sir George Young): the debate is not remotely concerned with how the overwhelming majority of law-abiding citizens, especially young people, live their lives. We know that they often live in a night-time culture, that they like going out at night and that drink is part of that culture, but the vast majority behave in an extremely responsible way. The debate is really about delaying the change in the laws to take account of growing public concern about the antisocial behaviour that already exists.

Perhaps the most surprising thing that has emerged from the debate so far is the Liberal Democrats' commitment to reducing to 16 the age at which people

will be allowed to buy drink. That is very irresponsible. It may be welcomed by 16 and 17-year-olds, but it will cause profound concern to parents, the medical profession, charities working with addiction, the police and many others. I hope that the Liberal Democrats will be prepared to reconsider.

**Mr. Don Foster:** I am slightly perplexed by the juxtaposition of the hon. Gentleman's opening remarks, in which he praised the vast majority of young people for behaving responsibly, with his later comments. Does he not believe that 16 to 18-year-olds can behave responsibly? If he does, does he not believe that they can therefore treat drink responsibly?

**Charles Hendry:** I certainly believe that the overwhelming majority behave responsibly, and would behave responsibly; but if the hon. Gentleman consults the charities working in the sector, the medical profession and the police, he will learn that they have serious misgivings about the extension that he proposes.

Today, however, we are obviously focusing on the Government's position. I am afraid that I thought the Home Secretary's speech was characterised primarily by a sense of complacency, which did not seem to take account of the depth of the crisis that we already face. This issue does not just affect big cities; it has spread to small towns. My constituency contains four medium-sized towns containing between 10,000 and 20,000 people, and antisocial behaviour linked to alcohol and the crime that accompanies such behaviour are an increasingly regular problem in those communities. Even the smaller villages containing 3,000 or 4,000 people are experiencing alcohol-related problems, including crime, which were unknown just a few years ago.

My right hon. Friend the Member for Haltemprice and Howden (David Davis), the shadow Home Secretary, said that the cost of alcohol-related crime was £7 billion a year. That is an horrific and frightening figure. Perhaps we should set it against the amount that the Government will make from the change in the licensing hours. They will gain extra money from income tax and national insurance, extra money from VAT on the extra alcohol that is served, and extra money from corporation tax on the extra profits that are made. Yet they say that they should bear no responsibility for the associated costs of disruption and crime that will follow the change, which I consider very irresponsible.

It goes further than that, however. The Government cannot claim to be the party to solve the current problems when they must bear responsibility for the growth of those problems in the first place. Reference has been made to their campaign at the time of the last election:

> "Cldnt give a XXXX for last orders? Vote Labour for xtra time."

I am encouraged by the recognition on the part of the hon. Member for Selby (Mr. Grogan) that that was an ill-thought-through campaign. It was not targeted at the majority who will drink responsibly; it was deliberately designed to say to young people "Vote Labour. Get a Labour Government, and go out and get hammered at night." It was an irresponsible campaign, and the Government should take responsibility for it. They must take the blame for the fact that alcohol-related crime and binge drinking are at their worst ever levels. They worked to encourage that culture—they thought it would be cool to be the champions of late night drinking—and now they face the consequences as the majority who do not want that kind of society rise up in anger.

The Government have also shown shocking naiveté. The Home Secretary must be the only person who believes that longer opening hours will not lead to more drunkenness. We must ask ourselves why the publicans would want the longer hours. Do we honestly believe that if they thought the same people would be drinking the same amount of alcohol, but over a longer period, they would be keen to stay open for longer? Their staffing costs would rise, their takings would stay the same and their profits would go down. The publicans only want to stay open because they know that people will drink more. We must be in no doubt that, as a result of these changes, some people will become more drunk, and the consequences will be more serious. The Home Secretary also seems to make no distinction between all-day drinking and all-night drinking. The culture that goes with night-time drinking is very different.

It is clear that the Government simply do not recognise the misery that drunken behaviour causes. It is not just the violence; it is the noise, the rowdiness, the rudeness and the threatening behaviour that so often accompany drunkenness. Nor do the Government take account of the consequences. They take no account of those who must clear up the broken glass, those who must dodge the sick left on the pavement the following day, and those who must put up with the smell of urine that is left behind. Those are things that have blighted communities and made living in too many of our town centres a misery for people—people on whom the Government have turned their back. People want a Government who will deal with the root causes, and not just bandage the problems that they have allowed, even encouraged, to get worse.

**Mr. Andrew Turner:** There are further consequences in terms of the number of admissions to hospital accident and emergency units, of which I understand 70 per cent. are rooted in alcohol. Most instances of domestic violence are also rooted in alcohol, and many take place at night.

**Charles Hendry:** My hon. Friend is entirely right. Some time ago, I spent a night with the Sussex ambulance service and my respect for the people doing such work knows no bounds. Every single call responded to that night, bar one, was related to drunkenness or drugs; only that one call involved an immediate medical problem. Such people are right in the front line, and they also have to deal with very aggressive and dangerous behaviour.

We need tougher action to be taken, and I welcome what the Home Secretary said about tightening up on the sale of drink to people below the legal age. But I hope that the Government will go further, and that the Secretary of State for Culture, Media and Sport will say something about how we tackle the false identity documents that so many young people possess these days. Not only do some young people photocopy

*[Charles Hendry]*

their passport and then change the date of birth electronically, thereby producing what appears to be a copy of a legitimate passport; they can also get false ID cards online. To do so, they simply give a date of birth, and no verification of it is sought. So those who are doing their best to be responsible are sometimes thwarted by young people who carry false ID cards.

The people who bear the brunt of these problems are of course the police, whose concerns have already been discussed at some length today. Just last week, the chairman of the Sussex police authority wrote to the Home Secretary. In that letter, copies of which were provided for local Members of Parliament, he expressed concern about the impact that such changes will have on police officer recruitment and training in particular. He said:

"It has been widely acknowledged that if people are drinking longer and later, our towns and cities will be busier and people will be drinking more. The result will be more people under the influence of alcohol or drunk, and this will result in more crime and disorder.

The implications for Police Forces in terms of additional workload are significant and officers will have to be diverted from other policing priorities and activities to undertake enforcement activity against those who are drunk and disorderly.

If drinking establishments were allowed to open until three or four in the morning the police would have to take officers off day shifts in order to do their job effectively at night.

However, I am particularly disturbed by recent comments from ministers that simply introducing a levy on the drinks industry will pay for the extra cost of policing the effects of binge drinking. Of course the industry—as a major contributor to the problem—should meet the lion's share of the costs, but these comments make huge assumptions that Police Forces will easily be able to recruit police officers and attract young people to a career which fundamentally involves policing anti-social, violent binge drinkers."

The chairman has put his finger on an extremely important issue. The nature of policing in our communities will change, and the police will be spending more time dealing with some of the most aggressive, violent and rowdy people. At the moment, such behaviour is contained within a certain period, following closing time. However, if such changes go through, that behaviour will be spread over a much longer period and the police will have to deal with more aggressive and drunk people. We need to take this issue very seriously indeed.

I believe that the Government want to push these changes through at such speed because they want to appear cool, but these changes are neither cool nor clever. In my role as shadow Minister with responsibility for young people, I probably go to more youth clubs, schools, colleges and universities than most Members do. I know from the young people I meet there that their first concern is crime and their safety. That is not surprising, because young people are more likely—twice as likely as the average person—to be the victims of crime than any other section of the community. They are also more concerned about crime. Their fear of crime is greater, which is not surprising, given that their experience of it is so much greater than the average. They want to be able to go out and enjoy themselves, and they want the Government to clamp down on alcohol-linked antisocial behaviour.

It is therefore extremely important that the Government think again and provide some extra time, so that the issue of flexible opening hours can be addressed—we all agree that it must be addressed—and that the urgent issues of alcohol-related crime, binge drinking and antisocial behaviour can be dealt with first.

3.04 pm

**Mr. Mark Field** (Cities of London and Westminster) (Con): Let us for once be wise before the event. The Government cannot claim that they have not been warned by Members on all sides of the House—let alone by the police, the medical profession and smaller, independent, family-run licensed businesses—about the consequences of the Licensing Act 2003. I hope that we can put its implementation on hold until we have a sensible strategy on antisocial behaviour and binge drinking. To do anything else would be naïve to the point of negligence. Simply Europeanising our drinking habits and licensing laws will not instil in our young people Mediterranean attitudes to alcohol consumption.

I want to explain what lies at the heart of my objections to this legislation, and I should first point out that I do not support the idea of a nanny state. Reference has been made the problems that exist in London's west end. Many bars in Soho and Covent Garden already have staggered licensing hours; indeed, the same is true of much of central London. The myth has arisen that this country has a pre-first world war licensing regime. The hon. Member for Selby (Mr. Grogan) referred to the brooding presence of Lloyd George in debates on licensing matters, but licensing hours, particularly in our larger towns and cities, have already developed well beyond those days. My own constituency contains a number of bars and pubs that remain open well beyond 11 o'clock; indeed, some remain open until as late as 3 o'clock in the morning. I am afraid that flexible licensing has not made a great deal of difference to much of the behaviour on our streets.

I must confess that I am instinctively a libertarian: I do not like imposing lots of rules and regulations. I can understand part of the Government's thinking, and it is an important part. They want to take a much more flexible attitude, and I only wish that we could rely on many of our citizens behaving responsibly. I want to discuss my own constituency not because it is entirely unusual—that said, Westminster has more alcohol licences than any other borough in the country—but because it underlines the point that without that sense of responsibility, we cannot ensure that we will create the sort of world in which we would like to live.

In Soho and Covent Garden—a part of London that I share with the right hon. Member for Holborn and St. Pancras (Mr. Dobson)—the great majority of the residential population are not necessarily there out of choice. I have always believed that those who buy a property next door to a football ground or a pub have to expect a certain amount of disruption. In a previous life, I was a member of the planning committee of the royal borough of Kensington and Chelsea, which often debated such matters. It struck me then that to buy a property knowing that certain problems would arise because it was near a large entertainment venue, and then to complain about such disruption, was the

height of selfishness. However, some 60 per cent. of the population of Soho and some 70 per cent. of the population of Covent Garden—many thousands of people—are living in some form of social housing. They have very little choice about where they live, and many of them constitute some of the most vulnerable in our society. They are trying to bring up their families in the face of appalling disorder.

My hon. Friend the Member for Wealden (Charles Hendry) rightly referred to the debris that we see on our streets. Indeed, we see it day in, day out on the streets of Soho and Covent Garden. In addition to rubbish, urine and vomit, we sometimes come across used needles and the other detritus that is part and parcel of a "good night out". When the young people living in inner-city London discover such detritus outside their schools, churches and church halls—the places that constitute the very heart of our inner-city communities—that creates an extremely difficult situation.

It is often forgotten that places such as Leicester square have a thriving residential population. Some 10,000 people live in Soho and Covent Garden, which combined constitute an area of some two and a half square miles. We need to encourage vibrant residential populations not just within London, however, but within all our cities. For the first time in two centuries, inner-city populations are rising in places such as Leeds, Manchester and Liverpool. That is greatly to be welcomed, but we need the civilising force that a genuine sense of community would provide.

I am not against the alcohol trade at all. In Standing Committee, many of the Act's most vocal supporters came from the smaller, family-run outfits, who felt that they were being driven out of central London. One of the greatest pities is that the larger alcohol and entertainment businesses have little stake in our communities and therefore little sense of the needs of inner-city residential populations. As several hon. Members have pointed out, they are able to employ the most expensive lawyers to ensure that they maintain their licences.

I am not against young people having a good time either. I suspect that I am the youngest hon. Member in the Chamber at the moment—although I am not as young as I should like to think, having already celebrated my 40th birthday. However, the selfish and loutish behaviour evident in our towns and cities is simply unacceptable. We should try to cultivate civility, good manners and consideration. In addition, the inner cities should be places where families can thrive, as well as places where people both old and young can enjoy the available resources. We need to ensure that a sense of community runs from cradle to grave.

While we are in the business of exploding some myths, there are a few others that I would like to consign to oblivion. To put it charitably, the Prime Minister could be said to have been inexact in his recollection of events when he argued at last week's Prime Minister's Question Time that the Conservative party was jumping on a bandwagon, having previously supported this Act. That is not the case: we had a robust debate in Standing Committee, and we also opposed the legislation on Third Reading. We divided the Committee umpteen times, and our opposition to the Act has gained many third-party endorsements.

The boorishness and vulgarity promoted by many members of the celebrity media shame our cities and towns, but we also face the unedifying spectacle of a Government in a wild panic as they try to close down what they see to be a public relations disaster. The hapless rearguard action being led by the Home Office and the Secretary of State for Culture, Media and Sport is rather pathetic. Since last weekend, we have heard much rhetoric about banning orders, on-the-spot fines and the "three strikes and you're out" response. That rhetoric is getting louder and brasher, but as ever with this Government, it is all about spin. The Government are more concerned about getting headlines than controlling the real problem that faces us.

How in heaven's name can any of the new rules be enforced if we do not have the necessary police and transport infrastructure? We asked those questions two years ago, when the Bill was in Committee, and it is unfortunate that we are no further forward in ensuring that we have that infrastructure. It is all very well to have endless rules and regulations on the statute book, but they will have no value if we cannot enforce them through tough and effective policing.

The astronomical proposed increase in flexible licence fees may help local authorities recoup some of the administrative costs that the Department for Culture, Media and Sport has been so reluctant to underwrite. However, what will be the cost in the longer term? Ministers must understand that the legislation will have a most serious effect on small, responsible, family-run bars, restaurants and pubs—the very establishments that we should be looking to encourage, as they would ensure the civilised nature of our towns and cities to which I referred earlier.

I fear that the agenda will be set instead by the all-powerful alcohol industry and its close cousins, the large-scale entertainment operators. They were the driving forces behind much of this legislation, and no doubt they will become handsome contributors to the Labour party's coffers.

I could say a lot more, but I know that time is running out. I wanted to touch on the point so ably made by the right hon. Member for Holborn and St. Pancras about the many undertakings that have been swept away. They worked well and provided an effective mechanism for allowing residents, local councillors and businesses to have a real say under the old procedure. I regret their loss.

I shall end as I began: I am not a killjoy, and I do not support restrictive, nanny-state regulations. I wish that everyone could be responsible, civilised and courteous, but we must face the facts in respect of our society. What sort of cities should we aspire to have in 20 or 30 years? Do we want there to be no-go zones? Do we want there to be a commercial free for all in inner cities bereft of a residential population? Do we want Governments of whatever colour enforcing on a daily basis banning orders on drinking, on-the-spot fines for people roaming the streets late at night, and implementing the "three strikes and you're out" policy?

The lesson of regeneration in the cities to which I referred earlier is that it is vital that our cities have vibrant and articulate residential populations. I spend a lot of time speaking to residents associations in the villages that make up central London. The people to

*[Mr. Mark Field]*

whom I speak are passionately proud of their sense of community and want to develop it. I want our cities to be wonderful places for families, but any sensible observer would concede that this Act, as it stands, undermines their very fragile balance. I beseech the Government to think again, and to work to get the legislation right.

3.16 pm

**Mr. Desmond Swayne** (New Forest, West) (Con): I went to university in Scotland, some considerable time ago. When I first arrived, people who wanted to get a drink on a Sunday had to go to a hotel, as bona fide travellers. Since then, the word "traveller" has acquired an unwelcome connotation, but there has been little progress when it comes to licensing.

The licensing Act 2003 is a dreadful measure. I am glad that I voted against it. It introduces licensing flexibilities, but at an enormous cost. I have already spoken in the House about the experience of my constituent, Mr. John Crosthwaite-Eyre. He has been told that the licence for his Dunwood Manor golf club will rise from £16 to £1,145. That will not secure a more flexible licence that extends opening times beyond what was previously available. The new licence will only allow the club to open as it has always done.

That huge increase in cost is presumably a consequence of the shift from magistrate licensing to local authority licensing. I understand the rationale behind that, as it will lead to greater public accountability. However, we have already heard about the regulations that will remove any real accountability, as they will prevent councillors from representing the localities to which they are supposed to be accountable.

Some months ago, my wife and I had the misfortune to have to go on a mission of mercy—we had to accompany a friend to casualty on a Saturday night. The local general practitioner had diagnosed an infection in our friend's joints, and had recommended that the lady concerned should be taken to hospital in Southampton. We arrived in casualty to be greeted by a scene that could have been painted by Hieronymous Bosch. I could not believe it—there was blood and vomit everywhere, and people were arguing and fighting. Some of the "clients"—if one can call them that—made it clear that what we witnessed was a typical Saturday night, and that impression was reinforced by the staff. Many people consider ending up in casualty on a Saturday night as part of what habitually happens. It is, to them, unremarkable that one might end a Saturday evening with a trip to casualty.

By contrast, the Government have held out the prospect of a café culture, with a more Mediterranean approach to drinking habits. I can understand the attraction of that.

The hon. Member for Selby (Mr. Grogan) gave us a good illustration of what happens in a pub as we approach closing time. However, I do not swallow the argument that the problem that a minority of our fellow citizens have with drink arises because of the confines of our existing drinking laws and that by getting rid of them we will be able to move to the sunny uplands of a café culture. I just do not believe that. The cart is being put before the horse. We have to analyse the real causes of our problematic drinking culture and then we will, perhaps, be able to liberalise our drinking laws in the hope that that will lead to more sensible drinking. But it is madness to do it the other way round and assume that the benefits that are enjoyed by certain Mediterranean countries will automatically flow to us simply by liberalising our licensing laws, when we already know that we have a severe problem.

I am glad that the hon. Gentleman recognised the irresponsibility of the text message that was sent to young voters just before the last general election. It bears repetition:

"Cldnt give a XXXX 4 last ordrs? Vote Labour 4 xtra time".

That is not a message for people seeking to enjoy a café culture. It has a wholly different connotation.

There may be additional marginal benefits for people who wish to drink at any time in a 24-hour period. However, I cannot understand the desire to drink at 7 am, unless one is suffering from a dreadful toothache or something similar. The benefits and convenience will accrue to those people who wish to drink at 7 am, but enormous inconvenience will be caused to my constituents. My hon. Friend the Member for Cities of London and Westminster (Mr. Field) made the point about the residential population of places such as Covent Garden. My constituency is typified by small towns—for example, God's own town of Lymington—in which the High street contains not only commercial premises but people's houses. It is a residential area, but those who live there have to endure the problems that arise as drinkers approach pubs, at closing time and after closing time. I do not believe that those problems will be solved if closing times are staggered so that people are not thrown on to the street at the same time. The reality for my constituents will be that the agony will be prolonged. Frankly, that is not an experiment that I want to see take place. I would prefer the benefits to be established before it happens in Lymington.

Labour Members—I exclude the right hon. Member for Holborn and St. Pancras (Mr. Dobson), because he has a long and honourable record on the issue—seemed to be over-sensitive when they intervened on my right hon. Friend the Member for Haltemprice and Howden (David Davis). The tenor of their interventions was not that my right hon. Friend's argument was wrong. Indeed, the premise of their interventions was that they accepted entirely what he was saying. They merely complained that he had not said it sooner. They implied that it was the job of the Opposition to discover the falsehoods inherent in the Government's arguments and statistics. Well, those Labour Members were wrong in fact, because many of us have been making such points for some time—perhaps not as vocally as we should have done—and they also attempted to absolve themselves from any responsibility for holding the Government to account. It is not only the Opposition who are responsible for holding the Government to account the entire House of Commons, but—indeed, it is the entire Parliament. Part of our problem with the passage of legislation is the acceptance that scrutiny is down to the Opposition. If more Labour Members had taken the lead from the right hon. Member for Holborn

and St. Pancras, given that their influence over the Government is likely to be much greater than ours, we might have made more progress than we have.

**Jim Knight:** I am sure that the hon. Gentleman will have noticed that during this Parliament, Labour Members have done their best to hold the Government to account on a range of issues. Labour Members have shown great independence from Government, as is evident from their voting records. The problem is that when the Opposition are slow to discover their opposition, it looks as if they are jumping on a bandwagon.

**Mr. Swayne:** I accept entirely that several Labour Members have a good record of voting against the Government. I urge them to do it more often—

**Madam Deputy Speaker:** Order. Perhaps hon. Members would return to the motion under discussion.

**Mr. Swayne:** Precisely, Madam Deputy Speaker.

The hon. Member for Bath (Mr. Foster) was very honest in his speech when he made the profoundly shocking admission that the Liberal Democrats' policy is to reduce the age at which alcohol can be consumed legally. In my constituency, we have a problem with under-age drinking and the disorder to which it gives rise. That criminality could certainly be avoided at a stroke by reducing the age at which alcohol can be consumed, but does it really address the problem?

**Mr. Andrew Turner:** Is it not curious that the Liberal Democrats believe that the introduction of the measures in this Act should be delayed pending a resolution of the problems of binge drinking, but have said nothing about delaying the reduction in the age at which youngsters could buy alcohol pending resolution of the problems under-age drinking causes? Presumably, the Liberal Democrats know that they will never be in a position to deliver that reduction.

**Mr. Swayne:** That is the key point. We should not for one moment assume that a reduction in the age at which alcohol can be purchased will lead to a lessening of the problems that arise from young people acquiring and consuming alcohol. However, I reassure my hon. Friends that there is not the remotest prospect of such a policy being implemented. When I knock on doors and discuss the voting intentions of constituents, I am sometimes tempted to terrify them with Liberal Democrat policies—

**Madam Deputy Speaker:** Order. There is no reference to voting intentions in the motion.

**Mr. Swayne:** If my constituents were to be worried about the prospect of a reduction in the age at which alcohol may be purchased, I would seek to reassure them that the likelihood of that happening lay in their own hands.

3.28 pm

**Mr. Andrew Turner** (Isle of Wight) (Con): In the few moments available to me, I want to read an excerpt from the Government's favourite newspaper, the *Daily Mail*, and invite the Minister to intervene on each and every occasion when something in the article by Steve Doughty on 13 January is wrong. She has an open invitation to do that.

The article says:

"Experts who prepared a report for the Government stressed that increasing availability of alcohol could have dangerous results, and cited examples round the world."

Is that untrue? I ask the Minister.

"But this evidence was cut out of a 'sexed-down' dossier published last year."

Is that untrue? The Minister glances at the sky.

"The report, Alcohol Harm Reduction Strategy, was produced with the help of 17 experts."

I take it that there is no dispute about that. It goes on to say:

"First drafts contained a key passage which said: 'Restrictions on availability reduce consumption and general levels of harm. Relaxing availability increases general harm whether through more outlets (Finland), denser outlets (California), or longer hours (Western Australia) . . . When the final version of the report appeared, no reference to the effects of extending drinking hours was left in.

Is that true? I ask the Minister.

"Instead the report carried a soothing foreword by Tony Blair which declared that the report showed 'the best way to minimise the harms is through partnership between government, local authorities, police, industry and the public themselves'."

I ask the Minister—why were those changes made?

"Some medical experts who contributed to the report were so alarmed that they contributed to an independent report ultimately published virtually simultaneously with the Downing Street dossier by the Academy of Medical Sciences."

The Government really have to explain why those of us who served on the Standing Committee and took part at such length in its proceedings were not provided with accurate information by the then Minister for Tourism, Film and Broadcasting, who is now the Minister for Lifelong Learning, Further and Higher Education. I do not know whether it was his fault, the fault of the Department of Culture, Media and Sport—in which case, the Secretary of State can doubtless answer—or of the Prime Minister, who once again removed information that should have been put before Parliament. It is most important that, if nothing else, we hear the answer to that in the Minister's winding-up speech.

3.31 pm

**Mr. John Whittingdale** (Maldon and East Chelmsford) (Con): When the Home Secretary made his speech at the beginning of the debate, I think that he said that he agreed with the first quarter of the remarks made by my right hon. Friend the shadow Home Secretary. Almost every person who has spoken in the debate would agree about the seriousness of the problems that we now face—binge drinking, alcohol-related violence, the implications for the health service and the damage to the quality of life of people living not just in our inner cities but in towns throughout the country. I represent a rural area, and the problems are as serious for my constituents as they are for the constituents of my hon. Friend the Member for Cities of London and Westminster (Mr. Field).

*[Mr. John Whittingdale]*

The problems have always been at the centre of the debate surrounding the Licensing Act 2003. When the Bill received its Second Reading 22 months ago, the Secretary of State for Culture, Media and Sport began her speech by pointing out the cost to the nation of alcohol-related disease and the growing problem of alcohol-related violence. She then specifically defended the proposals in the Bill on the basis that:

"Abolishing arbitrarily fixed closing times means that the incentive to drink as much as possible before closing time at 11pm will go. Disorder and nuisance will be reduced as the concentration of people on the street at closing time will fall."

She went on to claim:

"The abolition of fixed closing times and its effect on binge drinking ties the Bill very closely to the national alcohol harm reduction strategy." ."—[*Official Report*, 24 March 2003; Vol. 402, c. 57–8.]

In the same debate, we pointed out that many people disputed this view and that, in particular, there was international evidence that did not support it. Indeed, a number of police officers and local authorities had also questioned it. However, what we did not know at that time was that this view was also disputed by many in the Government as well and that the assurances that the Government were acting in accordance with the views of the police and their own advisers on alcohol reduction were not correct.

We now know that the draft alcohol harm reduction strategy circulated to the Cabinet in August 2003 stated:

"Relaxing availability . . . increases general harm whether through more outlets (Finland), denser outlets (California) or longer hours (Western Australia)."

However, when the interim strategy was published the following month, that sentence was removed because, in the words of the Secretary of State, it was misleading and based on a highly selective review of the available evidence. That seems to represent a strong attack on the competence of the Prime Minister's strategy unit, which drafted the document.

The unit was not alone in the Government in expressing its concern. We now know that the Home Office's crime reduction director said a year ago:

"The Licensing Act will make matters worse. Binge drinking is a particular problem".

The then Home Secretary apparently said that plans to allow 24-hour drinking were a leap in the dark that risked worsening the situation of violent crime and yobbish behaviour.

Too many of our towns and cities are already becoming no-go areas at night because of the activities of drunken yobs. Prior to the passage of the Licensing Bill, I spent a Friday night in the west end with licensing officers from Westminster city council. We visited several large clubs—I believe that they are now known as vertical drinking establishments—each of which was packed with more than 1,000 people who appeared to have the sole purpose of drinking as much as possible in the time available. I also spoke to residents of Soho that evening, and my hon. Friend the Member for Cities of London and Westminster has referred to their experiences every weekend and the fact that their quality of life had been destroyed as a result. After entering the home of one resident to talk about the scale of the problem, I emerged to find that someone had vomited on his doorstep. He said, "Don't worry. It'll probably be the first of three or four occasions when that happens tonight." I have also spent a night with the police in Chelmsford in my constituency. Over the course of about six hours, almost every incident that we attended was related to excess drinking and the fights, vandalism and yobbish behaviour that result from that.

According to the Government's figures, alcohol misuse is costing £20 billion a year. It accounts for half of all violent crime and up to 70 per cent. of admissions to accident and emergency departments. It accounts for about 17 million lost working days and 22,000 premature deaths. Of course, the Government are right to say that those figures reflect the present situation and thus cannot be blamed on the relaxation of drinking hours, which is yet to take effect, but they cannot ignore the list of experts who unanimously predict that extended opening hours will make the problem worse.

Although the Association of Chief Police Officers' original response to the White Paper supported flexible opening hours, subject to caveats, even then it pointed out the danger that they could lead to

"an unintended and much later uniform closing time . . . when fewer police resources are available and facilities such as transport are more limited".

Since then, it has expressed greater concern by warning:

"The result will be more people under the influence of alcohol or drunk and this will lead to more crime and disorder".

The Chief Inspector of Constabulary said:

"it may be pouring people out on the streets at different times but that's in an even worse state of inebriation".

The Police Federation said:

"Our officers' experience is that if even more alcohol becomes available through 24-hour opening there can be only one result: even more drunkenness".

We now learn that the medical profession, too, is united in its opposition. The chairman of the Royal College of Physicians alcohol committee has said:

"we are facing an epidemic of alcohol related harm and to extend the licensing hours flies in the face of common sense as well as the evidence from other countries".

An A and E consultant at St Mary's hospital, Paddington, has said:

"Ireland and Australia have seen a huge increase in alcohol consumption and attendances at A&E departments have also soared."

The Irish Medical Organisation has said:

"The Royal College is right to be concerned. The evidence from Ireland shows that if the pubs open all night then people drink all night".

However, let us remember that the Prime Minister's strategy unit document pointed out overseas experience, but the Secretary of State removed that by suggesting that it was a highly selective review of the evidence.

Yesterday, we debated the Gambling Bill on Report. The Government appeared for a long time to dismiss the concerns of those who warned against the dangers of gambling addiction that could result from the introduction of mega-casinos into the UK, yet in that same Bill the Government proposed to place draconian restrictions on family seaside arcades for which no evidence of harm has ever been produced. Today, in the

Licensing Act, we face an almost identical situation: the Government are pushing ahead with the introduction of extended opening hours against a chorus of opposition from the police, doctors and experts in alcohol addiction. Yet, in the very same Act as my hon. Friend the Member for New Forest, West (Mr. Swayne) pointed out, they are forcing local voluntary sports clubs to pay massively increased fees for a licence to run a bar at the end of a game. Last week, the chairman of the Central Council of Physical Recreation said:

"In the Government's quest to appear tough on binge drinkers, it has penalised sport and recreation organisations that do so much good in the community . . . It is completely unacceptable to devastate the British sporting landscape just so the Government can appear tough on crime."

It seems extraordinary that, with the same piece of legislation, the Government are going to drive out of business many sports clubs, which play a vital part in increasing the fitness of the nation and therefore improving the health of the nation, while ignoring all expert advice and going ahead with extended opening hours, which will lead to more drunkenness, more violent crime and more alcohol-induced illness and death.

In the course of the debate, we have heard extremely good speeches from hon. Members on both sides of the House. The right hon. Member for Holborn and St. Pancras (Mr. Dobson) is fully justified in claiming to have been consistent on the issue: he has indeed campaigned on it for many years and it is a pity that he was not listened to earlier. The hon. Member for Bath (Mr. Foster) made some sensible comments—I often find myself agreeing with him. Like my hon. Friend the Member for Brentwood and Ongar (Mr. Pickles), he pointed out some of the difficulties that local authorities will have in taking advantage of the powers once the guidelines have tied their hands. However, like many of my colleagues, I found extraordinary the hon. Gentleman's confirmation of the Liberal Democrat policy of reducing from 18 to 16 the age at which people are able to purchase alcohol and drink in pubs. When we are facing a significant increase in under-age drinking and the problems to which it leads, to cut the age at which people are allowed to drink seems a curious solution.

My right hon. Friend the Member for North-West Hampshire (Sir George Young) made some interesting observations drawn from his experience of participating in the police parliamentary scheme, and he described methods being adopted in Southampton. It is true that a co-ordinated approach is required and many of the strategies being adopted by the police in places such as Southampton bear examination. The hon. Member for Selby (Mr. Grogan) rightly pointed out that the problem is not a new one: it goes back many years. He honestly admitted that the spin put on the policy by Millbank's sending out that famous text message contributed little to the arguments in favour of it.

It was my hon. Friend the Member for Brentwood and Ongar who made some important observations about the difficulties that local authorities will have in implementing the legislation and using their powers to control binge drinking. He supported the transfer of responsibilities to local authorities. We had some reservations about that when it was proposed, but we accepted the case for transfer, albeit only if local authorities were able to use those powers properly. My hon. Friend pointed out one or two serious problems that have since been discovered in the published guidelines—in particular, the fact that a local ward councillor is considered to be biased and will therefore not be eligible to vote on the proposal to approve an application for an extended opening hours licence. As my hon. Friend said, the one person who knows the circumstances best of all in that ward is undoubtedly the ward councillor. Yet he is disqualified. Equally, parish councils are not able to make representations. The ability of local authorities to control excessive drinking will be severely constrained as a result. I hope that the Government will revisit this matter.

My hon. Friend the Member for Isle of Wight (Mr. Turner) made the important point that when we came to consider what is now the Act, 18 months to two years ago, we did so without the Government telling us of the analysis that had been carried out within Government and of the advice that they were receiving outside Government. Given what we now know, we consider that the Government should pause. The degree of opposition from the police, the medical profession and other experts is so great that it would be foolish for the Government to press ahead without pausing and carrying out a thorough assessment.

On the Gambling Bill, the Government agreed to retreat. They agreed to introduce a pilot scheme before allowing mega-casinos to come to this country. There is an identical case here. We have the evidence before us. I hope that the Government, even at this late hour, will stop and think again.

3.46 pm

**The Secretary of State for Culture, Media and Sport (Tessa Jowell):** Along with my right hon. Friend the Home Secretary I, too, welcome the debate. It provides an opportunity to deal with what are literally shoals of red herrings swirling around the issue. If a fraction of what some newspapers and Opposition Members are saying were true, I would not be defending these policies and nor, I suspect, would many of my right hon. and hon. Friends.

I start with where I think we have established a clear consensus, which is that in this country we have a severe problem with drink, drink-related crime and behaviour that is associated with people getting drunk. Throughout the country, alcohol-related disorder is rising. As many Members have described graphically, groups of yobs make some streets in some of our cities no-go areas at night. Too many of our young people have a drinking culture that encourages binge drinking—the deliberate drinking of too much too quickly so as to get drunk. Rightly, there is public concern about that and right hon. and hon. Members reflect that concern.

It is important to recognise that the status quo is the problem, not the Licensing Act 2003, which, although it secured Royal Assent two years ago, is not yet in effect.

I take seriously the claim of the right hon. Member for Haltemprice and Howden (David Davis), which was repeated by the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale), that somehow the evidence that underpins our strategy has been tampered with. I commend to the House the interim analytical

*[Tessa Jowell]*

report, the research evidence that provided the background for the alcohol harm reduction strategy, which gives an unvarnished account of the harm that alcohol does in all its various ways.

There is the question of what fuels an increase in drinking. By and large, we drink less than some of our European counterparts. There is a debate among the experts, as rigorous examination of the various research will reveal. There is a debate about price, and the price of alcohol is falling in this country. The price of alcohol in supermarkets is much less than it is in a pub. It is possible for someone to get drunk for much less money if they buy alcohol from a supermarket or from some off-licences. There is a strong body of support for the belief that that is principally driving the increase in binge drinking and alcohol-related disorder.

Other evidence about the impact of opening times was obviously considered. My right hon. Friend the Home Secretary set out clearly the evidence from the legislation in Scotland and the Isle of Man. There is also evidence of the impact of reduced consumption following the liberalisation of the licensing laws by the previous Government in 1988.

**Charles Hendry:** In her heart, does the Secretary of State believe that if the pubs are open longer, people will drink more, less or the same?

**Tessa Jowell:** I believe that there will be less drunkenness if we link the impact of flexibility and decisions made by local authorities in the knowledge of their local communities with the tough action that my hon. Friend the Minister for Crime Reduction, Policing and Community Safety announced on Friday to tackle the yob crime and disorder that causes concern among Members on both sides of the House.

**Mr. David Watts** (St. Helens, North) (Lab): Although I agree with the main thrust of Government policy, does my right hon. Friend agree that a major problem is caused by pubs and clubs continuing to sell alcohol to individuals who are obviously drunk? If we are going to tackle binge drinking, we need far more effective enforcement procedures in pubs and clubs.

**Tessa Jowell:** My hon. Friend is right. There are two ways in which we intend to strengthen those procedures. First, it is an offence for a licensee to sell alcohol to someone who is drunk. By giving local authorities the resources for greater enforcement of the new powers, we intend to ensure that they will undertake inspections that will reveal the pubs and clubs where that is happening. We also intend to make that subject to a fixed penalty.

No one is claiming—I am certainly not—that the Licensing Act alone will heal all the problems of alcohol and alcohol-related crime. However, we will not achieve a solution for the problems that we face without that Act, which is part of a bigger jigsaw of pieces that must be put in place if we are to make progress. The 2003 Act directly complements the alcohol harm reduction strategy, which was published last March and aims to reduce significantly the harm that alcohol causes. By linking the impact of the Licensing Act to public health education and to the targeted powers heralded in the alcohol harm reduction strategy for tackling disorder, we can begin to change the behaviour of young people. The strategy includes the development of a code of practice that addresses irresponsible sales promotions. Many young people drink too much too quickly as a result of promotions that encourage them to drink all they can for £9.99. Those promotions are designed to do nothing but encourage drunkenness. We can make responsible conduct of premises, which involves not promoting drink in that irresponsible way, a licence condition. We can also work with the industry, the best and responsible parts of which want an end to such promotions.

**Ms Dari Taylor** (Stockton, South) (Lab): Does my right hon. Friend accept that some licensees already want to take up the mantle of responsibility? Over three nights, well over 6,000 young people visit Stockton town centre. Licensees have made a small additional payment to the police, who have agreed to respond quickly to incidents. In two months, there has been a 21 per cent. reduction in violent crime, and it is important that we all acknowledge that.

**Tessa Jowell:** My hon. Friend makes an important point. We do not need to wait for legislation to begin to take action. To her excellent example from Stockton, for which she has been a powerful advocate, I could add BAND—Burnley against Night-Time Disorder—Bedford's Bedsafe, Camden's Glitterball Project, High Peak's Safer Pubs and Clubs, Leicester's NiteRIDER, Liverpool's Crystal Clear, Manchester's City Centre Safe, and Northumberland's Alcohol Awareness plus. All those examples will be familiar to hon. Members in all parts of the House and show how local authorities, publicans and licensees are getting together to solve the problem on a voluntary basis, because they know that such responsibility is good for their businesses.

**Kate Hoey** (Vauxhall) (Lab): Will the Secretary of State give way?

**Tessa Jowell:** No, I shall make progress.

The tough powers in the Licensing Act 2003 also means that, as we have underlined, anyone who sells unlawfully to people who are drunk puts their business at risk.

Before recapping briefly what the new Act will do, let me make it clear what it will not do. It does not promote or encourage 24-hour drinking. That is a myth. It promotes flexible hours as a means of reducing the pressure of last orders. My hon. Friend the Member for Selby (Mr. Grogan) described vividly the risks that that involves. The legislation has been strengthened by our listening to my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson), who is so critical and who argued strongly for the powers that he set out, which are now included in the legislation.

**Kate Hoey:** Will the Secretary of State give way?

**Tessa Jowell:** No, I am not giving way.

The Act presumes that the vast majority of people should be treated like the adults that they are. It is wrong-headed for a Government to tell the entire

population that they cannot be trusted to drink after 11 pm. Our role is to give adults the freedom they deserve, while giving the yobbish minority the rough and tough treatment that they deserve. Remember, the objectives of the Licensing Act are the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. For the first time, democratic accountability will be at the heart of alcohol licensing. I can reassure the hon. Member for Brentwood and Ongar (Mr. Pickles) that he has got it wrong. I am happy to write to him to set out clearly the position of local councillors.

The Act does not just give new powers to local authorities. It empowers the community as a whole. It is astonishing that no previous Government thought to give local residents any say in how their local pub was run. We have done so. For the first time, local residents will have the opportunity to intervene not only when a new licence is being considered and any extension of hours is being proposed, but at any stage after it is granted. The Act also provides a new and expanded raft of powers to enable licensing authorities to respond to residents' concerns. They will be able to add new conditions to licences, restrict the opening hours, suspend licences for one day, a weekend or up to three months, require the removal of a designated premises supervisor, remove an entire licensable activity such as selling alcohol, or as a last resort, revoke a licence.

The Act strengthens police powers in respect of licensing and is tougher on crime and disorder and under-age sales, all of which are contributory factors to the town and city centre disorder that gives rise to such concern. The police have been consistent in wanting resources in support of new powers, but have recognised the potential benefits of flexible opening. Our message to the police is, "We are giving you the new powers and the resources. Now use them to promote the solutions to the problems that cause such concern."

There is an opportunity now for every single Member of this House to act on behalf of their constituents, because every single licence, from 7 February, will be coming up for renewal. The police have the power to object to a simple renewal of any licence. Local residents, councillors, Members of Parliament and area child protection authorities all have the power to object to any variation of the existing licence. Democracy is there, and I urge every Member of the House to use it. I am happy to reiterate in relation to local authorities my previous undertaking that the fee levels to fund enforcement and running the new system will be kept under constant review.

The answer to the problems that we have lies in local democracy, a more responsible drink industry and police with the power to take on the yobs. The problems have developed over years. This Government in this Licensing Act have put out a series of practical solutions that will change our town and city centres for the better. I urge the House to vote for the Government amendment.

*Question put*, That the original words stand part of the Question:—

*The House divided:* Ayes 174, Noes 270.

**Division No. 44]** **[4 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Cash, William
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Galé, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
Osborne, George *(Tatton)*
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Pugh, Dr. John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*

Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Willetts, David
Willis, Phil
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Crispin Blunt and Andrew Selous**

**NOES**

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cousins, Jim
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hinchliffe, David
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
Kidney, David
Killoyle, Peter
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lawrence, Mrs Jackie
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Miliband, David
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Oliver, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*

Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

*Tellers for the Noes:*
**Paul Clark and Margaret Moran**

*Question accordingly negatived.*

*Question*, That the proposed words be there added, *put forthwith, pursuant to Standing Order No. 31 (Questions on amendments), and agreed to.*

MR. DEPUTY SPEAKER *forthwith declared the main Question, as amended, to be agreed to.*

*Resolved,*

That this House considers that failure to implement the Licensing Act 2003 without delay would deny the local community increased powers of intervention and improved democratic accountability with regard to licensing, deny the police the expanded powers that are vital to their efforts to tackle alcohol-related crime and would prevent licensing authorities from receiving income from licensing fees needed to recover on-going expenditure in preparing for the new regime; believes that any delay in the implementation of the Act would undermine the prevention of crime and disorder and public nuisance, damage public safety and hinder the protection of children from harm; further believes that the Act will complement the delivery of the Alcohol Harm Reduction Strategy for England which aims to reduce excessive drinking and the harms that causes; and, furthermore, commends the proposals for Alcohol Disorder Zones and the extension of fixed penalty notices and other measures set out in 'Drinking Responsibly', the consultation paper published jointly by the Home Office, the Department for Culture, Media and Sport and the Office of the Deputy Prime Minister on 21st January 2005.

**Mr. Anthony Steen** (Totnes) (Con): On a point of order, Mr. Deputy Speaker. As you know, a service will be held in Westminster Hall on Thursday to commemorate holocaust day. Do you know of any Members of Parliament from our House who have been invited? Who sent the invitations out for it? As far as I know, no Jewish Member has been invited to attend. Can you give us guidance about who is organising the event and how it is being arranged?

**Mr. Deputy Speaker (Sir Alan Haselhurst):** I understand the hon. Member's concerns but, without considerably more notice, I am afraid that I cannot supply any answers. I know that I have not been invited but, since the event would not take place in Westminster Hall without the authorisation of Mr. Speaker and the Lord Chancellor, the most productive line of inquiry probably lies with the Speaker's Office. I hope that that is helpful.

## Food Supplements Directive

**Mr. Deputy Speaker (Sir Alan Haselhurst):** We now come to the second debate on the Opposition motions. Mr. Speaker has selected the amendment in the name of the Prime Minister.

4.16 pm

**Chris Grayling** (Epsom and Ewell) (Con): I beg to move,

That this House regrets the passing of the Food Supplements Regulations (England) 2003; mandates the Government to use the UK Presidency to renegotiate the Food Supplements Directive with the European Union; and indicates a willingness to repeal the regulations if the renegotiation does not reach a satisfactory compromise to protect the interests of consumers and manufacturers in the United Kingdom.

We move from the sublime to the ridiculous. The Government want us to drink alcohol at all hours but not to take vitamin tablets. The motion deals with an issue that affects millions of our constituents and gives Parliament an opportunity to send a firm message to the Government about our views and to make it clear that the House, not Ministers, is the ultimate arbiter of what happens in this country.

Our debate is not a conventional Opposition day debate and the motion is cross-party. Subject to catching your eye, Mr. Deputy Speaker, the hon. Member for Vauxhall (Kate Hoey) will join me in supporting it. We aim to send the Government a message that the issue is beyond party politics, that hon. Members of all parties share our concerns and that it is time to do something about it.

We know that our concerns are not confined to the Opposition or to Government Back Benchers. The Leader of the House, who is not in his place for the debate, sought to explain his party's poor performance in the European elections by citing concerns about the very subject of our debate. In an interview with *The Observer* just after the elections, he said that Labour would tackle over-regulation from Brussels,

"which is just seen to be prying into nooks and crannies of life",

and cited the decision to ban popular vitamins and herbal remedies such as echinacea. He said:

"I think there is unnecessary interference in, for example, dietary supplements and food supplements and herbal remedies".

I agree with him and so do the majority of hon. Members.

**Mr. Simon Thomas** (Ceredigion) (PC): The hon. Gentleman might be interested to know that the Leader of the House, the right hon. Member for Neath (Mr. Hain), while wearing his other hat as Secretary of State for Wales, has called on the National Assembly to provide for GPs to be able to prescribe vitamins. He is therefore doubly caught by the motion and his opposition to it.

**Chris Grayling:** I thank the hon. Gentleman for that intervention. He is right. In a recent article, which was published in Wales, the right hon. Gentleman said:

"In years gone by the benefits of complementary medicine were derided, its proponents regarded as weirdoes, swimming against a tide of conventional medical opinion. But today there is an increasing recognition that both sectors can coexist, with the patient the winner."

*[Chris Grayling]*

Sadly, under the directive, the patient is not the winner. Given those sentiments, why on earth has the Leader of the House put his name to the Government amendment? Its words are extraordinary. In it, the right hon. Gentleman

"congratulates the Government on successfully negotiating a final text of the Directive that works in the interests of UK consumers and industry".

No one who knows about the issue believes a word of that. It is nonsense.

**Rev. Martin Smyth** (Belfast, South) (UUP): Does the hon. Gentleman agree that the Government have gone completely astray on this issue, while the manufacturers and the people of this country are writing to complain about the restrictions that are now hindering their liberties?

**Chris Grayling:** I completely agree with the hon. Gentleman. I am at a loss to understand why this is happening. I cannot see why the Government are so blatantly ignoring the wishes of the people, but the reality is that they are. I hope that they will change their mind today.

**Lembit Öpik** (Montgomeryshire) (LD): Does the hon. Gentleman agree that this is a classic example of the nanny state gone wild? Given whatever minor risks might be involved in using these vitamins, if people are given the choice whether to use them through illustrations on the packaging, it should be a matter for them to make the decision, especially as there is precious little evidence of any harm befalling the user.

**Chris Grayling:** The hon. Gentleman is absolutely right, which makes it all the more disappointing that, when I approached all the different political groups in the House to sign this motion, the Liberal Democrat health spokesman refused to do so.

**Dr. John Pugh** (Southport) (LD): Has the hon. Gentleman signed the early-day motion tabled by my hon. Friend the Member for Sutton and Cheam (Mr. Burstow), whom he has just maligned?

**Chris Grayling:** The hon. Member for Southport (Dr. Pugh) needs to understand that the motion before us today has been signed by representatives of all the other parties. His own party's health spokesman was invited to be a signatory to it when it was tabled as an early-day motion, but he declined to do so. That speaks for itself.

This matter is another clear example of Ministers saying one thing and doing another, and just not listening to the people. What about the hundreds of Members on both sides of the House who have signed early-day motions on this issue? What about the hundreds of thousands of their constituents who have signed letters or petitions to the House? Even close friends of the Prime Minister have come out against this directive. This morning, I went to Downing street with Carole Caplin, his former adviser, carrying a letter that had also been signed by his friend Jenny Seagrove saying that enough was enough. It is time to stop this unwanted measure.

**Rob Marris** (Wolverhampton, South-West) (Lab): I am grateful to the hon. Gentleman for giving way; he is being very generous. Is he aware, however, that in certain doses, vitamin A can be fatal, and that recent research on vitamin E suggested that it could cause cancer at high dosage levels? Does he agree that we need to investigate some of these products to ascertain whether they be safe?

**Chris Grayling:** The hon. Gentleman is talking about products that are on sale in this country as we speak. If the Government believe that they are dangerous, they have the power to remove them from the shelves tomorrow. I have challenged the Government again and again to do that if they believe that the products are unsafe, but they have not done so. I can only assume, therefore, that they are indeed safe for consumers to use. The hon. Gentleman's argument is therefore completely invalid.

**Dr. Julian Lewis** (New Forest, East) (Con): During my hon. Friend's trip to Downing street, was he able to throw any light on why this Labour Government are so keen to stop these health products being available on the market at the same time as they are decriminalising cannabis and being madly in favour of legalising all-hours super-casinos and all-hours binge drinking?

**Chris Grayling:** The only explanation that I can come up with is the Government's determination to follow the European harmonisation agenda at all costs. There is no other rational explanation for this.

**Mr. Mark Todd** (South Derbyshire) (Lab): The hon. Gentleman touched briefly on another perspective when he mentioned the views of the industry that produces these products. Would it intrigue him to learn that not all those manufacturers feel the same way as he does about this? Instead, they are looking much more closely at the opportunities that will be provided by the wider European market that will be opened up by the regulations.

**Chris Grayling:** The hon. Gentleman has, of course, been a vociferous opponent of the directive in the past. I would say to him that we should not pursue the interests of big business at the expense of the small manufacturers and retailers that stand to lose out, or at the expense of the consumers who stand to lose the products that they have used for so long.

What are those products? Why is this issue so important? On 1 August, about 270 ingredients—nutrient sources—that are currently used in vitamin tablets in this country will become illegal. They have been excluded from an official approved list set out by the EU in the directive. As a result, a substantial proportion of the multivitamin tablets on sale in this country will have to be reformulated by 1 August or disappear thereafter. Some products will disappear altogether: for example, boron, which is believed by many people to be good for their bones, and vanadium, which is a product used by people with diabetes. Both

are entirely excluded from the approved list. Other products such as selenium, which is widely used for women's health issues, will disappear in most of its current forms, and ironically, most of its natural current forms.

The Government will say to us that the disappearance of those products is not inevitable, and that their manufacturers can submit a dossier that, if approved by the European authorities, will allow them back on to the approved list. The Minister will no doubt also tell us that the Government have secured a derogation until 2009, to give manufacturers the chance to put together dossiers. What they will not tell us is that they have already started to gold-plate that process. Nor will they tell us that the cost of putting together those dossiers amounts to tens of thousands of pounds each, and possibly hundreds of thousands of pounds—not in total but for each one of the 277 missing ingredients—which means a total cost of tens of millions of pounds to an industry made up largely of small businesses. I also suspect that they will not admit that the industry says that producing such dossiers is economically viable in only a handful of cases. For millions of vitamin users, 1 August is the day when their choice, along with the products that they currently choose, disappears.

**Mr. Julian Brazier** (Canterbury) (Con): Is not there a certain historical echo with the time when Lord Rooker, who then had responsibility for this matter, banned vitamin B6 as a result of some committee of wiseacres suggesting that he should? The outcry from millions of people, foreshadowed by several Members on both sides of the House, made the Government finally reverse that ban, as that vitamin is essential to many people's health.

**Chris Grayling:** My hon. Friend is right. He highlights the fact that good information for consumers is highly desirable, but draconian decisions by Government are definitely not.

We will therefore end up with a position in this country whereby it will be legal for a teenager to go out and buy a packet of cigarettes, which cause cancer, and yet it will be illegal for an adult to go out and buy vitamin tablets. That is completely and utterly absurd. The Government claim that all that is being done in the name of consumer safety. Again, I invite the Minister to stand up in the Chamber today and name any one of those 277 nutrient sources that is dangerous and should not be on the market.

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):** I am happy to respond to that. I would like to throw a challenge back. Can the hon. Gentleman tell us what evidence there is that many of these things are safe?

**Chris Grayling:** As expected, there is no answer to my question. The Government are doing what the directive does—contravening the principles of justice in this country. In this country, traditionally, one has been innocent until proven guilty. The Government are saying to consumers and manufacturers of such products that they are guilty until proven innocent, which is not good enough.

**Mr. David Tredinnick** (Bosworth) (Con): It may help my hon. Friend in formulating an answer to the Minister to tell him that more people die of the effects of aspirin every year than ever do from vitamin supplements?

**Chris Grayling:** My hon. Friend is absolutely right. If we consider causes of death, prescription drugs have terrible side effects, as well as bringing substantial benefits to our society. There is no evidence that vitamin tablets cause adverse health effects to anything like that extent.

**Mrs. Angela Browning** (Tiverton and Honiton) (Con): Given the Minister's response to my hon. Friend's invitation to her to stand up and demonstrate her knowledge on the subject, is he as alarmed as I am that she indicates that she does not know, as she asks the Opposition to provide such information, but she is quite prepared to trust the Brussels machine, with its lack of knowledge?

**Chris Grayling:** My hon. Friend is absolutely right. The Government's position is completely untenable on this matter, but they continue to pursue it, to the fury of consumers around this country.

**Mr. Mark Field** (Cities of London and Westminster) (Con): Given that there are 277 nutrients on the excluded list, presumably a fair number are approved. Perhaps my hon. Friend will ask the Minister whether full tests have been applied to the many hundreds of thousands of nutrients currently on the approved lists—or is it that, as my hon. Friend suggested, we have simply given in, cravenly, to the power of the EU and one or two large commercial organisations in other EU countries which are trying to drive this agenda forward?

**Chris Grayling:** My hon. Friend is right. It is not entirely clear how the line was drawn between approved and unapproved: certainly there are no scientific documents to back up the decisions that were made. It has been a bizarre process, illogical and unsubstantiated—but the line has been drawn, and those products that are on the wrong side of it are banned. That is simply not acceptable.

**Mr. William Cash** (Stone) (Con): Do not even the exchanges that have taken place so far make it clear that there is a fundamental difference between the two sides of the House? We are prepared to make a commitment. Not only would we want to renegotiate the directive, but if those in Europe did not listen to us or refused to take account of our views, we would legislate on our own account in line with our ability to enact any legislation that is expressly and unambiguously inconsistent with European legislation if we so wish, as an act of political will and to underline the sovereignty of this House.

**Chris Grayling:** My hon. Friend is absolutely right. The text of the motion is clear and unambiguous. It seeks renegotiation, because renegotiation is the right option. We do not want confrontation with our European partners. We simply want to go back and say "This is not right for us." My right hon. Friend the Member for Wokingham (Mr. Redwood), the Opposition spokesman on deregulation, has made it absolutely clear that our policy is to renegotiate,

*[Chris Grayling]*

challenge and seek to reverse the directive. We will go into the forthcoming general election wholeheartedly with that policy, and I hope Members in all parts of the House will do the same. I hope that they will demonstrate their commitment to getting this measure reversed.

**Mr. Cash:** My hon. Friend did not quite answer my point. Is he giving a commitment that we will legislate ourselves if we have the opportunity to do so as a result of winning the general election, so that we can rectify the legislation on our own terms, unilaterally, if we have to?

**Chris Grayling:** I do not expect us to fail in our negotiation as and when we take office. We will succeed. Let us go back to Brussels, let us tell Brussels what works for this country, and let us demonstrate the sort of political leadership that has been woefully absent among Ministers in the past couple of years.

It does not end there, though. The directive does not just set out an approved list of nutritional sources that can be used in vitamin products, it paves the way for the introduction of what are called maximum permitted levels for vitamin tablets. Members who have followed the debate know what a threat to consumers that represents.

The rules on maximum permitted levels will limit the strength of vitamin tablets in this country. There are issues connected with the strength of vitamin tablets, and if we could be certain that the decision would be based purely on safety grounds, Conservative Members—indeed, probably all Members—would accept it, but we know that that may well not be the case. We have a very different tradition in this country. Our vitamin tablets have always contained a much higher dosage than those in many other European countries, where the dosage may be a tiny fraction of ours. Italy and Greece, for instance, have entirely different interests when it comes to deciding vitamin levels.

I have here a tube of typical fizzy vitamin C tablets that might be taken for a cold during the winter. In this country they tend to contain 1 g of vitamin C, as these do, but in another European country the level might be a tiny fraction of that. If this measure does what it seems it will do, this tablet that I am dropping into a glass of water will become illegal in 12 to 18 months. That is madness: it cannot be right for consumers in this country.

The Commission wants common standards across Europe. What it actually wants is Euro-vitamin pills, available for sale throughout the single market. It intends to set out by 2006 the rules that member states will have to apply. I have been to Brussels, and have discussed with officials what is likely to happen. They say that they hope safety will be the guiding principle, but they also recognise that the challenge is rather more complex, because the issues are very different in other countries. In terms of what will happen next, Members do not need much imagination to guess where the smart money lies. The provision has to go to a committee and be agreed by countries such as France and Germany. The German Federal Institute for Risk Assessment is already saying that it wants vitamin C doses to be limited to 225 mg—less than a quarter of the strength of a typical tablet in this country. It wants to cut the content of zinc tablets to one tenth the level that our own Food Standards Agency says is acceptable.

**Mr. Henry Bellingham** (North-West Norfolk) (Con): My hon. Friend has filled me with depression. The other day, I had a bad sore throat and took a large dose of vitamin C and zinc. By the following morning, I was absolutely back to scratch and was able to fight off the cold.

**Chris Grayling:** My hon. Friend is right to be depressed, because if this measure is fully enforced he will no longer be able to take the tablets that he and millions of other consumers have got used to taking.

The German Federal Institute of Risk Assessment and the German Government are of course free to take decisions on what is right or wrong for German consumers. That is none of this Parliament's business, but it is surely Parliament's role to take decisions about what is right and wrong for British consumers.

**Dr. Julian Lewis:** I thank my hon. Friend for giving way yet again. Surely if ever there was a case to put to the test the concept of subsidiarity, this is it. Why on earth are individual countries not qualified to take such decisions for themselves? I hope that my hon. Friend will mention at some point in his speech—if we give him the chance to complete it—www.conservatives.com, where people can sign up by email to the campaign to save these health foods. If they visit that website, they will also doubtless imbibe its many other beneficial features.

**Chris Grayling:** I am grateful to my hon. Friend for that intervention; I hope that those listening to this debate will take his advice and look at that website. He is right about the principle of subsidiarity, which I will discuss in a moment.

This issue also affects business, so given his responsibilities it should concern the Minister for Energy and E-Commerce, who is here to speak in this debate. According to the Government's regulatory impact assessment document, the measure will cost jobs. It says that the Government were told by companies and trade associations that the associated costs would be onerous; indeed, according to one business, the measure could have a severe effect on its competitiveness and could ultimately lead to its going out of business. The document also says that the Government were told that, at best, companies would be forced to discontinue a wide range of products, and that the resulting cost would constitute a considerable loss to any company, but particularly to a small and medium-sized enterprise. The Government were further told that, at worst, some businesses might no longer be viable.

How much evidence do the Government need to realise that this measure will cost jobs? Why do they believe it fair that companies that have been selling such products in this country perfectly legally for many years will suddenly find on 1 August that they no longer have the right to do so? How can that be fair? How can that be right for any business? It is a travesty, and a real injustice to those hard-working entrepreneurs who are trying so hard to make their businesses a success.

Do we really believe that there will be European harmonisation? What evidence is there that other Governments will introduce this measure? Let us consider the example of Greece. There, vitamins have always been tightly controlled; indeed, they are sold in pharmacies. Do we really believe that following this measure's introduction, the Greeks will change their practice, the market will suddenly be thrown open and vitamins will be sold in local supermarkets? We might believe that, but the Greeks do not. According to contacts in the industry in Greece, they are not going to change the way that they do things.

**Mrs. Browning:** Will my hon. Friend give way?

**Chris Grayling:** Of course.

**Mrs. Browning:** My hon. Friend is being very generous. Of course, the reality of our treaty-bound relationship with the European Union is that under those treaties, we do not have mutual recognition of goods and services; rather, we have the vertical integration of harmonisation bound by treaty. Whatever Greece, France or Italy do is almost academic, because such countries can start infraction proceedings against us if we do not comply with any European statutory instrument.

**Chris Grayling:** My hon. Friend will doubtless agree that our Government's spinelessness in challenging the European Commission on these issues is disappointing. Many other Governments are willing to challenge the Commission when their interests are at stake, and it is about time that ours started doing the same.

What have the Government done to try to prevent this situation from arising? I am afraid that the answer is, precious little. Ministers have led consumer groups and the industry up the garden path on this issue. A year ago, I urged the Minister responsible for public health to discuss the problem with the European Commission to see whether the impact of the directive could be mitigated. She promised the industry that she would intervene with the Commissioner, but nothing happened. She was asked again, and still nothing happened. In the end, I went to see the Commissioner myself. If Her Majesty's Government could not be bothered to do that on Britain's behalf, Her Majesty's Opposition could.

I discussed the problem with the Commissioner and his officials. They listened carefully, but told me that our conversation should have been held two years previously. I hope that Ministers will say why that conversation was not held two years previously. Where were the Government, when they still had the chance to make a difference? How many times did Ministers intervene to try to improve the directive? Did they instruct our embassies in European capitals to make representations to our European partners? What did they do?

I became Opposition health spokesman in 2002. I remember having a meeting with the Food Standards Agency, and being told that we had secured the best deal available. However, it was a pretty poor deal.

Not much has changed. As we hold this debate today, the European Court in Strasbourg is considering a case brought by the industry in this country that argues that the directive is illegal. Did the Government back the case, and encourage it? No, they did not. I discovered that they were not enthusiastic about the case, but instead entered a submission that was both clear and stark. They argued that the directive was proportionate and a good starting point, and that it was consistent with the principles of subsidiarity. What a betrayal of British consumers.

**Adam Price** (East Carmarthen and Dinefwr) (PC): Does the hon. Gentleman agree that the problem goes wider than the directive? It also relates to the amendment to the directive on pharmaceuticals that widens the definition of a drug and to the directive on traditional herbal medicinal products. Limiting competition is very much in the interests of large pharmaceutical companies.

**Chris Grayling:** I have studied the matter, and the lesson that I have learned is that our Ministers seem to leave jobs like this to their officials. They are not willing to take a lead themselves, which means that our businesses and consumers are bound to suffer.

I want to give the Minister a chance to rebut a wicked rumour that is in circulation. It has been suggested that the submission to the European Court was not seen by Ministers. I should be very happy to give way to the Minister if she wants to correct me and state that that rumour is wrong.

**Miss Melanie Johnson:** I shall do so later.

**Chris Grayling:** I await the Minister's contribution with interest.

**Mr. Tredinnick:** I rise to help my hon. Friend. The ghastly truth is that, despite pressure, the Department of Health flatly refused to see anyone—manufacturer or colleague—about this subject until the summer of 2002. On 17 June of that year, the Department agreed to see my hon. Friend the Member for Macclesfield (Sir Nicholas Winterton) and me. The reason was that the Minister's predecessor was due to appear before European Standing Committee C the next day, and the Government were nervous about being made to look ridiculous. They were determined not to address the issue, but were forced to do so by a Committee of this House.

**Chris Grayling:** My hon. Friend makes a valuable contribution, which demonstrates the complete absence of leadership in this matter.

The most revealing response to questions about the directive from hon. Members came when the Government told my hon. Friend the Member for Chichester (Mr. Tyrie), in September 2003, that the UK had no choice about implementing the food supplement directive because of our obligations under the European treaty. That shows a blind acceptance that there was no alternative to the directive.

However, other countries do not take that approach. They are willing to challenge the Commission, and have done so on many occasions—in respect of the sale of British beef, for example, or the payment of subsidies to large companies, or the stability and growth pact. Why are we always too spineless to say no?

*[Chris Grayling]*

That is what the motion is about. No one wants to break treaty obligations, and we all want a constructive relationship with our European partners, but that is not a reason for blindly accepting changes that will have such a negative effect on the people whom we represent. They do not want those changes, and it is time for us to say, "Enough!"

The motion would not repeal the food supplement directive, but it would instruct the Government to renegotiate it. It expresses a willingness to repeal that and other such directives if our European partners do not work with us to find a better way. We could, for example, simply apply the directive to international trade and have a derogation for in-country sale of products. We could expand the approved list to include the missing nutrients. A variety of things could be done, with political will and leadership. We could secure amendments to the directive and ensure a better deal for British manufacturers and consumers, especially when this country holds the presidency of the EU.

If the Government will not seek to amend the directive, it is time that this House made its voice heard. It is here in the House—not in Downing street or in the Department—that the power to decide lies. It is for us to decide whether we are willing to accept or tolerate measures that the people we represent do not want. I have no doubt that in an unwhipped vote the measure would not have been passed by the House in the first place. In an unwhipped vote tonight, it would certainly be comprehensively rejected. The challenge now is for Labour Members. Whom do they represent here? Are they here to do the will of the people? No Labour Member can be in any doubt about what people outside really think. Now is our chance to start the process of getting rid of this unwanted directive. There are hundreds of thousands of people out there waiting for us to do just that. They are waiting for Labour Members to back this motion. If they do not, those hundreds of thousands of people will be ready to pay them back.

4.46 pm

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):** I beg to move, To leave out from "House" to the end of the Question, and to add instead thereof:

"congratulates the Government on successfully negotiating a final text of the Directive that works in the interests of UK consumers and industry by ensuring that products are safe, properly labelled, and can be freely traded across EU member states; notes that UK legislation gives maximum flexibility that ensures that as many products as possible can continue to be marketed after the Directive comes into effect on 1st August, and that all of the vitamins and most of the minerals currently on sale in the UK will still be available; agrees with the Government's assessment that re-opening discussion on the Directive at this point runs the risk of making its effects more restrictive and is thus against UK interests; and welcomes the Government's continued commitment to working with the industry on assessing the safety of individual food supplements, and to facilitating negotiations with the European Food Standards Agency."

I warmly welcome this opportunity to discuss the Government's approach to legislation concerning the safety of food supplements and to defend the measures designed to protect and enhance consumer safety. I shall start with the history of the issue, because Opposition Members appear to have conveniently forgotten some of it. At the time the directive was signed, the industry recognised that it was the best achievable deal and it supported the UK's voting in favour of the directive. More specifically, three trade associations support the signing of the directive by the UK—the Health Food Manufacturers Association, the Council for Responsible Nutrition and the Proprietary Association of Great Britain.

**Chris Grayling:** If the Health Food Manufacturers Association supports this measure, why is it in Europe today trying to get it thrown out?

**Miss Johnson:** I will come on to the history of what has happened and the issues that do and do not face us at present, but what I have told the House is accurate. The HFMA supported the UK in voting in favour of the directive at the time. The hon. Gentleman has as much responsibility for explaining that contradiction as I do.

**Mr. Todd:** I can confirm what my hon. Friend says. I have a major manufacturer in my constituency who knew of my intellectual concerns about the proposal and took the trouble to contact me to say that they wanted to see it adopted.

**Miss Johnson:** I am grateful to my hon. Friend for his support. It ties in neatly with the point that I am about to make. The larger food supplements companies supported the directive and saw it as a commercial opportunity to expand their market across the EU—now enlarged.

**Mr. Brazier:** The Minister mentions the interests of industry, but what about patients? My son suffered from chronic earaches, for which conventional medicine offered antibiotics, which have been clinically shown to break down resistance in the long run. Through a programme of high quality vitamin supplements—the kind that will be banned in future—and herbal medicines, he has been completely cured. The patients must come first.

**Miss Johnson:** Those remarks very well illustrate the point that there is apparently huge confusion among some Members about the nature of the directive and where we are with its implementation. Nothing need be banned, and nothing is currently banned. The hon. Gentleman's points about vitamin supplements—

**Mr. Brazier:** High doses?

**Miss Johnson:** There is nothing whatever about dose levels, and I shall come to that point in a moment. The hon. Member for Epsom and Ewell (Chris Grayling) was scaremongering. There is nothing about dose levels in the public domain, and the European Food Safety Authority has not yet opined on the subject of dosage. There is nothing on which to base any argument about dose levels.

**Mr. Roger Gale** (North Thanet) (Con): We cannot be disingenuous in the House. The Minister knows perfectly well that submissions for a legion of products will not be made within the European Union deadline

and that those products will not be available. It is simply not cost-effective and worth while to make submissions for many of those products. Therefore, they will not be available.

**Miss Johnson:** The hon. Gentleman is either being disingenuous himself or his brain is not working as well as I had hoped it might work. *[Interruption.]* I was being a little humorous, but the House will forgive me. His point is about the ingredients and the composition of products, not about dosage. That is a different matter and was raised a moment ago. I was dealing with it, but I shall come to the question of ingredients shortly.

I have already outlined business and industry support for the directive. The House will be interested to know that *Which?*, the magazine of the Consumers Association, which has many hundreds of thousands of members, supports the directive. The Consumers Association publication "Food Supplements—What the new EU legislation means for UK consumers" said that it

"considers that the legislation"

on food supplements

"will mean that consumers will at long last have proper protection in a growing market that up until now has been poorly controlled . . . instead of having a negative impact, as has been suggested"

by the industry,

"the new legislation will mean that at long last consumers will be in a position to use supplements that are safe, of the quality they would expect and have far more information about what they contain and how much to take".

**Rob Marris:** Will my hon. Friend confirm that there is no UK system for recording centrally adverse reactions to any of these substances? The Opposition, particularly the hon. Member for Epsom and Ewell (Chris Grayling), seem to have totally forgotten the precautionary principle. We are almost back to the situation that we had in the 1970s when people said, "I knew an old man who smoked 60 cigarettes a day until he was 85 and then got knocked over and killed by a bus. It wasn't cancer, ergo cigarettes are safe." That is patent nonsense and patently unscientific. We need to investigate the substances to find out whether they be safe, and the directive will allow the investigation to take place.

**Miss Johnson:** My hon. Friend makes a very useful point. There is no system for recording adverse reactions, and not just those that are a matter of life and death. However, what would be said to any Government or Opposition who had opposed measures for consumer safety and had allowed something to enter the market which, 20 or 30 years down the line, was shown to have damaged the health of people who had taken it consistently?

**Mr. Crispin Blunt** (Reigate) (Con) *rose—*

**Mr. Roger Williams** (Brecon and Radnorshire) (LD) *rose—*

**Miss Johnson:** I wish to make progress for a minute. Then I will be happy to take interventions. I am not suggesting that such questions necessarily apply in this case, but there is no systematic way of reporting adverse reactions. The yellow card system is not used to pick up the adverse reactions to these substances. People may take them and decide to change to something else without ever reporting adverse reactions or being aware that the adverse reaction has been caused by the preparation that they have taken.

**Mr. Blunt:** One of the grounds being raised today at the European Court of Justice is proportionality. Does the hon. Lady not agree that it was pretty extraordinary of the hon. Member for Wolverhampton, South-West (Rob Marris) to talk about the safety of these things when we know that 5,000 people a year are dying of hospital-acquired infections in NHS hospitals? Surely it would be much better for the Government to regulate such matters properly, rather than wasting everyone's time by supporting the ludicrous European Union directive.

**Miss Johnson:** We are taking firm action on hospital cleanliness and doing everything that we can to reduce the rate of such infections. We are on the side of the consumer on that, as we are on this. We want consumers to be safe in both contexts.

**Mr. John Redwood** (Wokingham) (Con): Is the Minister's case the ludicrous proposition that there will be no restriction in choice because all products will continue to be sold under the intrusive regulatory regime, or is she making the case that many will not be sold any more because they are unsafe? She seems to be arguing both cases—she is certainly saying that the more than 1 million people who signed the petition are wrong.

**Miss Johnson:** The right hon. Gentleman makes an interesting intervention, does he not? I understand that he is the author of the part of the present Conservative document that suggests abolishing the expert group on vitamins and minerals, although that group has produced evidence that the industry and the Government agree would be a fine basis for the dosage levels, if we could get the European authorities to accept it.

**Mr. Redwood:** Answer the question.

**Miss Johnson:** I am answering the question. We believe that choice can be maintained, but that safety is the overriding factor. Indeed, all of us who take the supplements in one shape or form must have regard first and foremost to our health and well-being, which is what the supplements are supposed to promote.

**Mr. Brazier:** Will the hon. Lady give way?

**Miss Johnson:** I would like to make some progress, so if I may, I shall give way to the hon. Gentleman in a minute.

We come to the question of the operation of the single market. It is important for hon. Members to accept that between 1990 and 2002, some 29 infringement procedures were initiated in cases relating to food supplements. There were also cases in which such procedures were not initiated, although there is no formal record of them.

*[Miss Johnson]*

I was fascinated by the gem about negotiation from the hon. Member for Stone (Mr. Cash) versus his Front Bench. Is it not a delight to see how the Tory party still cannot agree on such fundamental issues? The hon. Gentleman would withdraw unilaterally from Europe on all fronts, but even the hon. Member for Epsom and Ewell knows that that would be a disaster, as I noted from his response.

**Mr. Cash:** Does not the hon. Lady accept that the motion includes a reference to repealing the regulations that have been passed under the Food Safety Act 1990? The Opposition are committed to repealing them if satisfactory renegotiation does not occur. Will she consider the question of who will make decisions during the period of grace up to August 2005? She has been going on about collaboration among various parties, but does she not accept that the European scientific body will call the final shots and only then will the matter be referred back to the United Kingdom? Surely she is effectively in hock to decisions taken by an unrepresentative body on safety standards in the European Union. Who sits on that body, and do they represent people here?

**Mr. Deputy Speaker:** Order. That intervention was far too long.

**Miss Johnson:** The hon. Gentleman asks quite a few questions, but he should direct them to his Front-Bench colleagues. The question of whether to repeal things seems to divide him and the hon. Member for Epsom and Ewell. The hon. Member for Stone and the right hon. Member for Wokingham (Mr. Redwood), who has already left the Chamber, are questioning—

**Chris Grayling:** He has gone to a meeting of the shadow Cabinet.

**Miss Johnson:** Shadow Cabinet, eh? *[Interruption.]* The right hon. Member for Wokingham and the hon. Member for Stone seem to be of the same mind in rubbishing the experts. The right hon. Gentleman rubbishes the work of the expert group on vitamins and minerals by suggesting that its job could be better done another way and that the group should be abolished, whereas the hon. Gentleman rubbishes the work of the European Food Safety Authority and the expert advice that it takes.

**Several hon. Members** *rose—*

**Miss Johnson:** I shall not take interventions for a while.

The directive was adopted in July 2002, providing three clear years until the end of the current part of the process in July 2005. The hon. Member for Epsom and Ewell says that the process is illogical, but I have news for him: I disagree. The industry has been aware since 2002 of the need for dossiers, but even though the deadline is only a few months away we are aware of fewer than 30 dossiers in preparation. I realise that we may not have all the information: some members of the industry have been reluctant to share information both with each other and with the Government on grounds of commercial confidentiality. Such concerns are perfectly proper, but they mean that we might not have some of the information about what is happening.

July 2005—the date by which the dossiers have to be submitted—is not an absolute cut-off. Sources can be added after that date. Let me make it clear that, with the exception of six minerals, all vitamins and minerals are represented on the positive list; sources are on a separate list. The list is an open list, not a list of exclusions or a closed list as has been suggested. There are 112 items on the positive list. Many sources of calcium, for example, are already listed, but some preparations might use other sources which are not yet on the positive list, but which could be added if a dossier is presented.

**Mr. Roger Williams:** Without dossiers, the Government have said that many foodstuffs are safe or unsafe for our constituents. They have told us, with a lot of support, that salt is harmful, but make no effort either to regulate our intake or to ban it. That is why people feel that the Government are being inconsistent. How do the Government know, if they have no evidence, that the other things that they say are good for us, such as cabbages and other vegetables, are entirely safe? Eating tonnes of cabbage at one sitting would prove fatal, I am sure.

**Miss Johnson:** There is a tonne of expert evidence about the dangers of salt, but salt is essential to our diet and it occurs naturally in many foodstuffs. The hon. Gentleman's point is therefore a little off the mark.

**Mr. Brazier:** Will the Minister give way?

**Miss Johnson:** No. I want to make some progress. I shall give way in a minute.

Sources can be added to the positive list after July 2005 but will not receive derogation to remain on the market pending EFSA's decision. Sources on which dossiers have been received will remain on the market until December 2009, and in perpetuity if EFSA accepts the dossier.

At my request, the Food Standards Agency contacted raw ingredient suppliers in the EU, the United States trade attaché and officials from the US embassy to discuss the obligation to provide information to the industry to support the preparation of dossiers. What is important is the position of ingredient manufacturers. There are several such companies, several far from small—Merck of Germany, for example, recorded sales of €7.202 million in 2003. That is an extremely large sum. Another company in the UK generates sales of about €4.1 billion. These are not small companies.

We know from what the industry has told us that it is having considerable difficulty with manufacturers of ingredients because they are not taking seriously the need to produce dossiers. As I have said, in many instances these are large or substantial companies that could produce dossiers. The FSA has indicated, at my request, that it would be content to deal with any of the resulting inquiries from the industry as a result of the contacts that have been made.

I believe that all parties supported the setting up of the FSA. We all know why the need was identified to do that.

**Mr. Brazier:** Earlier, the Minister suggested to me that vitamin strengths were not at risk. I came to the Chamber specifically because my son's practitioner told me that they were. In reply to an earlier intervention the Minister hinted that her expert committee was examining the issue of vitamin strengths. Will she or will she not give a clear assurance to the House that strong doses of vitamin C will not be threatened by future legislation?

**Miss Johnson:** The hon. Gentleman does not understand what has happened historically. There is an expert group on vitamins and minerals, which has produced an evidence base about the levels at which it is safe to take various of these supplements on whatever dosage a day, or whatever. Both the industry and the Government agree that that is a good evidence base on dosage levels. It is the evidence base of the expert group that the Conservative party is trying to abolish. It has been submitted to the European Food Safety Authority. We are arguing that that should be the basis of the work that is done on dosage levels.

The EFSA has yet to produce its initial findings about these dosage levels. That is the state of play.

**Mr. Brazier:** Will they be capped?

**Miss Johnson:** I trust that we will act in accordance with safety. I trust that you and other Members would not want to see—

**Mr. Deputy Speaker:** Order. The Minister must not draw me into this.

**Miss Johnson:** The hon. Gentleman and other right hon. and hon. Members would not want to see safety compromised.

I shall deal with the question of dosage levels. At the end of the day, when the EFSA has opined on what it thinks the right basis should be, there will be negotiations and discussions. There will be work to be done. That process will take a considerable amount of time. We shall be batting for an evidence-based view following the expert group's work, which we and the industry support. That is our position and it will remain our position. I can assure the hon. Gentleman that that will be the basis on which we shall work on this topic.

**Tom Levitt** (High Peak) (Lab): I do not understand the dosage argument. An individual who wanted to take a high dose of a vitamin or mineral could simply take more of the tablets. When an excess is taken of some vitamins and minerals, they are passed out in the water. That seems to be a ridiculous waste of money.

**Miss Johnson:** My hon. Friend is right. Nothing will ever stop people taking more of something if they would wish to and they believe that it will do them good. We will not be able to halt that. However, we will be providing the best evidence-based advice on dosage levels, and that is right.

**Dr. Brian Iddon** (Bolton, South-East) (Lab): My hon. Friend puts her finger on one of the points that has caused me to oppose the directive. When the directive is confirmed and finally introduced, it will drive people to purchase products off the internet. What will the Government do about that? It will drive people to take more tablets to get the same dose. Therefore the directive is pointless. What will the Government do about internet sales, for which consumers will have to pay much higher prices?

**Miss Johnson:** The internet is a challenge, and it always poses problems for regulation, as I am sure my hon. Friend is aware. It also provides a route for people to bypass safeguards, and we must consider what measures we can take. It is up to the Government to make sure that the health of the consumer comes first. If people wish to ignore that advice, it is a free country—[HON. MEMBERS: "Not any more."] It certainly is a free country.

**Several hon. Members** *rose—*

**Miss Johnson:** I would like to make some progress.

All parties supported the setting up of the Food Standards Agency, and there was not a Division on the Second Reading of the Bill that established it. It is an independent food safety watchdog with the principles of putting the consumer first, being open and accessible, and operating as an independent voice. It has high credibility as an agency that protects consumers. I therefore hope that Opposition Members are not confusing a challenge to the directive with a challenge to the authority and actions of the FSA.

**Several hon. Members** *rose—*

**Miss Johnson:** I should like to make progress, or Members will complain that there is not enough time.

The positive lists can be added to at any time, subject to a dossier being accepted by the EFSA. The aim is to protect consumers as well as open the single market, and consumers will want to be confident about the safety of these products. Indeed, it is in the industry's interests that consumers have that confidence—we saw only too clearly in the BSE tragedy what can happen to an industry if consumers do not have confidence in its products.

**Mr. Mark Francois** (Rayleigh) (Con): Part of the Government's argument is about wanting to play safe, and the hon. Member for Wolverhampton, South-West (Rob Marris) referred to the precautionary principle. Would the Minister explain to the House why that applies to food supplements when the Government have ignored the precautionary principle on mobile phones and will not change the law on masts under 15 m? Why are they in favour of the precautionary principle one day but against it another, after mobile phone companies have given them £22 billion?

**Miss Johnson:** Scientists have recently produced another report on mobile phones. We are not here to debate mobile phones, but advice is being studied by the Government, and appears to be in line with previous advice and expert opinion.

There are still open doors for the industry on dossiers. The EFSA has offered derogation for any dossier received by the deadline. It requires only one dossier to

*[Miss Johnson]*

be submitted for each source, and it does not have to be submitted by a UK company or even in the UK. If we know that a dossier has been submitted in another member state we will provide derogation, and that has been made plain to the industry. The EFSA has said that derogation will apply where a slim dossier is provided. On the question of costs, we are happy to accept slim dossiers rather than larger ones. However, I do not think that the demands of producing a dossier are necessarily too great for much of the industry. The problem appears to be a lack of action by the industry and a lack of co-operation between its members. We are not asking for one dossier per company—we require one dossier per source, and it can be submitted in any member state by any company.

**Ms Diane Abbott** (Hackney, North and Stoke Newington) (Lab): In response to the question from my hon. Friend the Member for Bolton, South-East (Dr. Iddon) about internet sales, my hon. Friend said that it was a free country. Does she accept that some of us did not find that response satisfactory? What on earth is the point of preventing people from purchasing these things in shops, where there is at least a measure of control and supervision, and driving them onto a wholly unregulated internet market? Why is she taking this step without, apparently, introducing any proposals to regulate internet sales?

**Miss Johnson:** That is the same kind of argument as saying, for example, that we may as well legalise drugs because we are driving people underground to buy them. [HON. MEMBERS: "It is not the same."] Well, it is a parallel argument, which I do not accept.

In transposing the directive we are acting on Food Standards Agency advice. We must remember that producers are there to serve consumers, and it should be in producers' interest to ensure the safety of consumers. The measure has a more liberalising effect on the EU market. *[Laughter.]* Many member states have more restrictive regimes than we do. We are spreading the liberal culture more widely across the EU Ultimately the industry will benefit, with the market opening up to allow supplements to be freely traded in member states.

**Mr. Simon Thomas:** Will the Minister give way?

**Miss Johnson:** No, I have given way to the hon. Gentleman already.

**Mr. Peter Luff** (Mid-Worcestershire) (Con): Does the Minister understand that the problem is that the quality of the expert advice on which she relies is extremely dubious? When I chaired the Agriculture Committee, we conducted an inquiry into vitamin B6. An apparently robust case for the Government's proposals was demolished by the Committee's investigations. I urge the hon. Lady to reflect that there is a prejudice in the scientific community in favour of conventional science and against things that they do not understand or do not like, or from which they do not indirectly derive any money. I urge her to reflect on the quality of the advice on which she is relying.

**Miss Johnson:** Perhaps I have got my history wrong, but I thought that the hon. Gentleman's group recommended a restriction on vitamin B6 as a result of that work.

The fact that the right hon. Member for Wokingham has placed the expert group on vitamins and minerals on his hit list of the quangos that the Conservatives plan to abolish is a classic case of shooting the messenger. Apparently, he does not like the message, although the industry does.

I stress again that only one dossier is needed per source, and that dossier can be submitted to any member state. There is no reason why, in a few months, any existing preparation should not continue to be on the market. There is provision for that and it has been in place for three years, so the industry could have acted on it.

**Dr. Iddon:** As this is the first time I have heard the expression "slim dossier", will my hon. Friend define it and give us some indication of the cost of producing such a slim dossier?

**Miss Johnson:** There are requirements for the dossiers, but we have indicated that anything that we receive which is a reasonable attempt will be counted as a dossier and will be put forward to EFSA. It is also clear that the work that will then go on will include discussion with EFSA about what other information might be needed as part of that work. It can therefore be progressed in that way.

**Several hon. Members** *rose—*

**Miss Johnson:** No, I want to wrap up and give other Members a chance to join the debate.

We cannot be complacent. Do we want to be safe, or do we want to be wise after the event and sorry about it?

**Mr. Gale:** Or arrogant?

**Miss Johnson:** The hon. Member for North Thanet (Mr. Gale) alleges arrogance. Telling consumers that they can safely go on consuming products about which there is a lack of evidence is arrogance in the extreme.

The matter used to have all-party support. There was co-operation and working together, which best served consumers and the companies. It is a shame that that historic all-party support has been broken down by the Tories, who seem keen to try to use the issue for their own political ends. I was interested to hear about the website contact on which the hon. Member for New Forest, East (Dr. Lewis) commented.

We have a clear message, which is to protect consumers. We are proud of that. By acting to produce dossiers the industry can make sure that consumers continue to receive the products. We are happy to continue to work with the industry to try to achieve that in as many cases as possible.

5.19 pm

**Dr. John Pugh** (Southport) (LD): The Lib Dems will support the motion, but it was strange and even sad that although the hon. Member for Epsom and Ewell (Chris Grayling) began his speech by talking the language of cross-party consensus, he then, within a few sentences, provoked party differences for polemical reasons. I do not think that that will help the food supplement case at all. *[Interruption.]* Anyone who wishes to perpetuate such an atmosphere and who does not like a consensus can carry on. We will try to argue the case further without xenophobia, anti-Europeanism, ulterior motives or undue hysteria.

In most advanced countries, it has been found necessary to regulate the supply, sale and production of foods and medicines. The rationale for that approach is broadly easy to grasp. Both food and medicine are generally good for us, although both have the potential to be toxic at times. Thus, most advanced states, including ours, have regulatory bodies and regulations for foods and medicines. The object of most such regulations is to set minimum safety levels for consumers and patients, and to ensure that people avoid polluted food and quack and dangerous medicines, both of which proliferated in the 19th century. Most of such regulation has the thrust of being fairly minimal in its effects, because at the end of the day, not all the effects of all foods can be known in advance. I learned very recently that the toast that I have been consuming for years is positively dangerous to me. Ultimately, nothing is safe if it is taken in excess quantities, not even water.

All such regulation is always complicated by the fact that the distinction between food and medicine is as an absolute. Both are usually ingested, but food is nutritional while medicine changes a bodily state and is usually not nutritional. None the less, both are chemical in their effects, and the effects of food are never simply nutritional. Good food contains other beneficent ingredients, including vitamins and minerals, which act on the body and can be separated out as food supplements, and which are, indeed, one of the bones of contention in this debate.

None the less, the case for regulating what is ingested within any market, whether it is the European or the national market, is fairly strong, broadly speaking. Such regulation is there to provide consumer protection and information, and so inform consumer choice. In a pan-European market—that is what we have: the single market, as set up by Lady Thatcher in 1986—the same case can also be made. I remind hon. Members that there is a debate about supplements and rules about them not only in Europe, but in the United States. Anyone who uses the web and puts the words "Save our supplements" into the search engine will be guided to an American debate that follows similar parameters to those of the debate that we are having here.

A similar debate rages overall, but the nub of the issue is how regulation should be done. In passing, I may say that most of the debates of a European nature that we have in this country stem not from recent legislation, but ultimately from the Single European Act. In one sense, the European Union approach is precautionary. It allows nation states to uphold existing bans and sets safety hurdles for existing and new products. Clearly, the objective is relatively simple—to ensure that products of a doubtful provenance or about which individual nations have doubts are not freely traded. As the hon. Member for Epsom and Ewell pointed out, however, the approach is not permissive. It does not allow products that individual nations have no doubts about to be consumed in those nations whether they get over the EU international trade hurdles or not.

The argument against such a permissive approach is very weak. One could say—I suppose that this is a counter-argument—that tolerated remedies in one nation would easily leak on to the European market anyway, but as other hon. Members have pointed out, there is a far greater danger that unregulated substances of all kinds will get into people's homes via the internet, by international courier or whatever. There also seems to be a backstop in so far as EU regulations, as I understand them, allow individual nations to add their own bans or requirements on top of those regulations. In any case, is it not intrinsically unlikely that what is tried and tested in one country over ages will wreak havoc in another?

Although many traditional remedies may be ineffective, they represent a kind of forgotten wisdom, which mainstream science sometimes rediscovers at a later date. The history of medicine is littered not only with errors, but with bouts of forgetfulness and remedies that are neglected and forgotten over time. It seems to me that dogmatism in medicine rarely pays—a point that is emphasised by the history of herbal medicine. A further argument against discouraging diversity is that that suits the major drug and pharmaceutical companies and suppliers, who work to huge economies of scale, just as it harms small suppliers and producers.

Not standing up for the principle of national diversity is one of the sins that one can lay against the Government and their approach, but it is only one of their sins, and it may not be their major one. Their major sin was to agree to such an unnecessarily burdensome directive. The Liberal Democrats voted against the directive in Europe, largely because it outlaws 300 nutrients and nutrient sources that are already on the British market, which have had nothing proved against them and do very little harm.

The directive sets onerous and perhaps unsupportable burdens—we may debate how unsupportable those burdens are—and a timetable for listing nutrients. It also ventures into the issue of current dosage without making a fair case—a point to which other hon. Members have already alluded. Worse still—my hon. Friend the Member for Brecon and Radnorshire (Mr. Williams) made this point—other EU directives threaten to broaden the definition of medicinal products in such a cumbersome way that it may include not only food supplements, but ordinary beverages such as diet cola.

Food supplements are not an easy area in which to operate, and, at the very least, the Government can be fairly accused of not robustly defending the interests of consumers and health food producers in this country. At the worst—the health industry has made this accusation—the Government have acted shiftily.

The Liberal Democrats will support the motion as it stands. The save our supplements campaign and the health food industry, which is lobbying so effectively and so hard, should take note that a cross-party consensus exists and it works to the advantage of many.

*[Dr. John Pugh]*

However, the save our supplements campaign has tied itself closely to the Conservative campaign, which necessarily fails to maximise support for a cause that can be rationally, forcefully and fairly argued.

5.27 pm

**Kate Hoey** (Vauxhall) (Lab): I am pleased to be associated with this cross-party motion, although this is an Opposition day. I am also pleased that the Opposition have decided to use the time to debate the matter. If they had not done so, we would not have had a chance to discuss the matter and vote on it in the main Chamber before some of the bans are introduced. I am pleased that the Liberal Democrats support the Opposition motion. I do not know why they have not put their names to it, but I am pleased that they support it, because it is a genuine cross-party motion.

If there were a free vote today, many of my hon. Friends would support this motion, which is very reasoned. One or two of my hon. Friends attacked me by saying that I am, "just helping the Tories." I am not just helping the Tories—indeed, I am not helping the Tories at all. I am speaking on behalf of the millions of people who have been treated shabbily since the House began to consider the measure.

I was one of the original members of the Statutory Instrument Committee that considered the directive. Being a fairly honest person, I told my Whip that I would vote against it. I was, of course, immediately removed from the Committee, as were a number of other hon. Members—only three of the eight original Labour members of the Committee remained at its conclusion.

We ended up in a rather funny situation, with one Member rushing into the Committee at the last minute because he had only just been told that he was on it, and another, who had not got round to telling the Whips that he would vote against, being replaced by my hon. Friend the Member for Islington, North (Jeremy Corbyn), who voted against anyway. Despite all those efforts by the Whips, it went through only by eight votes to six, having already been defeated in the Lords a few weeks before. It is important for people in the country to realise that the means by which a measure goes through the parliamentary procedures are not necessarily very democratic. We now have one last chance to make clear to the Government our view that this matter has not been at all well handled.

The hon. Members for Epsom and Ewell (Chris Grayling) and for Southport (Dr. Pugh) made very good speeches, and I do not want to repeat what they said. I cannot understand how we have got ourselves into this situation. I cannot understand why our Ministers and officials did not stand up more vigorously in Brussels for people who want to be able to continue to use such supplements. I cannot understand why other countries in the European Union manage to secure derogations to get out of doing things, yet we in this country always seem to go along with whatever it is, pretend to put up a bit of a fight, or even do so genuinely, and then lose and give in. We are in a similar position with the directive on working at heights, in that we have ended up saying that something that was intended to apply to the construction industry will apply to mountaineering sports, while other countries have simply ignored it and carried on regardless.

The food supplements directive is a classic example of the way in which Europe is becoming further and further removed from the ordinary experiences and everyday lives of our citizens. That is why I am looking forward with huge pleasure to the referendum on the constitution, when I hope that we will get much of this debate out into the open.

**Mr. Kelvin Hopkins** (Luton, North) (Lab): I sympathise strongly with my hon. Friend's remarks, although I will not necessarily vote with her tonight. Would she advise me, as a person who takes a lot of supplements, to look out for the ones that are to be banned and stock up with sufficient supplies for the next few years?

**Kate Hoey:** That is what people who are aware of what is to happen will do, but many more will do what some of us have already had to do to get certain products that have been banned—use the internet. As my hon. Friend the Member for Hackney, North and Stoke Newington (Ms Abbott) said, that is leading to huge problems. The implications of the regulations have not been thought through. I am holding up a container of one of the supplements that I take—potassium, which is to be banned. That is potty, if I am allowed to use such a word in the Chamber, Mr. Deputy Speaker.

**Mr. Simon Thomas:** The hon. Lady is making a clear and coherent case as to why we should support the motion. As she knows, the name of my hon. Friend the Member for East Carmarthen and Dinefwr (Adam Price) appears alongside her own on the Order Paper in support of the motion. I understand her attitude to Europe, although I somewhat disagree with it. Does she agree that there are two consequences arising from the Government's position? First, whatever position one takes on Europe, the Government, by failing to negotiate on the directive, have helped many people to feel alienated from Europe because certain essentials to their daily lives are being affected by European legislation.

Secondly, most of the public and consumers do not perceive a great threat from some sort of binge vitamin drinking, yet the Government appear to manufacture that threat and are almost scaremongering. That drives people away from abiding by the regulations to the internet and illegal ways of getting hold of supplies. We shall end up with spam messages about nutritional supplements instead of Viagra.

**Kate Hoey:** If citizens are to have confidence in the European Union, they need to know that our Government and Ministers are at the forefront, hammering away, and are not prepared to take no for an answer on such an important subject.

**Miss Melanie Johnson:** I appreciate that my hon. Friend holds a different view on some subjects. However, I hope that she appreciates that I believe that it is a serious matter if she spreads unnecessary anxiety.

She mentioned potassium; nine sources of it are already on the positive list. How, therefore, can she justify the remark that she made a moment ago?

**Kate Hoey:** I can justify it by saying that if I have been used to a specific brand of supplement, I should be entitled to continue to use it until someone has proved to me, publicly and scientifically, that it poses a risk. The Minister has yet to come up with one single nutritional supplement on the banned list that has been proved to be unsafe. We keep asking for proof. All we want is some transparency.

**Tom Levitt:** Will my hon. Friend give way?

**Kate Hoey:** Not at the moment.

**Tom Levitt:** Very briefly?

**Kate Hoey:** I want to get on and I know that other hon. Members wish to speak.

Let me read out some brief quotes from people who will be affected by the directive. More and more of those who suffer from myalgic encephalomyelitis find that alternative and complementary medicine is best for them. One person states:

"I have in the past been extremely ill with ME but now fully recovered and am in excellent health. I monitor my state of health very carefully and use a number of natural supplements. I would not only be compromised healthwise if these disappeared from the market I would also be very angry."

People who use complementary medicine have not suddenly gone out to the nearest health food shop and decided, "Oh, I'll try this." They usually think about it carefully. They know what they are doing—they are adults. As other hon. Members have said, it is amazing that we are making it easier to get cannabis and downgrading it and making it easier to go binge drinking, yet the lives of adults who have thought matters through carefully will be made much more difficult.

Another person who said that they had been diagnosed with cancer nearly two years ago stated:

"The fact that I am still around today, and in healthy condition, is due largely to the regular ingestion of a selection of carefully chosen vitamins, minerals, supplements and herbs, and massive modification to my diet. And no, it wasn't the 'treatment', because I declined it all, except for surgery."

Again, that person has thought the matter through. Perhaps, as the Minister implied, if such people look carefully, they will find a variation of something that is vaguely similar to what they have been taking. However, why should they, when no one has proved that the original supplement is harmful?

Another person said:

"For the last 4–5 years I have been taking very high doses of minerals and vitamins and it has made enormous difference to my health which formerly was not good".

Another had a four-year-old son who

"suffered severe colic and eczema. Drugs didn't work; supplements did. He can now eat anything except dairy produce. We want to keep him healthy without further burdening the NHS."

Such comments do not generally come from people who always would oppose the large pharmaceutical companies. An ordinary person states:

"If the Government chooses to put the interests of drug company profits above those of ordinary people like us, they have no right to expect anything from us".

**Tom Levitt:** Will my hon. Friend give way?

**Kate Hoey:** I shall give way just to stop you going on in my ear.

**Tom Levitt:** I thank my hon. Friend for giving way. My intervention is relevant to demonstrate that we are not necessarily speaking in the interests of the big drug companies. In some quarters, potassium is believed to promote humility. People should therefore know that bananas constitute one of greatest natural sources of potassium. Perhaps they could be recommended to people.

**Kate Hoey:** I am sure that when I need my hon. Friend's expert advice, I will come to him.

The Minister has said during Health questions that

"the only reason to ban any supplements is, effectively, that they are unsafe . . . and on the basis of evidence."—[*Official Report*, 1 July 2003; Vol. 408, c.161.]

I repeat: where is the evidence? Can she give us any scientific proof that the products that are to be banned are unsafe? She knows, as do many hon. Members, whether we are sceptical about Europe or very pro-Europe, that this policy is all about harmonisation, and we have ended up losing out because of it.

**Mr. Cash** *rose—*

**Kate Hoey:** I do not want to go down the whole European route now, but I will allow the hon. Gentleman one intervention.

**Mr. Cash:** I am grateful to the hon. Lady for giving way. She has no doubt studied the manner in which the European Food Safety Authority operates. The cost of the dossiers can be up to £250,000. Does she agree that one of the problems relating to the so-called period of grace is that, after it comes to an end, even the vitamins submitted in the full safety dossier that are not on the positive list will be banned? I am sure that people will want to know on what basis those nutrients would be added to the positive list in the four weeks during August 2005. That will be the crucial moment.

**Kate Hoey:** That is important, and I hope that the Minister for Energy and E-Commerce, who will respond to this debate, will try to answer that question.

I see the hand of the pharmaceutical industry somewhere in all this. It is very good at lobbying and very involved in Brussels, and it is in its interest not to make a diversity of vitamin supplements easily available in health food shops. We should be worried about that. There is no reason, even at this late stage, why the Government should not negotiate some kind of amending directive that would allow member states to permit domestic market production recognised by the

*[Kate Hoey]*

Food Standards Agency. If we respect and trust the FSA, why not let it do that job? Those products could then be labelled as safe and appropriate.

I know that the Whips will be whipping the vote later, but I hope that any of my colleagues who are not prepared to vote for the motion will abstain. By doing so, they would show that they have concerns about this issue. We must send out a message today that, as sensible intelligent citizens, we are not prepared to accept unnecessary regulations from Brussels that force businesses to abandon their products for no good reason, and that stop us having a choice.

**Mr. Deputy Speaker (Sir Michael Lord):** Order. Before I call the next speaker, I must point out that a number of hon. Members are seeking to catch my eye, and that time is getting increasingly limited. If Members could make reasonably brief contributions, everyone could well get in; otherwise, I am afraid that some people will be disappointed.

5.43 pm

**Mr. David Tredinnick** (Bosworth) (Con): The Minister painted a rosy picture of the Government's approach, and of what they have done so far. She talked about companies that favour the regulations and about spreading the liberal culture. She said that nothing would be banned, and mentioned all-party support. I have to say to her that her approach is totally at variance with what is going on in the real world.

I listened with interest to the hon. Member for Vauxhall (Kate Hoey), who asked why the Government did not get stuck in. Perhaps I can answer that question by relaying the Minister's reply to the parliamentary question that I tabled two weeks ago about whether the Government would use the UK's presidency of the European Union to renegotiate the food supplements directive. She replied:

"It would not be appropriate for discussion on the food supplements directive to be considered . . ."—

basically because the Food Standards Agency had—

"stated that it had not received representations from other member states".—[*Official Report*, 19 January 2005; Vol. 429, c. 1029W.]

That is the kind of funk attitude that has brought us to this sorry pass. The Government's approach has been more akin to a moth being attracted to a flame, in that they hovered round the issue for a long time without getting close and, when they did get close, they got burned because they were badly prepared,. That is the truth of the situation.

The regime in this country has always been less restrictive than that in Europe. What we are supposed to have, through the directive, is a form of harmonisation, not destruction of the playing field as we understand it. For example, we are not expecting to see the destruction of many of the minor manufacturers in the market. When the Minister said that major manufacturers were on side, she neglected to say that many minor manufacturers will simply go out of business and were that will involve the loss of thousands of supplements. The point made by the hon. Member for Vauxhall about potassium is real: although there may be potassium products on the positive list, the fact is that many supplements that are now compounds or part of products and preparations that people in this country have used effectively and safely for many decades will be taken off the market, so people will have to buy a new product that they do not understand. That goes to the heart of the problem.

As I said in a brief intervention on my hon. Friend the Member for Epsom and Ewell (Chris Grayling), the Government's record in dealing with this issue is poor and borders on negligent. With my hon. Friend the Member for Macclesfield (Sir Nicholas Winterton) and one or two others, I took a delegation to the Department of back in 2002. We struggled to get that meeting. Representatives of the manufacturing industry needed to see the Government about the issue, but the only reason why we got the meeting was that Ministers were being held to account the next day, when they were to come before European Standing Committee C. That was on a measure dealing with the authorisation of human and veterinary medicines, and the two Ministers present were obviously not well prepared. I suggest that a much simpler solution for the Government would have been improved labelling.

The positive list has attracted much comment. In defence of the Government's position, the Minister has tried to persuade the House this afternoon that most of the products that are on the market will be included on the positive list. To return to the point that I made about the remarks of the hon. Member for Vauxhall, the positive list as constituted will not be able to include all the products that are on the market now. Estimates of the number of products that will be taken from the shelves range from 800 upwards. The point made by several colleagues about the costs of that positive list have been ignored by the Minister. The cost of putting in dossiers is astronomical and completely beyond the scope of minor manufacturers. The market will therefore contract. Will the measure benefit larger manufacturers in the drugs industry? Yes, it will, because many of the drug companies have shares in or control the larger suppliers of vitamin supplements, so we will see a reduction in choice and the eradication of smaller companies—and, of course, the consumer will suffer.

It is amazing that some so-called controversial compounds such as sodium chloride, which is used to kill pests, and caustic soda, which is used to clean drains, are on the positive list, while scores of safe, non-toxic ingredients believed to benefit health are excluded. We have already heard about silicon and boron, which will be banned entirely. Naturally occurring folic acid found in spinach will also be banned, while the form sold by pharmaceutical companies will be allowed. That answers the question about whether major pharmaceutical companies will benefit.

On the issue of upper safe levels, the Minister has been in danger of misleading the House. I choose my words carefully, because when she said that the European authority responsible for setting those levels had not determined what they should be, she neglected to say that across Europe, excluding the United Kingdom, the policy normally adopted is to have so-called recommended daily allowances. They tend to be lower dosages and are historically set as a result of the influence of the Americans in Europe at the end of the

second world war, when the American system was largely brought into Europe. In Britain, we have always worked on the basis of maximum permitted levels. Nutritionists in the field who really know the subject, such as Patrick Holford, will say that those levels are vital for the treatment of certain conditions. The hon. Member for Bolton, South-East (Dr. Iddon) nods in agreement.

If the Minister accepts recommended daily allowances that will, probably, be forced on her, that will not be in the interests of people in this country and it will be against our tradition. That is why I say to the Minister that I believe she has been tempted into misleading us.

**Mr. Deputy Speaker:** Order. I think that the hon. Gentleman should rephrase the last few words. Will he withdraw that last remark?

**Mr. Tredinnick:** I am very grateful—

**Mr. Deputy Speaker:** No, no. Will the hon. Gentleman withdraw that last remark?

**Mr. Tredinnick:** Mr. Deputy Speaker—

**Mr. Deputy Speaker:** Will the hon. Gentleman just withdraw those last few words?

**Mr. Tredinnick:** Of course.

**Mr. Deputy Speaker:** I thank the hon. Gentleman .

**Mr. Tredinnick:** I hoped that I had used the word "tempted", Mr. Deputy Speaker; but perhaps I did not say that, in which case—

**Mr. Gale:** Yes, my hon. Friend did.

**Mr. Tredinnick:** Did I? Oh, well, there we are. I have been put right by my hon. Friend.

**Miss Melanie Johnson:** We are arguing very much on the basis of work by the expert group and we are arguing for a UK-formulated response that will consider safety rather than, as it were, daily needs. I assure the hon. Gentleman that we have the best evidence base offered to the EFSA on this subject.

**Mr. Tredinnick:** I am grateful for that, but I just hope that the hon. Lady prosecutes our country's case with vigour, on the lines suggested by the hon. Member for Vauxhall.

The problem is that we are being asked to believe the Government when the record is really poor. As I have said, it took appearances by Ministers before Select Committees for there to be any interest at all. When my hon. Friend the Member for Mid-Worcestershire (Mr. Luff) chaired the Select Committee on Agriculture—with great distinction—it had to deal with the vitamin B6 issue. The recommendation from the committee chaired by Lady Dalton—not the Select committee, but a committee that dealt with vitamin B6—was comprehensively rejected in the end, and the idea that we should have low levels of the vitamin was thrown out.

The hon. Member for High Peak (Tom Levitt) said there was no problem with high levels of vitamin B6, because it could always be passed out of the body—but the input, not the output, is what we should worry about. Less well-off people have to buy many more vitamin supplements, so they represent a tax on poorer people. Of course, they can buy them through the internet now.

The Government also failed on MLX 249, a document that proposed banning many popular and safe supplements and granting much more authority to the Medicines Control Agency. It proposed that the MCA should act as judge and jury. The hon. Member for Bolton, South-East and I attended a rally in Trafalgar square where thousands of people opposed those proposals. We could hear them chanting "Tony, we want the right to choose." That was in 1999, so the issue has been running for a long time.

**Mr. Cash:** My hon. Friend knows a great deal about this matter. Is he worried about the way in which decisions are reached in the context of the EFSA? It is a scientific body, yet—despite what the Minister just said—it appears that the bottom line is that it is not necessarily possible for the views of the United Kingdom to produce the right results in a body composed of so many different countries.

**Mr. Tredinnick:** That is the worry about the new European agency: that it will, *if* I may use an old hunting term, "roll the lady over". *[Laughter.]* I will withdraw that remark, Mr. Deputy Speaker. That makes two. I was trying to say—*[Laughter.]* I see that I am getting into a little difficulty. Perhaps I should move on.

Following my own mistake, I shall consider a classic one that the Government made concerning kava-kava. They decided to ban it, which was an astonishing decision. All manner of arguments were advanced in Standing Committee as to why it was so dangerous and I had to respond by pointing out that it is the national drink of Tonga. Yet even though it is a nation's national drink, the Government saw fit to ban it.

In a sense, this debate is academic, because people can now buy what they want over the internet. If our national law is at variance with what people want, they will buy what they want through that method. My hon. Friend the Member for Blaby (Mr. Robathan) wrote to me the other day about a company that will go out of business because it will be unable to make such products. He also cited the example of a company that is operating from the Isle of Man through the internet and e-mail, and which will be able to sell products that the Government have banned.

The Government have been slack, tardy and misguided in their approach to this issue. It is wrong for them to come to this House and claim that everything is rosy, because most people know that a lot of products will soon be removed from the shelves, and that it is all this Government's fault.

5.56 pm

**Ms Diane Abbott** (Hackney, North and Stoke Newington) (Lab): I am very glad to have the opportunity to speak in support of this measured and

*[Ms Diane Abbott]*

modest motion. Of the many issues that we will debate this week and in the weeks to come, this one gives the most cause for public concern, particularly on the part of those who perhaps do not take much interest in formal party politics. I congratulate the supporters of this motion on enabling the House to debate an issue that the public genuinely want debated.

Ministers need to remember that one of the phenomena of the past decade has been the appearance on the political agenda of health, nutrition and food issues. Indeed, I cannot remember a time when the public were more concerned about such issues. Those of us who are parents—and who perhaps have poor diets ourselves—take a particular interest in nutrition, the amount of preservatives in food and the amount of processed food available, as well as in the lack of access for our poorest communities to fresh, unadulterated food. Such concerns have led to the emergence of an interest in vitamins, minerals and other dietary supplements.

In the past few months, I have received more letters, e-mails and other communications from the public about this issue than I have about many others. Ministers said that certain Members were spreading concern about it, but in fact the pressure is coming from our constituents, which is why it is important that we have this debate today. It is difficult to explain to them that they face having limited or no access to the vitamins, minerals and supplements on which they depend, when at the same time the Government are trying to introduce 24-hour drinking, despite the well known health effects of alcohol. How can we say that our only concern is to protect health when we are legislating to allow people to drink themselves into a stupor 24 hours a day?

One consequence of the directive will be to force people to purchase such products on the internet, where there are far fewer controls, inspections and guarantees of product safety. This measure is being advanced more in an effort to satisfy the interests of pharmaceutical companies than to satisfy our constituents' need and desire for access to a wide range of vitamins, minerals and other supplements. I should also point out that people have been taking such products for many years, with no report of ill effects.

Although I do not share the passionate anti-European views of many Conservative—and, indeed, Labour—Members, I consider myself mildly Eurosceptic. Ministers must consider why public opinion has moved away from Europe since 1997. It is because of matters such as this, which seem minor to Ministers but adversely affect millions of people. The public are aware that Europe intervened in this matter, but it is not clear that Ministers stood up for our people's interests.

This matter is very important to my constituents and I have heard from many of them in recent weeks and months. The motion is a modest one and I hope that, even at this late stage, the Government will reconsider their position and withdraw their amendment.

6 pm

**Mr. Roger Gale** (North Thanet) (Con): I am delighted to follow the hon. Member for Hackney, North and Stoke Newington (Ms Abbott) and want to carry on in the same vein. This is not a party political debate. I do not want to score Tory points, or any other points. I am here to speak for my constituents, hundreds—if not thousands—of whom use herbal food shops in my area. They buy products that they and their families have used for many years, as the hon. Lady described.

I intervened on the Minister to suggest that she risked being disingenuous by saying that there was no danger that products would be banned. She seemed to hint that I did not understand the difference between a product and an ingredient, which is like saying that I do not see the difference between an egg and an omelette. One needs ingredients to make a product. Removing access to the ingredients effectively removes access to the product. That is what will happen, although the Minister does not seem to want to understand that.

It was claimed earlier that vitamin A can kill, and that is true, but so can tea. Tea is a herbal infusion but, like almost anything else taken through the mouth, it can kill if consumed to excess. One would have to drink a heck of a lot of it, but the medical records suggest that people have died from drinking too much tea. Coffee can kill too, as can all sorts of things that we consume. So far, the Minister—or the Government, or Europe—has offered no evidence to suggest that the proscribed list under discussion this evening has ever killed anyone.

No scientific evidence has been offered to support the Government's ludicrous argument that people will buy products that harm them. The hon. Member for Vauxhall (Kate Hoey) said that she had one product that will be banned in her pocket. As a mature adult, she is entitled to choose to use it. The Government's response to the directive is an example of the nanny state rolling over with its paws in the air and allowing its tummy to be rubbed by the nanny superstate.

In whose interests is the Government's response? The Minister for Public Health said that the directive had been adopted in the interests of public health and safety, but she did not say why the public would be in any way unsafe. It is possible that some of the products used by me, my wife, my family and other hon. Members, for example, do us no good. We may waste lots of money on them, but that is our choice. The products have not killed me and do not appear to have done me any harm.

**Mr. Stephen Pound** (Ealing, North) (Lab): Not physically.

**Mr. Gale:** I believe that some of them do me good, but the hon. Gentleman may need the sort of product that will soon be available at a bar 24 hours a day. That may give him more comfort than my speech.

One hon. Member with a scientific qualification made the valid point earlier that all these products will be available on the internet. Is it better for me or my constituents to go into Holland and Barrett or Juliet Seeley's emporium in Broadstairs and receive excellent advice from knowledgeable people who understand the range of products that they are selling—in the same way as the Minister and her family would go into a chemist's and take advice on over-the-counter prescription

medicines—or to buy on the internet? If the Minister cannot answer that one simple question, she has to concede that there is no benefit in the regulation that she seems hellbent on supporting. It will do more harm than good, and she should be fighting it.

6.5 pm

**Tom Levitt** (High Peak) (Lab): Before I commence my remarks, the House may wish to know that I am a biology graduate who taught for 20 years. I regularly taught food and nutrition, and I also have in my constituency a company called Nutri which produces supplements of, I am sure, a high standard and markets them honestly to many people. Like many hon. Members, I was contacted by several hundred constituents the last time this issue arose to express their concerns. By half-past 3 this afternoon, four had chosen to remind me of those concerns prior to this debate.

I have another admission to make, which is that I do not often read Opposition motions all the way through—but this one was short and stood some consideration. It talks about the importance of a satisfactory compromise—not language that one often hears from the Opposition. The early-day motion that preceded the motion had a degree of cross-party support, and the motion mentions a desire

"to protect the interests of consumers and manufacturers".

That is a creditable aim. However, I do not believe that the unilateral repeal of the regulations is possible. The Government motion explains why renegotiation could be dangerous and produce a less satisfactory outcome.

Moreover, the Opposition motion and the comments from Opposition Members have been ridden with the Euroscepticism that pervades that party. The hon. Member for Reigate (Mr. Blunt) talked about a directive from the "ludicrous" European Union and the hon. Member for Stone (Mr. Cash) has been delightfully predictable all afternoon in his comments. However, Conservative Members should remember that we are in this situation because of single market regulations approved by this House under a Conservative Government. That is not meant as a political point, but Conservative Members should bear that in mind, because it could be regarded as the source of their problem.

The negotiations in which representatives of the British Government were involved for many months were long and complex. They involved bringing together 15 nations—at that time—with different rules, regulations, backgrounds and experiences. There was probably less commonality between their experiences on the issue than on many others. They were dedicated to putting a high priority on safety, and the result is pro-choice. However, it is pro informed choice, and that is the important point. As other hon. Members have said, the directive will provide great opportunities for trade in the commodities in question, given the single market experience, for companies such as that based in my constituency.

It bears repeating that the outcome of the negotiations was welcomed at the time by the Consumers Association, the Health Food Manufacturers Association and others. We are now talking about the implementation of the decisions. Every vitamin that was on sale in this country in 2002 will continue to be on sale. Every mineral for which there is no evidence of harm—evidence of safety can be produced in the next few months—will be on sale until at least 2009. Although a dossier has to be produced, we have heard today that it can be a slim one produced by any company or group of companies in any of the 25 states of the European Union. It is not necessary for every single product produced by every single manufacturer to be represented separately. Every licensed medicinal product is unaffected by the regulations.

**Chris Grayling:** How does the hon. Gentleman think that each individual company will decide whether it should be the one that submits the dossier for the whole of Europe? How would it decide whether it should take on the cost itself rather than waiting and hoping that another company will do it?

**Tom Levitt:** I appreciate that commercial issues will be involved. However, organisations, such as the Health Food Manufacturers Association, speak for the industry as a whole, and I hope that there will be European equivalents. If there is openness and we can tell what dossiers have been submitted and if the Government know what dossiers are in the pipeline, it should not be too difficult for companies to make such decisions.

Six minerals do not yet qualify subject to the evidence of their being safe, but they still could qualify if the dossiers are submitted even prior to the evidence in them being fully taken on board by the European Food Safety Authority. Those minerals are vanadium, tin, cobalt, silicon, boron and nickel. The hon. Member for Epsom and Ewell (Chris Grayling) told the House that vanadium plays a role in fighting diabetes, but I had no knowledge of that. I have taught diet and nutrition and I remember studying invertebrates at A-level and learning that only sea squirts had a biological use for vanadium. They have it in their blood. At that time, there was no other known biological function for vanadium. Similarly tin has no known biological function. Cobalt is included on the list, but it forms part of vitamin B12. Cobalt will obviously not be banned, because vitamin B12 is allowed. Silicon, boron and nickel are trace elements that are required in the diet, but there are no recorded cases of deficiencies in them. They occur naturally in sufficient trace quantities in the diet for them to be effective as trace minerals.

**Dr. Pugh:** I am a former teacher, so I hope that the hon. Gentleman will not mind me making this point and I am sure that he will be happy to answer me. He used two expressions when he spoke about what needed to be proved about an acceptable mineral or nutrient. He said that they must show no evidence of harm and evidence of safety. Are they the same things? Or once one has proved no evidence of harm, does one then need to prove evidence of safety?

**Tom Levitt:** The Minister outlined what the dossiers were for and what they would have to prove. I am sure that the detail is much better known by the industry than it is by me.

The hon. Member for Epsom and Ewell put his finger on what the issue is all about. He talked about people believing that these products did them good. I think that

*[Tom Levitt]*

we are talking about an element of faith healing and a placebo effect. I do not criticise or condemn alternative therapies, but healing or health care based on belief rather than scientific evidence is a dangerous path to go down. I am not against people taking supplements, but I am against people making claims for them that cannot be justified.

In my time, I have had reflexology, and I do not understand how that works. I have had treatment from a chiropractor—I do understand how that works—and homeopathy. Some of the elements and minerals that we are talking about occur in such small quantities that we are almost talking homeopathic quantities. Large doses are exactly what people do not want. I was particularly interested in the intervention by the hon. Member for North-West Norfolk (Mr. Bellingham) when he said that he had taken zinc. It clearly galvanised him into action—a scientific joke for the House.

When many of these products are in the diet to excess, they simply pass through the body and are excreted at the other end. They clearly do not perform a particularly useful function, especially in respect of the fact that people have spent their money on them. However, other products are retained in the body. For example, if carotene is taken in excess as a vitamin, it can cause discolouration of the skin and other well understood effects.

The people who have the most to gain from greater sales of greater quantities of higher doses of the supplements are the manufacturers. It is like the mustard principle, because the bit left aside that does no good—the excess consumed—generates profits for the industry. I am not against people making profits, and more profit will be made when the products are sold to a larger market, which will be possible under the commonality of the rules that will apply throughout the European Union. However, we must ensure that there is no medical risk from the products, which is why the precautionary principle is right, and that we base our recommendations to people on daily doses of vitamins, for example, on well established scientific principles. Although I do not accuse everyone in the field or every supporter of this, an element of mumbo-jumbo is involved in the belief element of the way in which the products work, which can be dangerous in certain circumstances.

Having considered the Opposition motion, I read the Government amendment. It talks about products being

"safe, properly labelled, and ... freely traded".

It refers to

"as many products as possible",

and hon. Members should bear in mind that the current list is not exhaustive, or the end of the story. It says that:

"all of the vitamins and most of the minerals currently on sale in the UK will still be available".

Reopening negotiations would not only lead us down a legally dicey path, but could risk making the effect of the regulations more restrictive, as the amendment says. Having considered the motion and the amendment in great detail, I have no hesitation in plumping—would you believe it, Mr. Deputy Speaker—for the Government amendment.

6.16 pm

**Mr. William Cash** (Stone) (Con): I declare a past interest because during the 1970s, I was involved in the field of complementary and alternative medicine as a lawyer. In about 1973, the acupuncturists came to see me, and I later discovered that there was a vast amount of discrimination against chiropractors, homeopaths and others in such fields. In those days, it was contrary to the rules of professional ethics of the General Medical Council for a doctor to refer to an osteopath. One can thus gauge the extent of the changes that have taken place, because many doctors today practise therapies that are generally described as complementary medicine. I am sure that most people think that that is beneficial and advantageous. Indeed, if we go back to the time of the Medical Act of 1853—I think—people who went on to the medical register, if there was such a thing, had virtually no qualifications of any description, so I think that we have made enormous progress.

I was slightly worried when the hon. Member for High Peak (Tom Levitt) said that everything would be done in accordance with well established scientific principles. I am an administrative lawyer, among other things, which is why I intervened on the Minister to ask how decisions will be arrived at. When such scientific decisions—they are well outside my knowledge—are taken, we need to ensure that that is done properly. Nevertheless, there is great prejudice and bias against many aspects of the field, which is reflected by what I discovered regarding osteopaths in the 1970s and what I know from having been extremely closely professionally involved with it for many years, although I am not now.

In the 1980s, the British Medical Association attempted to ban alternative medicine, and was supported by the medical profession at the time. The response from 150 Members of Parliament put an end to that sort of virulent opposition to complementary and alternative medicine. It seems to me, on the balance of the evidence—looking at the experience of my constituents and of people I know who have benefited—that a great deal of good has come from alternative medicine.

Having said that, I ask again: how do the "difficult" nutrients get on to the positive list? By "difficult" nutrients, I mean those that are causing disputes between the various parties. That question has not yet been clearly answered. The EFSA has its own procedures and mechanisms and the point that I have been probing, but on which I have not yet received a reply, is that there appears to be a considerable body of opinion among the advisory councils that tends to be less than objective in arriving at decisions. It is important that we know who makes appointments to those bodies, the principles on which they operate, whether they are entirely devoid of conflicts of interest and what decision-making process is used in determining whether a dossier will lead to a ban. I need not enlarge on that point, as I have dealt with it in interventions.

One point that I do not think has been mentioned in the debate—forgive me if it has, Mr. Deputy Speaker—is that today the European Court of Justice is to make a decision on the challenge passed to it by the High Court about a year ago. The case raises some important questions. If the Court decides in favour of the Government and decides that the regulations are effective, what would the Opposition be able to do about

it if we took a contrary view? On the other hand, what would happen if the decision, based on the arguments advanced in the case, went against the Government and the regulations had to be repealed? The answer to the second question is simple: if the Court decides that a directive and the regulations based on it are defective or ultra vires—whatever grounds it uses—according to the principles of subsidiarity and proportionality, that is the end of the matter. However, it is not the end of the matter for the UK Parliament, or for the many thousands of people who want their views to be reflected in the repeal of the regulations.

I was therefore delighted to see the terms of the Conservative motion, because not only does it call for renegotiation of the food supplements directive, but it indicates a willingness to

"repeal the regulations if the renegotiation does not reach a satisfactory compromise to protect the interests of consumers and manufacturers in the United Kingdom."

We could say the same about fisheries and over-regulation. I would argue that we could say the same about the European treaties, as well. The European Union Bill is to be introduced tomorrow. The question I put to the Prime Minister the other day is: what will he do if there is a no vote in the referendum? Will he return to the issue that is before us? Will he do what is necessary to give effect to the will of the British people as expressed either in a referendum or by a vote in the House? That is the crucial democratic question that faces us all in the House and outside it. It happens to arise, as a matter of principle, under the provisions of the measures that we are discussing in the motion. The issue is whether we are able to repeal the regulations if renegotiation does not reach a satisfactory compromise. The short answer is: yes we can.

I do not intend and I do not need to go through all the reasons for that. There will be time enough to consider these matters both in respect of the European Union Bill, which will be presented tomorrow, and also the Constitutional Reform Bill, to which I have tabled some amendments, which is to be discussed in a Committee of the whole House next week.

The fact that we are prepared to state that we would repeal the regulations, if it becomes necessary to do so, is a fundamental constitutional matter that the House, as a whole, must address. It arises, for example, in relation to immigration and asylum. The Minister for Energy and E-Commerce, who is to reply, has a great deal of experience in this area. He knows exactly what I am talking about. There are answers to these questions and there are two bodies of jurisprudence. There is the jurisprudence of the European Court of Justice, which is considering this challenge today. It says, under the case of Costa *v.* ENEL 1964, that the European Court—this is endorsed by another case called Simmentahl—has the right to decide the issue of the superiority or supremacy of legislation in terms of its jurisdiction as against the laws and the constitutions of member states.

On the other hand, we have a tradition, which is based on the fact that Parliament can decide by a subsequent clear and unambiguous enactment passed after the European Communities Act 1972, not only that we can—this is in line with McCarthy's *v.* Smith involving Lord Denning, and Lord Justice Laws in the Metric Martyrs case—make such provision as we wish but, in addition to that, the judges are under an obligation to give effect to that law as passed by Parliament, providing that it is clear and unambiguous. The Factortame case is based on the 1972 Act and, therefore, is within the general rubric of what I have described.

We are dealing, perhaps for the first time, with a serious motion that raises the question of the Conservative party being prepared to go down the route of stating on the Floor of the House, in line with what I have been arguing for the past few years, including when I was in my previous position, that it is open to us to be able to repeal or amend legislation that is inconsistent with that which has arisen from the 1972 Act. I do not need to enlarge on that any further. The importance of what we are discussing cannot be underestimated.

6.28 pm

**Dr. Brian Iddon** (Bolton, South-East) (Lab): I have only two or three minutes so I shall make only one point.

This debate has been raging since I was elected in 1997, starting with vitamin B6, and coming through to where we are today. Whenever I have tabled an early-day motion on this subject or whenever I have participated in a debate on the matter, there has been cross-party liaison.

I cannot support the motion of the hon. Member for Epsom and Ewell (Chris Grayling) for one reason, much as I have sympathy with it. In my view, what the Conservatives are trying to do is practically impossible. This all started with the European elections on 10 June. Until then, the issue went across the parties. On 10 June, the Conservatives decided to bang it on their website and use this issue to recruit people. Ever since then, the Conservatives have made the issue a party political one. Since 10 June, and even before then, early-day motions have been tabled by six Conservative Members, who did not attempt to enlist the support of members of other parties, as I did when I tabled early-day motions on the subject.

I cannot vote for the motion, because the hon. Member for Epsom and Ewell is being party political in the run-up to a general election. I wrote to the Health Food Manufacturers Association, Consumers for Health Choice and other organisations that appeared to support the Conservatives' views during the June elections, to say that I was disappointed by the way in which the Opposition had behaved. They have wrecked the debate.

6.30 pm

**Dr. Howard Stoate** (Dartford) (Lab): I, too, shall be brief. As Members know, I am the only practising GP in the House, so I have an interest, to say the least, in this issue.

Many of my patients take supplements, vitamins, minerals, food additives and so on, and, like the significant number of my constituents who have written to me about the issue, they believe that they derive great benefit from them. That has an effect on health care, as some people would rather take over-the-counter supplements and vitamins than trouble their GP, go to casualty or phone NHS Direct. The public therefore regard the majority of vitamins and supplements as a good thing—so in that sense I do not oppose their use, as they serve a useful purpose in society. However, that

*[Dr. Howard Stoate]*

does not mean that there are no problems, and I should like to make a couple of remarks on the subject as a practising GP. The hon. Member for North Thanet (Mr. Gale) pointed out that if supplements were not available over the counter people would resort to the internet. However, the internet is already full of drugs that should not be available in that way. I am sure that, like me, hon. Members are bombarded daily with internet adverts to buy anything from tranquillisers to drugs for erectile dysfunction and dangerous drugs to modify obesity, all of which can have deleterious effects. To say that the internet would be used as a refuge to sell supplements is a mistake, as we already have to deal with the problem. That argument only confuses the issue, and does not clarify it.

I am worried about the way in which some supplements are taken. They are rarely taken in a standardised form or dose. The scientific evidence on their effectiveness and side effects is often unclear. As a GP, I often suggest to a patient that they take a particular drug to modify their illness and they will ask whether it is all right to take it with the vitamins, minerals and supplements that they are already taking. The simple truth is that I do not have the faintest idea. Up and down the land, patients want to know whether it is all right to take supplements with the drugs that their GPs recommend for heart conditions, diabetes, blood pressure and so on, but we simply do not have the evidence.

As a scientist and someone who feels strongly that we need scientific research and data to back up the claims that we make, I believe that anything that can improve scientific knowledge about things that people take is for the best. I cannot check drug interactions with supplements and minerals, as there are not any research papers or evidence. I can check on my computer for drug interactions, but they will not show up there; I can check the established medical directories on drug interactions, but they will not be listed there. I simply do not know whether those drugs have a deleterious effect in combination with the drugs that I prescribe. If someone comes back to me with possible side effects, I do not know whether they are caused by the drug that I prescribed or by the interaction between my drug and other things that the patient is taking, and on which I have neither data nor knowledge. It can therefore be hazardous if people take those drugs in a non-standard form, or if they do not know the recommended dose. The House has legitimate concerns about that issue, which should be flagged up.

Finally, some of those minerals have side effects. I have seen at least two patients in my medical career who had taken high doses of vitamin B6—certainly higher than the current recommended maximum dose—and had suffered neurological side effects. Fortunately, when those two patients stopped taking vitamin B6 the side effects went away, but at the time there were worrying side effects from the doses that they were taking.

I do not wish to detain the House any further. I merely point out that there are issues, particularly as regards interactions with other drugs, which need to be considered carefully when the House makes decisions on these matters.

6.35 pm

**Tim Loughton** (East Worthing and Shoreham) (Con): We have had a well informed debate—another Conservative-instituted well informed debate on the subject, and we make no apologies for coming back to it. It is an important issue for many millions of our constituents throughout the country. I shall comment on the contributions that we have heard. I begin by welcoming the support given by the Liberal Democrats to the cross-party consensus on the subject. That was helpful.

As usual, I compliment the hon. Member for Vauxhall (Kate Hoey). Supplements have done her no harm. She looks better than most of us in the House, having dabbled in them, I believe. She emphasised that there is a genuinely cross-party interest. She did not make that excellent speech just to help the Tories. As she said, she should be entitled to use whichever brand of food supplement she has chosen to use, until and unless it is proved unsafe, which has not happened thus far.

My hon. Friend the Member for Bosworth (Mr. Tredinnick), not surprisingly, made his contribution to the debate. He is known as the hon. Member for South Holland and the Barretts, as we know. He mentioned the effect that the directive would have on minor manufacturers. They will suffer as a result of the level playing field being removed.

The hon. Member for Hackney, North and Stoke Newington (Ms Abbott) made an interesting contribution and complimented what she considered a rather modest approach in the motion. I think she would agree with us that if the motion were put to a truly free vote in the House, it would be won. If hon. Members voted as their conscience told them and as their constituents are telling them in large numbers, the motion would be passed. The hon. Lady pointed out that the debate is important because it is about a subject in which many ordinary people are interested, although they are not naturally interested in politics and the political process, so it is right that we should discuss it today.

My hon. Friend the Member for North Thanet (Mr. Gale) made the perfectly reasonable assertion that tea can kill, taken out of proportion. One could also drown in it, I suppose, let alone drink the stuff. He asked in the interests of what or whom the regulations are being passed. The hon. Member for High Peak (Tom Levitt) spoke from experience, with his biology background, but he made the curious assertion that the Government had achieved a pro-choice result. In fact, it will limit the choice of many millions of people who want to continue taking the brand to which they are used. His mention of the placebo effect of all these supplements, as he claimed, is more than a little patronising to millions of people who take supplements, believe in them and experience beneficial effects.

My hon. Friend the Member for Stone (Mr. Cash) spoke in great technical detail. The hon. Member for Bolton, South-East (Dr. Iddon) made the extraordinary assertion that he agrees in principle with the motion and with the issue, but political considerations stand in the way of his voting for it. Finally, the hon. Member for Dartford (Dr. Stoate), with his experience as a GP, alluded to the problems of the internet. Even if he wanted to ban all supplements, they would still appear.

After the excellent contribution from my hon. Friend the Member for Epsom and Ewell (Chris Grayling), there was a truly appalling contribution from the Minister, who failed to answer any questions about the supposed harm caused by the supplements that she is seeking to ban. She made the extraordinary Alice in Wonderland statement that this is a free country. That is not the case, of course, if one wants to continue using one of 5,000 supplements that may not be available after 1 August. She said the Government were spreading the liberal culture—by banning choice. We knew she was in hot water when she ended up on the subject of dodgy dossiers. She was completely sunk at that stage.

There is cross-party concern. The matter would not be before the House without the high-profile campaign and a great deal of hard work initiated in large part by my hon. Friend the Member for Epsom and Ewell. The save our supplements campaign was launched in April last year. The matter affects an estimated 41 per cent. of adults in the UK—21 million consumers—and an industry worth £335 million. There was a petition that gained more than a million signatures and a postcard campaign, of which all of us, as constituency MPs, have seen evidence. Health food shops in every high street in the country carried posters and took the campaign on board. As my hon. Friend said earlier, this debate comes at a crucial time, with the case before the European Court today.

I am sure that hon. Members will, like me, have been deluged with e-mails and calls from constituents ahead of today's debate. Let me mention a few that I have received in the past few hours:

"This ban is ridiculous. It is a medical fact that vitamins and minerals form a vital and necessary part of our diet. As modern farming methods involve a large amount of chemicals, these naturally occurring vitamins and minerals become less and less potent."

Another constituent says:

"They are extremely important to me and my lifestyle, and they are a safe way to stay in shape for my sporting commitments."

Another says:

"Many people find enormous benefit to their health from supplementation, unlike the many problems caused by the pharmaceutical drugs prescribed widely."

The representations go on and on; I have received many examples in just the past couple of days.

If the directive is allowed to go through unchanged and with the full compliance of the British Government, up to 5,000 products could be banned from 1 August this year. As my hon. Friend the Member for Epsom and Ewell said, if there is a real fear that items are unsafe, why do the Government not remove them from the shelves now rather than wait until 1 August? What are the dangers? We asked the Minister, but she came back with the absurd contention that we must prove the safety of an item before we have to prove its danger.

What we do know is the names of the eminent clinicians on the European Commission's scientific committee on food who have prepared the directive. If one looks at some of the individual parts of the directive, one sees that it does not raise specific implications and concerns; it raises possibilities. On the basis of those possibilities, 5,000 products are to disappear from our shelves.

**Mr. Tim Boswell** (Daventry) (Con): I am grateful to my hon. Friend for giving way; I appreciate that he is short of time. Will he share with the House his appreciation of the likely loss of employment both to my constituents and others from what is being done, which is so ill defined and difficult to justify?

**Tim Loughton:** Absolutely. That is why I said that this was a £335 million industry, so a lot of jobs will be affected, in addition to people who use the products.

What discussions took place between the Department of Health and the Commission as to the level of supposed risk and whether a full ban is appropriate for this country? How many of the 533,527 people who died in the UK in 2002, as is catalogued on the Department of Health website, died as a result of having too much Solgar's pre-natal nutrient or popping too many folic acid pills? What recorded side effects result from direct consumption of various cocktails or quantities of any of the threatened supplements? The Minister could name none. What risk assessments have been carried out, compared with the benefits that many users, such as my sportsman constituents claim to get? What are the precedents for using the positive lists on which nutrients and nutrient sources must now feature before being permissible? When did we concede the principle that all supplements are guilty until proven innocent?

The fact is that there is no evidence for this move and no proven danger in a harmless lifestyle choice in which millions of our constituents have opted to indulge for many years, unfettered by Government and allowed the freedom to make their own choices.

**Rob Marris:** Will the hon. Gentleman give way?

**Tim Loughton:** No, as I have very little time.

The same applied to the kava kava regulations to which my hon. Friend the Member for Bosworth referred. In Committee, we heard that that product was banned on the basis of seven cases over the past 10 or 12 years across the entire world. Not one single liver biopsy could be produced in evidence and the prime suspect was an 86-year-old who died in his sleep and had apparently taken a kava kava pill at some time in the past.

Consumers are being denied their right to take responsibility for their health by using safe and popular specialist supplements of their choice. The Government have been wholly disingenuous. When the Minister for Crime Reduction, Policing and Community Safety was an Under-Secretary of State for Health, she said:

"We must get the right balance between consumers having freedom of choice and access to a wide range of safe supplements, while making sure, crucially, that we protect public health."—[*Official Report*, 20 January 2003; Vol. 398, c. 100.]

Where is the choice in this blanket ban? What is the evidence of danger to public health? What is proposed is grossly disproportionate. As the Leader of the House put it, the proposed ban is "unnecessary interference". As Sue Croft, director of Consumers for Health Choice, put it:

"The Government are saying one thing to consumers, to industry and to Parliament, while pursuing a quite different course in its negotiations with the EU."

*[Tim Loughton]*

The Government are being wholly duplicitous. They have the power at least to delay implementation in the UK, or they could use the UK's presidency of the EU to renegotiate the directive, as our motion states, but they refuse to do either of those things.

Whom does the directive benefit? It does not benefit the 21 million adult users or the supplement industry, which is worth £335 million. What about the big drug companies, which are lining up in favour of the directive as they muscle out the smaller players? As today's *Daily Mail* puts it:

"There's a clue in the contents of that approved list—by and large, vitamins and minerals produced by big drug companies are on it, while ones made by small specialist firms are not."

The directive panders to this Government's increasing nanny state tendencies—if you can't control it, ban it; if big business does not like it, restrict it; and if Europe does not want it, do not resist and comply—fast.

The real fear is what comes next. The Government's own submission for today's case in the European Court totally reverses the UK Government's position and states that the directive is both "proportionate" and a "good starting point". Spinach contains high levels of naturally occurring folic acid. Surely there is a danger of overdosing on spinach, so the spinach roulade had better come off the new Labour menu. Too many Rice Krispies, which contain extra niacin, vitamin B6 and riboflavin, will make you go snap, crackle and pop—surely Rice Krispies should be for the chop.

Apart from all the problems with imports and the internet, how will the directive be enforced? Can we look forward to a network of secret cells of pregnant women who get together in the dead of night to feed their now illicit habit of popping Solgar pre-natal nutrient tablets? They will have to masquerade as the modern-day equivalent of the now-defunct Tupperware party to foil the possibility of police raids—Mrs. Smith from No. 31 stands guard as Mrs. Miggins from No. 57 smuggles in a false-bottomed Ovaltine jar containing Solgar pills, secreted in the lining of her Liberty-print maternity dress. Will we see special flying squads of supplement-busting police lining up alongside police traffic patrols to blood-test drivers for suspiciously high levels of boron in the bloodstream? Will border patrols be stepped up, with cannabis-sniffing dogs retrained to detect traces of evening primrose oil smuggled in illicitly from countries outside the EU?

The trouble is that the police are too busy preparing to chase people in pink coats on horseback, knocking on doors demanding to search for red marks on children's backsides and arresting dutiful husbands who change a plug socket in their kitchen at the infinitesimal risk of harming themselves. The whole prospect is absurd nonsense, and it would be laughable if the regulations that we are debating today were anything other than a real and imminent threat to the liberty of responsible grown-ups who have chosen to supplement their diets with vitamins and other non-prescription medications, because they believe that those products do more good than harm—if people believed otherwise, they would not buy such products.

There is no problem here that cannot be addressed by better labelling, information about nutrient contents, recommended daily doses and warnings about possible health risks. The directive is a solution looking for a problem, but the problem exists only in the petty, nannying, bureaucratic, Euro-subservient minds of Ministers, who are out of touch with their constituents and what ordinary people choose to do with their own lives, and out of credibility when they discuss freedom and choice. This is dodgy science from a dodgy Government; hon. Members should have none of it and vote for the cross-party motion.

6.48 pm

**The Minister for Energy and E-Commerce (Mr. Mike O'Brien):** Thank you, Mr. Deputy Speaker. *[Interruption.]* A Conservative Front Bencher says, "Answer that," but I am not sure whether the previous speech contained anything of substance worth answering.

The debate has been interesting, with strong contributions from hon. Members on both sides of the House. My hon. Friend the Member for High Peak (Tom Levitt) gave us the benefit of his knowledge of biology and nutrition, which derives from his being a teacher. My hon. Friend the Member for Dartford (Dr. Stoate) is a practising GP, and he set out his concerns. My hon. Friend the Member for Bolton, South-East (Dr. Iddon) took a different view, but he does not support the Opposition motion.

My hon. Friends the Members for Vauxhall (Kate Hoey) and for Hackney, North and Stoke Newington (Ms Abbott) also took a different view. Some hon. Members on the Eurosceptic wing of the Conservative party contributed, in particular the hon. Member for Stone (Mr. Cash), who made an elegant legal argument—as usual. My neighbour, the hon. Member for Bosworth (Mr. Tredinnick), who has a long interest in the issue, made a strong contribution.

This is a serious subject for those of us who recognise the importance of issues to do with vitamins and food supplements, and it is sad that the Conservatives are using it as fodder for a cheap party political, pre-election bit of knockabout. Scare stories are being run whereby vulnerable people who rely on various supplements are being told by Conservative political opportunists—and, let me add, by some decent and well-meaning people too—that their vitamin or food supplements will be banned on 1 August, yet for the most part that is not true. In fact, the Conservatives were quite careful in their choice of words—they said that these products "could" or "may" be banned, raising fears without actually saying that they will be banned.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): Many people will be reassured to some extent by my hon. Friend's remarks. However, even if certain supplements may not be banned, is it not the case that later this year the maximum permitted level of certain vitamin and mineral supplements will be set at levels that are significantly lower than those that have become habitual in UK health foods?

**Mr. O'Brien:** If my hon. Friend, who is another neighbour of mine, had been here earlier he would have heard my hon. Friend the Minister for Public Health deal with that very point. We are adopting an evidence-based approach whereby the United Kingdom is submitting evidence to the European Food Safety

Agency to consider the issue of maximum dosage. There are no current proposals that that dosage should be reduced. Provisions in the directive allow it to be raised at a later stage, but the straight answer to my hon. Friend is that there is currently no such plan. The Germans have proposed a lower dosage; we are proposing a higher one. We will have to see how that discussion develops in future.

**Rob Marris:** Will my hon. Friend give way?

**Mr. O'Brien:** I will give way once more, and then I must make progress.

**Rob Marris:** Is not the problem with the Conservatives, as typified by the hon. Member for East Worthing and Shoreham (Tim Loughton), that they completely reject the spirit of scientific inquiry? He asserted that these substances are harmless, but does not wish to engage in a process to get the evidence to find out whether that be the case. The directive will enable us to get that evidence.

**Mr. O'Brien:** My hon. Friend is right. This is to do with the extent to which we develop consumer protection. We want to do that in a sensible way that not only allows people to have a wide choice in the supplements that they use but reassures them that those products are safe. In respect of products that might fall outside one of the prescribed lists, there is a procedure that can prevent that from happening, at least until 2009, and in many cases, indefinitely.

We need more facts and less alarmist rhetoric. There are problems with the directive—we have always been clear about that. It was the result of a hard-fought negotiation in which other member states sought a much more restrictive regime but did not get it. We got much of what the industry asked us to get. That is why, when we signed up to the directive, the various trade associations in the vitamins and minerals industry supported our doing so. Their views may have changed since in some cases, but they supported us then.

**Chris Grayling** *rose—*

**Mr. O'Brien:** I give way for the last time, as I must make some progress.

**Chris Grayling:** If the industry supports the directive, why is it spending hundreds of thousands of pounds on challenging it in the European Court as we speak?

**Mr. O'Brien:** The hon. Gentleman was not listening to me. I just said that the views of those in the industry may have changed since the directive was signed—that is a matter for them—but at the time they supported the Government's signing the directive and wanted us to do it. The Government acted in a bona fide way, and we want to continue to work with them to ensure that they can produce the products that their customers want.

**Richard Younger-Ross** (Teignbridge) (LD): Will the Minister give way on that point?

**Mr. O'Brien:** No, I want to make progress.

In the negotiations, we got much of what the industry requested. The directive is sufficiently flexible to ensure that no vitamin or mineral that is currently on sale in British shops must cease to be sold after 1 August. Either the ingredients are on one of the two prescribed lists or a dossier can be submitted that enables them to be assessed as safe by the European Food Safety Agency, in which case they can continue to be on sale until 2009. Provided that they are found to be safe, they can continue to be on sale indefinitely.

I shall consider the best approach for the industry and consumers shortly. First, let me deal with Conservative claims that we can reopen negotiations or revoke the directive. Conservative Members offer revocation as a false panacea, although I noticed that, when repeatedly pressed by the hon. Member for Stone to commit to revoking the directive, the hon. Member for Epsom and Ewell (Chris Grayling) wriggled and writhed out of promising consumers that they would do that. They propose revocation in the motion but failed to say that they would do it when asked by the hon. Member for Stone.

I invite the hon. Member for Epsom and Ewell to intervene and say what he failed to say when he was repeatedly asked to do so earlier. I offer him the opportunity. He will not take it. Why has he tabled a motion that he is not prepared to defend? The answer is cynicism. It may serve the short-term purposes of the Eurosceptic Tory party in the run-up to a general election but it will cost the taxpayer and the consumer dear.

If we did as the motion suggests, we would be in serious breach of obligations under the European Communities treaties and the Single European Act, to which past Conservative Governments signed up. We would attract infraction proceedings from the European Commission and taxpayers would be likely to be hit by heavy fines. Other member states could also initiate action under article 227 and, ultimately, the UK would be obliged to enforce the directive or take the route that the hon. Member for Stone offers: withdrawal from Europe. Revocation would leave us in a weaker position because we would be unlikely to have submitted the important dossiers to keep the products on the market. Clearly, that would damage the industry in the long term.

Let me consider the idea of renegotiating the directive. To do that, we would need a qualified majority of member states. The only likely qualified majority at the moment is for a more restrictive directive. The trade associations urged the UK Government to support the directive at the conclusion of the negotiations three years ago because it was clear that we had got as many concessions as we were likely to get. If we pushed any further, things would become much more restrictive.

The only two countries with a similar market to that of the UK for vitamins and minerals are Ireland and Holland. Neither country has asked to reopen negotiations on the directive. Even if they were reopened, we would be faced with a vast majority of member states that sought a more restrictive outcome, not the more liberal result that the Conservatives promise. We got several concessions in the initial

*[Mr. O'Brien]*

negotiation and Conservatives' proposals would put them at risk. Consumers who rely on the supplements would be at risk because of Conservative policy.

The concessions include time scales for implementation, the ability to keep products on the market until the EFSA had ruled on them, and the guarantee that the dossier presented by 12 July need not be exhaustive. We also got a substantial lead-in time to enable our industry to present its arguments on vitamins and minerals.

On the presidency, the Conservatives have left it a bit late to make their requests. The law is effective from 1 August, a month after the start of the UK presidency. The idea that we could renegotiate a complex directive, especially when most member states would want to be more restrictive, in the suggested time scale, is nonsense. The Conservatives are leading the consumer groups, the industry and the electorate up the garden path. That is why I reject the scare stories that Conservatives peddle to appease their Eurosceptic wing. Their motion does not even reflect their policy, for which they are not prepared to stand up.

Our aim is to ensure that the directive is implemented in a way that allows consumers to continue to use the products that they use now. By contrast, the Conservatives are offering renegotiation with no realistic prospect of success, or the prospect of unilateral revocation, which would be illegal and result in the taxpayer paying fines—

**Mr. Patrick McLoughlin** (West Derbyshire) (Con) *rose in his place and claimed to move,* That the Question be now put.

*Question,* That the Question be now put, *put and agreed to.*

*Question put accordingly,* That the original words stand part of the Question:—

*The House divided:* Ayes 189, Noes 283.

**Division No. 45]** **[6.59 pm**

**AYES**

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Cash, William
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Colman, Tony
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davies, rh Denzil *(Llanelli)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Sir Robert *(W Ab'd'rns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*

Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Ayes:**
**Andrew Selous and**
**Mr. Geoffrey Clifton-Brown**

**NOES**

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Boateng, rh Paul
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Iddon, Dr. Brian
Ingram, rh Adam
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Martlew, Eric
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David

Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Noes: James Purnell and Mr. Jim Murphy**

*Question accordingly negatived.*

*Question,* That the proposed words be there added, *put forthwith, pursuant to Standing Order No. 31 (Questions on amendments:)—*

*The House divided:* Ayes 279, Noes 172.

**Division No. 46]** **[7.13 pm**

**AYES**

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Boateng, rh Paul
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Ingram, rh Adam
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Martlew, Eric
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*

Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Ayes:**
**Mr. Jim Murphy and James Purnell**

**NOES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Cash, William
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Doughty, Sue
Drew, David *(Stroud)*
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Thurso, John
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Noes:**
**Andrew Selous and Mr. Geoffrey Clifton-Brown**

*Question accordingly agreed to.*

MR. DEPUTY SPEAKER *forthwith declared the main Question, as amended, to be agreed to.*

*Resolved,*

That this House congratulates the Government on successfully negotiating a final text of the Directive that works in the interests of UK consumers and industry by ensuring that products are safe, properly labelled, and can be freely traded across EU member states; notes that UK legislation gives maximum flexibility that ensures that as many products as possible can continue to be marketed after the Directive comes into effect on 1st August, and that all of the vitamins and most of the minerals currently on sale in the UK will still be available; agrees with the Government's assessment that re-opening discussion on the Directive at this point runs the risk of making its effects more restrictive and is thus against UK interests; and welcomes the Government's continued commitment to working with the industry on assessing the safety of individual food supplements, and to facilitating negotiations with the European Food Standards Agency.

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),*

### REPRESENTATION OF THE PEOPLE

That the draft Parliamentary Constituencies (Scotland) Order 2005, which was laid before this House on 14th December, be approved.—[*Joan Ryan.*]

*Question agreed to.*

## EUROPEAN COMMUNITY DOCUMENTS

*Motion made, and Question put forthwith, pursuant to Standing Order No. 119(9) (European Standing Committees),*

### Optical Radiation Risks

That this House takes note of European Union Document No. 10678/04 and Addendum 1, a draft Directive to protect workers from the effects of optical radiation; and supports the Government's position that the proposed Directive is broadly acceptable and that the Government will work with Member States to secure a Directive that achieves adequate worker protection with minimal burdens on business.—[*Joan Ryan.*]

*Question agreed to.*

## BUSINESS OF THE HOUSE

*Ordered,*

That, at the sitting on Wednesday 2nd February 2005, notwithstanding the provisions of Standing Order No. 16 (Proceedings under an Act or on European Union documents), the Speaker shall put the Questions necessary to dispose of proceedings on the Motion in the name of Mr Secretary Clarke relating to Police Grant Report (England and Wales) not later than three hours after their commencement, and shall put the Questions necessary to dispose of proceedings on the Motions in the name of Mr Secretary Prescott relating to Local Government Finance (England) not later than six hours after the commencement of proceedings on the Motion relating to Police Grant Report (England and Wales); proceedings may continue after the moment of interruption; and Standing Order No. 41A (Deferred divisions) shall not apply.—[*Joan Ryan.*]

## PETITION

## Health Services (South Buckinghamshire)

7.29 pm

**Mr. Paul Goodman** (Wycombe) (Con): I wish to present a petition on behalf of more than 10,000 people in south Buckinghamshire against cuts and closures in our local health services.

The petition states:

To the House of Commons.

The Petition of the residents of High Wycombe, Marlow and surrounding areas,

Declares that the undersigned support the current maternity special care baby unit, children's unit and other services provided at Wycombe General Hospital. The undersigned also object to the proposed closure of the Haleacre unit.

The Petitioners therefore request that the House of Commons strongly urge the Secretary of State for Health to do all in his power to retain these services.

And the Petitioners remain, etc.

*To lie upon the Table.*

## Suicide Promotion (Internet)

*Motion made, and Question proposed,* That this House do now adjourn.—[*Joan Ryan.*]

7.30 pm

**Mr. Mark Hendrick** (Preston) (Lab/Co-op): It is an indication of the fast-changing world in the 21st century that I rise to debate a subject that 10 years ago would not have been an issue, because the internet was in its infancy. We live in a digital age—an information age—that has revolutionised communications to the huge benefit of mankind. However, all new technological developments, such as nuclear power, genetic engineering and computer technology generally, can be put to bad and evil uses as well as to good ones.

The internet, chat rooms and e-mail enable people who are thousands of miles apart to communicate with each other at a cost that most people can afford and with a high degree of anonymity. That means that we now live in a society in which our neighbour in the apartment next door may be less well known than someone we converse with in a chat room thousands of miles away. That has dangers as well as advantages.

In addition, cyberspace has become a powerful medium in which to sell products and services. It does not respect national boundaries or national legislation and, by its very nature, it can conceal the physical location of the source of internet information and, of course, the author of such information. To legislate to regulate and control such an environment is a major challenge if we are to prevent the internet from being misused to damage people's lives and livelihoods.

The use of the internet to promote suicide is a growing problem. I use the word "promote" advisedly, because certain websites, written publications, organisations and individuals are encouraging people to commit suicide, for whatever reason. The tragic death of 19-year-old Sarah Cherry in Lancashire late last year is the case that first brought my attention to this tragic phenomenon. Early-day motion 170, tabled by my hon. Friend the Member for South Ribble (Mr. Borrow), highlighted the case of Sarah who, after discussing suicide in an internet chat room, purchased a book from Amazon.com on how to commit suicide and subsequently killed herself. My hon. Friend, in his early-day motion, called for legal action to be taken against those who write, publish or sell material or distribute information on the internet about how to commit suicide. I echo that call.

**Mr. Lindsay Hoyle** (Chorley) (Lab): Our regional newspaper, the *Lancashire Evening Post*, and its campaign "Stop the peddlers of death" have highlighted this and other tragic cases of suicide. Does my hon. Friend agree that libraries that stock manuals to encourage suicide should remove them from their shelves immediately?

**Mr. Hendrick:** I agree with my hon. Friend. I was about to come to the point he makes about libraries. In fact, Lancashire county libraries have taken the book "Final Exit" from their shelves. It is the same book that Sarah Cherry acquired from Amazon.com. Although it has been withdrawn from the shelves, Amazon.com has refused calls not to sell it and persists in selling it over the internet.

Although that case brought the matter to my attention, the problem is more widespread than most people imagine—so much so that, as my hon. Friend said, the *Lancashire Evening Post* has taken it up. The newspaper has raised the matter with local MPs, including myself, the right hon. Member for Fylde (Mr. Jack), whom I am happy to see in the Chamber, and my hon. Friends the Members for Chorley (Mr. Hoyle) and for South Ribble.

**Mr. Michael Jack** (Fylde) (Con): Does the hon. Gentleman agree that the publicity that the *Lancashire Evening Post* afforded the campaign addresses another crucial dimension of the matter—making parents aware of what their sons and daughters might be up to when using the internet? The internet offers a private method of communication, but if people have it in their nature that suicide is a possibility, does he agree that the more parents who know about the problem through campaigns such as that in the newspaper, the better?

**Mr. Hendrick:** I agree with the right hon. Gentleman. Parents should be made aware of the situation and, as I shall say later, it is important for the Government to do more to make people aware. Internet service providers should consider providing filters to help to tackle the problem, as they do for illegal pornography.

**Mr. Paul Tyler** (North Cornwall) (LD): The north-west is not the only region that faces the problem. There was a tragic incident in my constituency, as a result of which an organisation called PAPYRUS—I think that the hon. Gentleman will be aware of it—has tried to bring together parents who have suffered such tragedies after young people have been affected by information from the internet. I know that there is national concern about the situation, which supports his initiative tonight.

**Mr. Hendrick:** I concur with the hon. Gentleman. I shall cite the organisation to which he referred during my speech.

I have researched the matter and it is abundantly clear that the Suicide Act 1961 is woefully inadequate to deal with the use of the internet for the promotion of suicide. I say that for the reasons that I have outlined: cyberspace does not respect national boundaries or legislation, and both the physical location and author of a source of information can be concealed.

**Tony Cunningham** (Workington) (Lab): I hope that my hon. Friend appreciates that 78 hon. Members have signed early-day motion 170, which indicates the tremendous strength of feeling about the matter in the House. When he talks about cyberspace having no limits, does he agree that there are no limits on age? Young people at a vulnerable age—as young as 11, 12 or 13—could access the information. It is especially depraved to target such young people.

**Mr. Hendrick:** I agree with my hon. Friend. Neither age nor geographical location is a barrier to accessing the information. The phenomenon can affect people of all backgrounds, nationalities and ages. It is important for the Government to take those points on board when they respond to the debate.

Wesley J. Smith, a senior fellow at the Discovery institute in Seattle, has done much work on the matter. In an article of 12 June 2003 on www.suicide.com entitled "Suicide Advocacy Goes Online", he notes that suicide promotion and facilitation has entered cyberspace and cites an article by Julia Scheeres from the *San Francisco Chronicle* of 8 June 2003. Wesley J. Smith's article says:

"In 'A Virtual Path to Suicide,' Scheeres demonstrates how indifferent to the value of human life certain segments of our society have grown, and how callous they are when faced with a despairing person wishing to commit suicide. First, they bestow moral permission. Then, they teach the self-destructive person how to do it. Finally, they keep the suicidal person company until the deed is done. It is the modern version of the howling crowd yelling, 'Jump! Jump!' at the suicidal person standing on the skyscraper window ledge.

This is what happened to 19-year-old Suzy Gonzales. Despite having a full scholarship at Florida State University and a loving family, Gonzales wanted to kill herself. Her suicide was set in motion when she found an Internet site whose participants 'view suicide as a civil right that anyone should be able to exercise, for any reason.' On the site, Scheeres reports, 'Gonzales found people who told her that suicide was an acceptable way to end her despair, and who gave her instructions on how to obtain a lethal dose of potassium cyanide and mix it into a deadly cocktail.' . . . The Hemlock Society"—

the USA's largest assisted suicide advocacy group—

"has promoted the idea of suicide as the 'ultimate civil right' for years. And, just like the denizens of the Internet site taught Suzy Gonzales how to kill herself, Hemlock publications have long instructed readers how-to-commit suicide while its conventions regularly feature guest speakers who bring their newly invented suicide machines for conventioneers".

The phenomenon of so-called copycat suicides and suicide pacts is emerging more and more on the internet. In Japan, two men and a woman were victims of a suicide internet website just before the new year. The three young victims, who were not named, suffocated themselves by burning disposable barbecue coals in a car in Mitama in Yamanashi on 30 December. The method—one of the latest to circulate in the suicide internet community—is disturbingly similar to the one used by a Lancashire man in August 2004. He died from carbon monoxide poisoning after suffocating himself by burning disposable barbecue coals.

Japan has been hit by a series of suicide pacts formed in suicide chat rooms. A fortnight before the death of the three young people in Mitama, four men died in a Tokyo apartment following a suicide pact. Early in 2004 another six people were found dead and nine more fell victim to an internet group suicide in October. According to Japan's police force, a staggering 45 people committed suicide in groups after meeting online between January 2003 and June 2004.

Suicide pacts have been made over the internet since the late 1990s and have been reported worldwide, from Guam to the Netherlands. Experts say that they tend to occur in cycles, with news of group suicides sparking copycat incidents, which are discussed on websites. On new year's day this year, an e-mailer to the notorious US-based ASH—alt.suicide.holiday—newsgroup, where people discuss suicide methods, revealed that a 15-year-old girl had used a method detailed on an associated online list of suicide methods to kill herself.

The situation is becoming frightening. For example, on the Google search engine, if one types "I want to kill myself" and hits "search", the fourth result brought

*[Mr. Hendrick]*

back is a notorious suicide message board, with long lists of people who are interested in committing suicide. Getting into contact with people that way is perilous, because people cannot be sure to whom they are talking via a message board or in a chat room—particularly people who are vulnerable and suicidal. There may be contact with a person who gains some form of perverse pleasure from convincing someone that they should kill themselves.

These cases raise a series of questions about how people should conduct themselves when using the internet and what sort of conduct should be allowable. I shall not stray into human rights, because I do not believe that there is a case to answer in terms of people having the right to commit suicide or to encourage others to do so. The human rights arguments might hold some sway in the United States, where groups claim that they can conduct such activities legally and that they are protected by the first amendment to the American constitution, which relates to freedom of speech, but the same is not true in this country. However, I do have some questions to which I hope the Minister will be able to respond.

Will my hon. Friend ask himself whether he believes that suicidal people ought to be talking to those who encourage or promote suicide, which could create—it might already be creating—a community of people on the web who believe that suicide is acceptable, normal and even, as some claim, a "human right"? I understand from PAPYRUS, which is an organisation that was set up to prevent young suicides, that suicide sites are not mentioned in any of the Government's relevant publicity material. Nor are suicide sites mentioned in the national suicide strategy for England. What will the Government do to discourage people from accessing suicide sites, and will they encourage people to seek help?

Would the Government consider setting up a regulatory body to which concerns about websites that may be offensive or harmful can be reported, and pressure the Internet Watch Foundation to act where it can? Should people be guided by the internet service providers to "help" websites first, before allowing access to suicide methods and information, and how can the Government persuade internet service providers to do that?

Will the Government consider the case for prohibiting access to suicide sites altogether through filtering? That may hold some technical difficulties for internet service providers but the problem is technically no different from dealing with illegal pornography on the internet. Should it therefore be made a duty of the service provider?

Is it time to introduce new legislation, as has been done in Australia, that makes it a criminal offence to use the internet to counsel or incite suicide?. The legislation there includes a maximum penalty of 110,000 Australian dollars, or £45,000, for an individual. The offences cover the use of a carriage service, including the internet, to access, transmit or make available materials that counsel or incite suicide. It covers also materials that promote and provide instruction on a particular method of suicide. Possession, production or supply of that material is also covered. Will the Government consider incorporating some of the Australian legislation into UK law?

Finally, will the Government consider actively seeking the co-operation of international police authorities and crime agencies, such as Interpol and Europol, to crack down on these sites?

I am sure that the so-called peddlers of death can hide behind internet chat rooms and carefully constructed rhetorical arguments that are meant to mask their macabre fantasies, but it is the duty of elected representatives and Government to do everything in their power to pursue, prohibit and prosecute these promoters of suicide, even if the internet environment makes that task more difficult.

The parents and family of Sarah Cherry deserve no less, as do the families of those who have already been victims of these people and their vile material. There are also those who face difficult lives and need help because of mental illness or suffering who may one day fall prey to this evil.

7.47 pm

**The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins):** I begin by congratulating my hon. Friend the Member for Preston (Mr. Hendrick) on securing this debate on an issue which I know arouses considerable interest. That was evidenced by the fact that a number of hon. Members have contributed to the debate.

The Government are well aware of the growing concern about suicide websites and chat rooms that can provide information and potential influence over vulnerable young people who may feel encouraged to take their own lives. I hope that my hon. Friend will be reassured that Ministers have already been contacted by PAPYRUS, an organisation that has twice been mentioned this evening. It is a UK charity that is committed to suicide prevention, as part of its wider campaign to raise awareness of the potential dangers of such websites.

In July last year, my colleague Baroness Scotland, the Minister of State, met members of PAPYRUS and a cross-party delegation of Members to discuss their concerns. My colleague has since corresponded with them about what the Government are doing to try to tackle this complex problem.

Perhaps I should emphasise at the outset that while my remarks will reflect the complex nature of the law in this area, I have the greatest sympathy for those whose lives and families have been touched by the tragedy of suicide.

**Mr. Tyler:** I was a member of the delegation that met Baroness Scotland. As the Minister has said, it was a useful meeting for those of us who went with PAPYRUS. The point that she made forcefully—I hope that the Minister will acknowledge this—is that this is a classic case of joined-up Government. It has been necessary to deal with a number of problems. The Department for Education and Skills and the Department of Health are clearly the front Departments concerned. I hope that the Minister will acknowledge

that there is an important role to be played by a number of Departments if we are to be successful in dealing with the problem.

**Paul Goggins:** I agree very strongly with the hon. Gentleman, and I shall deal later with the various responsibilities that we all have.

We have heard from the parents of a number of young people who have killed themselves after visiting such websites. To lose a child in such circumstances is devastating, and it is vital that we do all that we can to raise awareness of the issue and prevent other young people from taking the same course. Of course, the problem is not confined to websites. As the tragic case of Sarah Cherry illustrates, information about suicide and suicide methods is available through other media, including books. Sarah took her own life after buying a book from the internet bookstore Amazon bearing the appalling title, "Final Exit: The Practicalities of Self-Deliverance and Assisted Suicide for the Dying". That publication could equally have been obtained through any high street bookstore, but the internet clearly makes it easier than ever before for people to obtain such material.

I am aware of the concern expressed by the Preston coroner that such books are in circulation. My hon. Friend the Member for South Ribble (Mr. Borrow) has tabled early-day motion 170, which has so far attracted 77 signatures. Many of the concerns about this issue have been directed at the Home Office, which has clear responsibility for the criminal law on assisted suicide as well as for policy on law enforcement relating to hi-tech crime. Other Government Departments also have a role to play. In particular, the Department of Health has responsibility for the Government's suicide prevention strategy, which was published in September 2002 and aims to reduce the death rate from suicide by one fifth by 2010.

The Department for Education and Skills, through the superhighway safety initiative, provides important advice to teachers, parents and children to reduce the risks of schoolchildren being exposed to inappropriate content and contact via the internet. The Department of Trade and Industry has responsibility for ensuring that the United Kingdom is a market leader in the e-business sector, and that the relevant legislation is conducive to that aim. The Government's clear view is that actions are legal or illegal according to their merits, rather than according to the medium used. What is illegal offline should also be illegal online. While there is not any specific legislation relating solely to the internet, a range of existing UK law covers what online or offline actions constitute an offence, including the Obscene Publications Acts, public order and harassment offences, fraud and copyright offences.

**Mr. Hendrick:** How could existing legislation be used against people who propagate this stuff from another country, not just from England and Wales, to which the Suicide Act 1961 refers?

**Paul Goggins:** I will come to the Suicide Act in a moment, but my hon. Friend makes an important point. Even if we are successful in closing down websites or removing websites based in the UK that promote such material, it could be accessed from websites in other countries, which poses a substantial challenge. We must therefore work with other Governments and law enforcement agencies where appropriate to deal with the issue. The internet presents us with a global challenge, which we must meet with a global response.

If an individual in the UK produces material on a suicide website, and in doing so commits an offence, the prosecuting authorities can take action against him and seek the removal of the material. The difficulty is that most material hosted on such sites, although considered distressing and distasteful by the majority, is not necessarily illegal. Suicide itself is not an offence, but section 2(1) of the Suicide Act makes it an offence to aid, abet, counsel or procure another person to commit or attempt suicide. For aiding and abetting to be proved, there must be participation in the act of suicide, as well as a knowledge of what is going to take place. Someone who counsels or procures is liable only for an act of suicide that is committed as a consequence of what he does, so there must be a causal connection between the counselling and procuring and the commission of the act. Establishing that causal link is fundamental to proving that an offence has occurred.

If an individual helps someone to inject himself with a lethal drug or supplies the lethal drug knowing that it is required for the purpose of committing suicide, they could be charged with aiding and abetting. But simply providing information about suicide does not in itself necessarily amount to aiding, abetting, counselling or procuring, any more than providing information about ways to commit murder would constitute an offence. This is a crucial point. There are many works of reputable fiction which describe criminal activity, or indeed suicide, and thereby give an indication of how to commit the acts. Even though there is no intention to encourage them, they could in reality be the catalyst for someone who was on the brink.

So the direct causal link must be clearly established, and it is highly unlikely that those producing these websites will participate in specific acts of suicide or know that they are going to take place. Similarly, in terms of counselling and procuring, it would be difficult to establish a causal link between the websites and the commission of actual suicides.

An example of how this works in practice is the booklet published by the Voluntary Euthanasia Society, which describes the easiest and most painless ways of committing suicide. The court held that an offence would be committed only if the distributor intended that the booklet would be used by someone who was contemplating suicide, and that the individual was in fact assisted or encouraged to do so. Although the content of suicide websites, and books such as the one purchased by Sarah Cherry, may well be considered more objectionable than the Voluntary Euthanasia Society booklet, it seems likely that the same interpretation would apply to those who produce them because, in essence, they are doing the same thing—giving general information about ways to commit suicide.

In practice, whether an offence is committed would depend not only on the actual content, but on factors such as whether there had been any communication between the authors of the material and the person who wanted to or did commit suicide. If anything, it might be

*[Paul Goggins]*

even more difficult to prove than the Voluntary Euthanasia Society case, in which specific individuals were sent copies of booklets on request.

There may be a greater likelihood of an offence being committed by users of the chat rooms that can be accessed through these websites, rather than those responsible for the sites themselves. For example, if a person asks in a chat room how to commit suicide, is told by someone else how to do it, and does in fact then commit or attempt to commit suicide, that individual may be guilty of aiding, abetting, counselling or procuring the suicide or attempted suicide—although, as always, that would depend on the circumstances of the case.

PAPYRUS has asked whether it would be possible to further test the law by bringing a case that would confirm whether the giving of information and general encouragement, whether through a website's actual content or by the user of a chat room accessed through the website, could be held to be aiding, abetting, counselling or procuring. It is, of course, for the courts to interpret the law, but we have drawn the concerns of PAPYRUS and others to the attention of the Attorney-General.

As I said earlier, it is difficult to see how the law might be amended to prohibit these websites. Even leaving aside freedom of expression issues, it would be a radical departure to make it an offence simply to give general information about something that is not in itself illegal. There might also be unintended consequences for legitimate activities—for example, criminalising crime fiction, or even websites that may be seeking to offer help to those who are contemplating suicide.

In conclusion, there are many things that we must do and that we can do. I chair the taskforce on child protection on the internet, and there are read-across issues there. The Department of Health has a clear role to play. The internet service providers also have a role to play. They have various policies in place to try to provide additional protection in this difficult area. It is complex, there is no quick fix, but the Government are determined to do what they can to prevent this kind of dreadful suicide.

*Question put and agreed to.*

*Adjourned accordingly at one minute to Eight o'clock.*

# House of Commons

*Wednesday 26 January 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## WALES

*The Secretary of State was asked—*

### Cardiff

1. **Kevin Brennan** (Cardiff, West) (Lab): What discussions he has had with the First Minister of the National Assembly for Wales Government on plans to mark the 50th anniversary of Cardiff being made capital city of Wales. [209956]

**The Secretary of State for Wales (Mr. Peter Hain):** First, I pay tribute to the people of Wales, who have responded with typical generosity to the tsunami appeal, in particular, Paul Sergeant at the millennium stadium in Cardiff and his team, who organised Saturday's fantastic concert, in record time, which has already raised more than £1.2 million.

I discussed this unique anniversary on Monday. The year 2005 is a red-letter year for Cardiff—100 years of city status and 50 years since it became the capital of Wales. It is Europe's youngest capital and one of the most dynamic and attractive cities with a world-class stadium, millennium centre and business and leisure environment.

**Kevin Brennan:** I thank my right hon. Friend for his answer and join him in saying how proud I was of the organisers of the tsunami relief concert in Cardiff, which raised more than £1.2 million. Is that not testimony to the generosity and the tremendous organisational skills of the people of Cardiff and of Wales in general? What will my right hon. Friend do, as Secretary State for Wales, to help highlight Cardiff in its important double celebration this year, to make people even more aware that Cardiff has developed into a truly economic, cultural and political capital for Wales?

**Mr. Hain:** For example, in my visits to China, Australia and New Zealand last year, I referred to Cardiff as a dynamic and expanding city. I know that there was a BBC website report of a European-wide survey in 2003, which identified Cardiff as the best city in which to live in Britain. As Neath is a town and not a city, I can agree with that.

**Adam Price** (East Carmarthen and Dinefwr) (PC): I know that the Secretary of State is fond of marching. Will he join me, in this special year, at the annual parade on St. David's day? Will he bring pressure to bear on Cabinet colleagues to make St. David's day an annual public holiday so that everyone in Wales—not only those in the capital—can join in the celebrations?

**Mr. Hain:** I think that I will be in the Chamber to speak in the St. David's day debate, so I am not sure that I will be able to join the hon. Gentleman at that event.

As for St. David's day becoming a public holiday, it is a request that has been made over the past few years, and one that we will continue to consider. When there is a proper case for it rather than just a Welsh Assembly resolution passed to us, including consultation with the business community on its views and on the effect on the Welsh economy, we shall consider the matter further.

**Julie Morgan** (Cardiff, North) (Lab): Is my right hon. Friend aware that as part of Cardiff 2005, the Small World theatre is going to primary schools and secondary schools in Cardiff, particularly the Gabalfa primary school and Corpus Christi school in Cardiff, North, helping to promote understanding of what it feels like to be a refugee or an asylum seeker in Cardiff today? Does my right hon. Friend agree that this is a positive thing to do in the year when Cardiff celebrates 50 years as a capital? What other things can he suggest to increase tolerance and understanding of the diverse communities that we have in Cardiff?

**Mr. Hain:** I agree with my hon. Friend that Cardiff is a living symbol of a culture that is rich with diversity, different ethnic groups and different faiths. It is a city that is thriving and learning from the different communities that exist together in a dynamic way.

**Lembit Öpik** (Montgomeryshire) (LD): I add my praise to the organisers of the tsunami appeal event on Saturday night in Cardiff. When we consider that it took just three weeks to put that event together, it is testimony to what can be achieved with vision and focus.

As for the 50th aniversary celebrations in Cardiff, is the Secretary of State aware that while the Millennium Commission has offered £1.3 million for those celebrations, to date the Welsh Assembly Government have offered no financial support? Is the right hon. Gentleman willing to have conversations with his opposite numbers and Rhodri Morgan to see that this omission, in my view, can be rectified?

**Mr. Hain:** I will happily refer the hon. Gentleman's request to the First Minister when I next see him, which I think will be next week. I am sure that the hon. Gentleman will join me in saying that both football cup finals are held in the best stadium, I believe, in the world, which is in Cardiff. The Wales Rally GB has its headquarters in Cardiff and we now have in the millennium centre in Cardiff the best performing arts centre in Europe. Everybody should go there and enjoy it because it is absolutely marvellous.

**Wrexham-Bidston Rail Line**

2. **Ian Lucas** (Wrexham) (Lab): If he will discuss the future of the Wrexham to Bidston railway line with the Secretary of State for Transport and the Minister for Economic Development and Transport of National Assembly for Wales. [209957]

**The Parliamentary Under-Secretary of State for Wales (Mr. Don Touhig):** My right hon. Friend and I have regular discussions with ministerial colleagues and Assembly Ministers on transport matters affecting Wales. I understand that the Wrexham to Bidston line is included in the Strategic Rail Authority's community rail development strategy, which is aimed at securing the longer-term viability of the line.

**Ian Lucas:** Merseyrail has put forward proposals to electrify the Wrexham-Bidston line, which would greatly improve links between Wrexham and Merseyside in the lead-up to Liverpool becoming the city of culture in a couple of years. Will my hon. Friend ensure that there are close discussions between the Assembly Transport Minister and the Secretary of State for Transport, to ensure that that exciting proposal is taken forward so that the economy of north-east Wales can benefit?

**Mr. Touhig:** I understand the point that my hon. Friend makes. The consortium of north Wales transport authorities, together with other parties, is asking for expressions of interest to undertake a study of the potential electrification of the Wrexham to Bidston line. It would be premature to speculate on any conclusions, but I understand that my hon. Friend has been having discussions with Merseytravel passenger transport executive on these matters. Should he care to come and brief me in the Wales Office, I shall be happy to arrange a meeting with him and make sure that his expressions of interest and concern are passed on to Assembly Ministers.

**NHS Emergency Services**

3. **Dr. Julian Lewis** (New Forest, East) (Con): What discussions he has had with the National Assembly for Wales Government on proposals for changes to emergency services provision across Wales. [209958]

**The Parliamentary Under-Secretary of State for Wales (Mr. Don Touhig):** My right hon. Friend and I have regular discussions with Assembly colleagues on matters affecting Wales.

**Dr. Lewis:** I thank the Minister for that rather uninformative reply. With the out-of-hours service described as a postcode lottery, and with the chief executive of the Cardiff and Vale Trust saying that the problem is a crippling lack of capacity, does the Minister feel even the slightest twinge of guilt about that claim made eight long years ago that the country had only 24 hours to save the NHS?

**Mr. Touhig:** I am aware of the concerns that have been expressed, but I point out to the hon. Gentleman that £35 billion-worth of cuts in public services will do little for the health service or the blue light services in Wales. As he makes a particular point about the health service and the trusts in Wales, we can get a clear indication of what his party would do if we look at the words of the co-chairman of the Conservative party, who told the Conservative Medical Society that the Conservatives had two objectives, first:

"to persuade the public that the NHS is not working . . . The second phase is to convince the public that it won't work and can't work."

The clear message is that the election of a Tory Government would spell the end of the national health service.

**Mr. Jon Owen Jones** (Cardiff, Central) (Lab/Co-op): When my hon. Friend next meets his ministerial colleagues in the Welsh Assembly, will he ask them to look at the provisions of the delayed discharges and transfer of care Bill and how it has worked in England to reduce bed blocking, and will he try and persuade them to learn from the experience of England and to adopt similar measures in Wales?

**Mr. Touhig:** As my hon. Friend is well aware, the new Health Minister in the Assembly has said that it is important that all of us in the United Kingdom—the devolved Administrations and the Government—learn from each other. As my hon. Friend knows, the new Health Minister in the Assembly will be addressing Parliament in the next week or so. I am sure he will put that point to him and receive an appropriate response.

**Mr. Bill Wiggin** (Leominster) (Con): One of the hardest-hit emergency services is the accident and emergency department at University Hospital of Wales Cardiff, where patients were described as being treated worse than animals. Dave Galligan of Unison said in *The Western Mail* that he was horrified at the conditions and that, over the past 25 years he had heard it all, and this was not the NHS of the 21st century. Is this just a January thing, or what will the Minister do?

**Mr. Touhig:** It is important that all of us who are concerned, interested and supportive of the national health service take those comments very seriously. I have no doubt that my colleague the Assembly Minister for Health and other Assembly Ministers in Cardiff will take them seriously. I am sure an appropriate response will follow. It is important to recognise that we are making good 18 years of under-investment in the health service in Wales as a result of the cuts that the hon. Gentleman's party imposed when they were in power. He will have to answer to the people of Wales how £35 billion-worth of cuts will benefit them. They will destroy the health service and other public services in Wales. Those are the issues that he will face, should there be a general election this year.

**Regimental Names**

4. **Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): What representations he has made to Cabinet colleagues regarding safeguarding the names of the Royal Welch Fusiliers and the Royal Regiment of Wales. [209959]

**The Secretary of State for Wales (Mr. Peter Hain):** The executive committee of the Army Board took the decision to rename a large number of regiments. I am sympathetic to the questions that have been raised in many quarters and suggest that hon. Members write to the executive committee with their concerns.

**Mr. Llwyd:** May I draw the Secretary of State's attention to early-day motion 566, which is supported by every political party in Wales and others? The issue is, of course, whether the Royal Welch Fusiliers, the Royal Regiment of Wales and the Royal Welsh Regiment can maintain their identities by keeping their cap badges and so on. Will the Secretary of State have a word with his Cabinet colleagues between now and the end of the month, because an all-party group is going to see the Secretary of State for Defence on 8 February? Those honourable regiments have many decades of history, and we need to keep them. The decision will adversely affect recruitment.

**Mr. Speaker:** Order. That question is far too long.

**Mr. Hain:** Apart from his point about recruitment, I agree with the hon. Gentleman and understand the points that he is making. It is important not to forget that, on the whole, the restructuring has been quite positive for Wales—for example, the number of Welsh battalions has not been reduced, the number of Welsh soldiers has not been cut and the role of Wales's two famous regiments has not been diminished. The hon. Gentleman knows that those regiments retain their unique identities within the new, larger Welsh regiments, and regimental traditions, cultures, local connections and so on will be maintained within the new arrangements. I have discussed the matter in detail with the Secretary of State for Defence and urge the hon. Gentleman to take my earlier advice and make representations to the executive committee of the Army Board, which was responsible for the decision.

**Albert Owen** (Ynys Môn) (Lab): My right hon. Friend knows that my constituents have strong feelings about the proposed name changes. Last Friday, I met ex-service personnel, including members of the Royal Welch Fusiliers Comrades Association. Does my right hon. Friend agree that ex-service personnel should be consulted directly on any future name changes, because they are best placed to preserve the strong traditions and hiraeth of Welsh regiments?

**Mr. Hain:** I agree with the sentiment expressed by my hon. Friend and am aware of the important history and current role of the Royal Welch Fusiliers. His constituents in Anglesey have made a big contribution to the Royal Welch Fusiliers, and I urge him to make representations to the executive committee of the Army Board, which was responsible for the original recommendation.

**Mr. Roger Williams** (Brecon and Radnorshire) (LD): Before the all-party group meets the Secretary of State for Defence, will the Secretary of State for Wales sort out the misinformation that the Welsh regiments did not ask to be treated on a similar basis to the Scottish regiments, because we know that the colonel of the Royal Welch Fusiliers wrote to General Sir Michael Jackson about that very issue?

**Mr. Hain:** I have been advised that the Army Board took advice from senior military leaders in Wales, but, given the reaction, the hon. Gentleman's point should be heard.

**Gareth Thomas** (Clwyd, West) (Lab): The Secretary of State is a man of influence and some charm. Surely he can prevail upon the top brass to do something as simple as removing a few sets of brackets, because for some of us that is all the issue boils down to.

**Mr. Hain:** Apart from his point about influence and charm, my hon. Friend has made his case eloquently. The Secretary of State for Defence is aware of the feelings of Welsh Members of Parliament, and he has listened. The executive committee of the Army Board is the appropriate place to make any representations.

**Mr. Bill Wiggin** (Leominster) (Con): The Army Board clearly took the advice of the colonel commandant of the Prince of Wales Division, who may well have made a mistake. Will the Secretary of State persuade the Secretary of State for Defence to listen to Major-General Brian Plummer, who is colonel of the regiment, so that Wales is treated equally to Scotland?

**Mr. Hain:** Given the feeling in Wales, the executive committee of the Army Board should listen to such figures and others, and I am sure that that is what will happen.

**Mrs. Betty Williams** (Conwy) (Lab): I hear what my right hon. Friend says about the executive committee, but can he explain a little further what representations have been made and what discussions have taken place between the generals on the board and various organisations in Wales? I am sure that he is aware of the great disquiet among the Welsh public about what we term a mistake.

**Mr. Hain:** I understand the strong feelings that my hon. Friend expresses. As I said, I have discussed the matter with the Secretary of State for Defence, who is well aware of those considerations. I am sure that the executive committee of the Army Board will want to look closely at any representations that are made.

## Allergy Sufferers

5. **Andrew Selous** (South-West Bedfordshire) (Con): What discussions he has had with the National Assembly for Wales' Minister for Health and Social Services on the treatment of allergy sufferers in Wales. [209960]

**The Secretary of State for Wales (Mr. Peter Hain):** I met the new Health Minister last week.

**Andrew Selous:** Given that three out of 10 adults and four out of 10 children suffer from allergies, why do patients from north Wales have to travel to Manchester,

Liverpool or Birmingham to see an immunologist, and why is the nearest full-time allergy clinic to Wales in Leicester?

**Mr. Hain:** I understand the hon. Gentleman's concern. He will be pleased to know that notwithstanding the situation regarding north Wales, an extra consultant is being recruited at the University Hospital of Wales in Cardiff. However, that does not negate his point, which has already been made by the Select Committee on Health.

## Welsh Economy

6. **Alan Howarth** (Newport, East) (Lab): What discussions he has had with Cabinet colleagues on the effects of the Chancellor's proposals in the pre-Budget report on the economy in Wales. [209961]

**The Secretary of State for Wales (Mr. Peter Hain):** Regular ones. As a result of the pre-Budget report, an additional £38.5 million will be invested in Wales, including measures to improve skills, productivity and entrepreneurship and council tax support.

**Alan Howarth:** Are not increases in skills and knowledge key to the continuing progress of the Welsh economy? Has my right hon. Friend discussed with Cabinet colleagues how we will carry forward in Wales the implications of the Chancellor's announcements that there will be, at one end of the spectrum, an additional £11.6 million to improve basic skills and, at the other end, tax reforms to assist 13 universities and research institutes in Wales to launch spin-off companies? Has he also discussed with ministerial colleagues what would be the implications for business confidence of the abolition of the National Assembly for Wales?

**Mr. Hain:** I agree with my right hon. Friend. Indeed, the investment in skills, the support for the council tax and support for business that will flow through in the coming months under this Government could all be jeopardised by £35 billion of Conservative cuts.

On instability resulting from the abolition of the Assembly, I note that the shadow spokesman on Wales has said:

"I think people in Wales would do better without an Assembly."

The Tory leader in the Assembly has said:

"I think it would be disastrous to abolish the Assembly",

while the Leader of the Opposition has said:

"I have not yet made up my mind."

**Mr. Nigel Evans** (Ribble Valley) (Con): What we do know is that Wales would do better without a Labour Government. Why have they turned their backs on manufacturing in Wales? There was a time when Wales was proud to be a world exporter of manufacturing goods; now we are an exporter of manufacturing jobs. Is it not a fact that as a result of the climate change levy and the sea of red tape introduced by this Government, Wales has lost thousands of manufacturing jobs over the past seven years?

**Mr. Hain:** That from the former spokesman for a Conservative Government who massacred 100,000 manufacturing jobs in Wales and plunged Wales into economic instability with high inflation, mortgages doubling, interest rates rising, and unemployment at historically high levels. The most recent figures show that the manufacturing sector in Wales expanded at a faster rate than the service sector. According to the Royal Bank of Scotland, manufacturers reported strong sales and investment in new products. Wales is succeeding and our economy is getting stronger under a Labour Government. All that would be put at risk if the Tories were re-elected. Wales is working—do not let the Tories wreck it.

**Huw Irranca-Davies** (Ogmore) (Lab): The manufacturing sector in my area has been doing very well under this Government. However, the Secretary of State will be aware of last week's announcement of 300 job losses at Sony in Bridgend and Pencoed. In his discussions with Cabinet colleagues and counterparts in the National Assembly for Wales, will he do all that he can to ensure that the 1,200 existing jobs are retained and that additional production lines are brought to Bridgend, which will ensure not only that 30 years of production continue but that we give another 30 years to the loyal work force at Sony in Bridgend and Pencoed?

**Mr. Hain:** I am sure that Sony Bridgend and Pencoed will continue to play a vital role in the south Wales economy, as it has done for many decades. We are proud to have it there. My hon. Friend will understand that the specific television sets that it used to build are going out of fashion because flat screens are becoming more popular, and that change is responsible for the job cuts. However, it is an example of the success of the Welsh economy under the Government that even such job losses do not disturb the overall employment growth and success of the Welsh economy, where business confidence is higher than for many a long year.

## Dental Services

7. **Ann Winterton** (Congleton) (Con): What discussions he has had with the National Assembly for Wales Government on the provision of NHS dentistry on the Welsh borders. [209962]

**The Parliamentary Under-Secretary of State for Wales (Mr. Don Touhig):** I met the Assembly's new Health Minister last week and we discussed a range of matters about health in Wales.

**Ann Winterton:** Will the Under-Secretary prompt the Assembly's new Health Minister to allow Welsh patients to receive badly needed treatment by registering across the border, for example, at the brand new 10,000 patient practice at Oswestry, where they are currently banned from registering? Does he know that the British Dental Association estimates that Wales is short of 50 NHS dentists and that half the present practitioners will retire in 10 years? Is not the state of NHS dentistry in Wales dire?

**Mr. Touhig:** The Welsh dental initiative provides grants of up to £50,000 to practices to increase NHS dentistry provision. I am aware of the issue about mid-Wales and Oswestry and I have no doubt that my ministerial colleagues in Cardiff will take those matters on board. However, given the Conservative party's record when it was in government: the lack of investment in the health service; the closure of 70 hospitals, and the reduction in nurse and midwifery training, a Conservative criticising the health service in Wales has as much moral authority as the highwayman Dick Turpin complaining about the state of the roads.

**Mr. Bill Wiggin** (Leominster) (Con): The Under-Secretary is living in cloud cuckoo land because the British Dental Association says that the number of NHS dentists in Wales is

"at an all-time low."

Is he convinced that Rhodri Morgan's third choice as Assembly Health Minister, who has already admitted that he has no policy ideas, can improve matters in any way? *[Interruption.]*

**Mr. Speaker:** Order. There is far too much noise in the Chamber.

**Mr. Touhig:** I have no doubt that my new colleague, the Assembly's Health Minister, will do a great deal to improve the quality of the health service in Wales, just as the Labour Administration have done since the Assembly's creation. As the hon. Gentleman well knows from living close to the border, we have been putting right 18 years of under-investment and reversing the run down of our health service that occurred when the Conservatives, who had the ability to do something, did nothing. We are making considerable strides and improvements. When it comes to an election, the people of Wales will know who stands up for the health service—the Labour party.

**Donald Anderson** (Swansea, East) (Lab): My hon. Friend knows that the problem of NHS dentistry in Wales is not confined to the border area. For example, this month, in common with many people in Swansea, I learned that my dentist is going over to Denplan. That is all right for me but there is no assurance in Swansea that provision for those on low income or benefit will continue. That is a genuine problem. How does my hon. Friend, with the National Assembly, propose to tackle it?

**Mr. Touhig:** I have already referred to the Welsh dental initiative. In the past two years, 10 new dental practices that offer NHS dentistry have opened and 26 have expanded their NHS dental provision. Grants of up to £20,000 are available to establish new vocational training places for dentistry in Wales. My right hon. Friend will recognise that, although there is a long way to go to improve the quality and spread of NHS dentistry provision in Wales, it will be helped by the continued investment and reform to which the Government and our colleagues in the Assembly are committed.

### Ministerial Meetings

8. **Mr. Simon Thomas** (Ceredigion) (PC): When he last met the Minister for Health and Social Services of the National Assembly for Wales Government; and what matters were discussed. [209964]

**The Secretary of State for Wales (Mr. Peter Hain):** I met the Health Minister on 21 January when we discussed various matters.

**Mr. Thomas:** I am glad to know that the Secretary of State is discussing various matters. Perhaps he has discussed with the new Health Minister the fact that patients in Wales are being treated like animals according to one hospital nurse, who has been supported by her managers. Will he look at the case of my constituent, Susan Papworth, who has been told that she will have to wait six years for treatment for a growth on her thumb? Is not that symptomatic of the problems that the NHS in Wales is experiencing? A six-year wait for surgery is not acceptable and shows that the Labour Government in Wales have not yet got a grip on the NHS and the need to improve it in Wales.

**Mr. Hain:** I agree that a six-year wait is unacceptable. That is why the Assembly Government under Labour are continuing to invest, to recruit more consultants, nurses and doctors, and to open more hospitals, compared with the massacre in services that took place under the last Tory Government. Just as England has learned from best practice in Wales, so Wales must learn from best practice in England in relation to waiting lists. I am therefore encouraged that the new Health Minister in the Assembly Government has said that he intends to look at the reasons why England has been so successful in tackling waiting lists through the introduction of new treatment centres.

## PRIME MINISTER

*The Prime Minister was asked—*

### Engagements

Q1. [210801] **Chris Ruane** (Vale of Clwyd) (Lab): If he will list his official engagements for Wednesday 26 January.

**The Prime Minister (Mr. Tony Blair):** Perhaps I could start by updating the House yet again on the likely death figures for British people in the tsunami. I shall do this perhaps for the last time, but I thought that it might be helpful to give the House an update. The figure for category 1—that is, those who are highly likely to be lost—now stands at 249, which includes 53 confirmed dead. Thankfully, therefore, that figure continues to fall. The figure for category 2—that is, those unaccounted for in the region—is now 260, which is also substantially lower than previous estimates.

This morning, I had meetings with ministerial colleagues and others. In addition to my duties in the House, I shall have further such meetings later today.

**Chris Ruane:** As the son of an Irish immigrant, may I point out to the Prime Minister that my first born was

delivered by an Egyptian immigrant, and that my GP for 25 years was a Sri Lankan immigrant? Does he agree that we should celebrate the contributions made by immigrants to British society? [HON. MEMBERS: "Hear, hear!"] Does he further agree that we should create a safe haven for refugees while combating abuses in the system?

**The Prime Minister:** First, it is of course extremely important to tackle the abuses in the asylum and immigration system, and that is what the Government are doing. We will publish further proposals on that over the next few weeks. But I can tell my hon. Friend what we will not do. We will not keep out those people who have a genuine contribution to make to our economy and who are making such a contribution, and we will not shut our door to genuine refugees. In particular, we will not put forward unworkable, impractical, uncosted proposals such as those of the Conservative party.

**Mr. Michael Howard** (Folkestone and Hythe) (Con): We all celebrate the contribution made by immigrants to our country. The question is: does the Prime Minister think that the overall level of immigration into this country is too high?

**The Prime Minister:** I think it is important—[HON. MEMBERS: "Answer!"] I will answer in this way: I think it is important to make sure that those who come into our country through the immigration route are people who can make a genuine contribution to this country. It is important that we tackle abuses, but I do not think that we should go down the road that the right hon. and learned Member for Folkestone and Hythe (Mr. Howard) has proposed. He says that we should try to process asylum claims in some far-off place, but he has still not told us where it actually is. As we are having this debate, perhaps he will tell us where this offshore place is in which he wants the claims to be processed.

**Mr. Howard:** The Prime Minister talked about an unworkable immigration policy. I will tell him about an unworkable immigration policy. It is one that introduces dispersal, then scraps it. It is one that brings in vouchers, then tears them up. It is one that describes a designated list as "racist", then reintroduces it six years later. It is one that connives in false applications for work permits, sacks officials for telling the truth and clings to Ministers who do not. That is an unworkable immigration policy, and it is not mine, it is the Prime Minister's.

The Prime Minister completely failed to answer my first question. Let me ask him another. A year ago, he said,

"we are not giving up the power to set our asylum laws".—[*Official Report*, 15 December 2003; Vol. 415, c. 1334.]

This week, the European Commission flatly contradicted him. Who is right?

**The Prime Minister:** We have not given up our right to set our own laws and to control our own borders. What we have done is say that we should be part of the European system to stop asylum shopping. That allows us, incidentally, to return some 2,500 failed asylum seekers to Europe each year. It is correct that it also means that we cannot withdraw from the United Nations convention. I do not wish to, and let me tell the right hon. and learned Gentleman why.

The problem with asylum, as the right hon. and learned Gentleman well knows, is not the number of genuine refugees; it is people coming into this country claiming to be genuine refugees who are in fact economic migrants. Now, every single point he raised about our system is wrong, but let me ask him yet again, as we are having a debate about policy— *[Interruption.]*

**Mr. Speaker:** Order. The Prime Minister is in order. I will let him know when he is out of order.

**The Prime Minister:** The reason I am not in favour of the right hon. and learned Gentleman's proposal is that he is unable to tell us where he would process these claims. We have had four answers. In answer to the question:

"Where will the centres be?"

he answered:

"Well, we don't know yet."

When his shadow Attorney-General was asked whether he has had any preliminary indication from any country that it will handle them, the answer was: "No, of course not." The shadow Chancellor, when asked, "Where is it?" answered, "I have no idea". The shadow Home Secretary said that

"it was an island or a peninsula or . . . somewhere".

I say that we deal with the abuses but let genuine refugees in. If the right hon. and learned Gentleman is saying that we should process them all abroad, where?

**Hon. Members:** Answer!

**Mr. Howard:** If the Prime Minister wants to ask—

**Mr. Speaker:** Order. The Leader of the Opposition does not have to answer. He asks the questions.

**Mr. Howard:** If the Prime Minister wants to ask me questions, we can change places now. We do not need to wait until May.

Let us get back to the question I asked the Prime Minister and let me tell him exactly what the European Commission said yesterday: there is nothing in these protocols that his Government signed

"that allows a British Government to opt out again. So Britain is bound by them",

contrary to the assurances he gave the House.

Is not the real difference between us this: under the Prime Minister's Government, there is no limit on immigration, no proper control of asylum and control of our borders has been given away to Brussels? We will introduce a limit on immigration, a quota on asylum, 24-hour security at our ports and a points system for work permits. I think decisions on immigration should be made here in Britain. He thinks they should be made in Brussels. Is not that the real choice facing the country?

**The Prime Minister:** No, it is not. Let me make this clear straight away: I do not favour withdrawing from the 1951 UN convention. It is not the problem. The

problem is how we stop people coming into this country and claiming asylum when they should not and how we remove them again, but the right hon. and learned Gentleman has announced recently that he would cut £900 million from the asylum and immigration budget through establishing what he calls the Australian-style agency. Well, I have been doing a bit of research on Australia and its agency and I can tell the House that, first, Australia's arrangements for processing offshore do not relate to in-country asylum seekers, yet the majority of British asylum seekers seek asylum in-country. Secondly, it costs even more to process them than it does in this country. So, if we were to find such a country to process offshore the claims—the right hon. and learned Gentleman has not told us where it is—that would double our immigration costs, not halve them. That is why his proposals are completely unworkable.

Let me tell the right hon. and learned Gentleman what I believe we should do: we should let people into this country who can work and contribute to this economy and we should deal with the abuses of the asylum system, but we should not end up putting forward unworkable, impractical solutions that would make the problem worse. Just for the record, no, I am not accusing him of being a racist. He is not a racist; he is just a shameless opportunist.

Q2. [210802] **Kali Mountford** (Colne Valley) (Lab): Out of 300 deaths a year by drowning, seven take place in swimming pools, and the rest in reservoirs, rivers and canals, such as those in Colne Valley. Given the obvious health benefits of learning to swim, will my right hon. Friend intervene with the Institute of Sport and Recreation Management and the Health and Safety Executive, which are restricting the ability of parents, especially single parents, to teach their children to swim? Will he make sure that all our children get a chance to swim?

**The Prime Minister:** Coincidentally, I raised this issue when I was in Kent last week. The current situation arising from the new guidelines is a complete nonsense— parents are perfectly well able to judge how best to look after their children. I have therefore asked my right hon. Friend the Secretary of State for Culture, Media and Sport to call in representatives of the Institute of Sport and Recreation Management and the Health and Safety Executive to see whether we can get this situation sorted out, as it is causing unnecessary distress and concern to many parents.

**Mr. Charles Kennedy** (Ross, Skye and Inverness, West) (LD): This week, 25 per cent of teenage boys who have grown up under this Government were classed by the Home Office as serious or prolific offenders. The Prime Minister promised to be

"tough on crime, tough on the causes of crime".

Twenty-six Home Office Bills, hundreds of initiatives and thousands of targets later into his Government, must not he concede that for that generation, it was all just another empty promise?

**The Prime Minister:** I do not accept that, for two reasons. First, crime overall, both recorded and according to the British crime survey, is down under this Government, not up. Secondly, in 1996, the Audit Commission, which produces regular reports on youth offending, said that

"the current system for dealing with youth crime is inefficient and expensive, while little is done to deal effectively with juvenile nuisance".

By contrast, in 2004, it said that

"the new arrangements are a significant improvement and a good model for delivering public services".

We are putting a lot of money not just into making sure that we halve the time that it takes to bring prolific youth offenders to court, which we have done, but into youth intervention services, too. I do not dispute in any shape or form that it is a problem, but we are tackling it. Surely it is extraordinary for the Liberal Democrats to refer to it when they have opposed every measure that we have introduced to tackle crime, including the antisocial behaviour legislation that is so popular.

**Mr. Kennedy:** Indeed, we have disagreed with many of the Government's proposals, and given the conclusions published by the Home Office this week, clearly, those proposals have not worked in many respects. In that same "tough on crime, tough on the causes of crime" speech, the Prime Minister went on to say something that we thoroughly endorse:

"Instead of wasting hundreds of millions of pounds on compulsory ID cards as the Tory Right demand, let the money provide thousands of extra police officers on the beat in local communities."

Now, whatever happened to that promise?

**The Prime Minister:** The whole issue of identity cards has changed completely, because of the nature of international terrorism and the threat that we face, and, as I have always explained, because of new biometric technology. Given that we will move to biometric passports in any event, it makes sense at the same time to move to identity cards. I acknowledge that we also said that the fight against crime would be helped by increasing the number of police officers, and we have done just that. We have record numbers, with 12,500 extra. We also said that we would invest in young people by offering them a way out of benefit and into work. The new deal has been of central importance in achieving that, but the Lib Dems opposed it.

Q3. [210803] **Mr. Andrew Miller** (Ellesmere Port and Neston) (Lab): This week, the Government published an important document setting out a strategic vision for housing, especially affordable housing, taking us forward a number of years. I am sure that my right hon. Friend will agree that not only do needs vary between different parts of the country but that, for example, in my community, the needs of Ellesmere Port and Neston are different from those of Chester. Will he ensure that as this important document is worked through into delivery, there is a flexible system that enables different communities' needs to be met?

**The Prime Minister:** It is important for us to deal with the different housing problems in different parts of the country. That is precisely why the plans announced by my right hon. Friend the Deputy Prime Minister would increase access to home ownership for first-time buyers

and key workers, and also expand—in specific areas of the south and south-east—the housing supply, which is necessary for the overall housing market.

My hon. Friend is right: obviously there are different problems in areas like the north-west. That is why the sustainable communities plan is so important. It will allow us to invest in housing—good housing for home ownership, but also social housing. And that is why it is so wrong of the Conservative party to pledge £1 billion of cuts in the sustainable communities plan.

**Mr. Michael Howard** (Folkestone and Hythe) (Con): The Prime Minister has just bought a new house. The Chancellor and I are both looking forward to the house-warming party. Does the Prime Minister not agree that housing association tenants should have the right to buy their homes as well?

**The Prime Minister:** Of course, many housing association tenants do. What I do not agree with, however, are the right hon. and learned Gentleman's proposals, because they would extend the entitlement in such a way that housing associations would be unable to replenish their social housing stock. That would do great damage to our ability to give people affordable housing. Far better are my right hon. Friend's proposals, which will allow people to build up an equity stake over time while allowing the housing associations, as that happens, to replenish the housing stock. That is a far better and more affordable proposal.

**Mr. Howard:** What many housing association tenants want is the ability to turn their dream of owning their homes into a reality. They want a right to buy their homes. The Prime Minister's policy gives the final say to the housing associations, not their tenants, and that is not a right.

Despite all the hyperbole that we heard earlier in the week, does that not mean that the Deputy Prime Minister was telling the truth when he told the Labour party conference

"Those homes are not for sale"?

**The Prime Minister:** Let me say first that we have some 1.5 million more home owners under this Government than we had in 1997. However, the right hon. and learned Gentleman is right. We are not saying that there should be an absolute entitlement, because if we allow that to happen to housing association homes built for social housing, the stock will fall and we will not have the housing to give people who cannot afford to buy their own homes. What we have said is that people will be able to build up an equity stake in their homes over a period. The other day I met people who were doing just that. In the end it will be far better for them, and it allows them to acquire a stake in their own homes while allowing the housing associations to replenish the housing stock.

In addition, incidentally, we are putting aside money that will be used for first-time buyers and key workers. Let me say this to the right hon. and learned Gentleman: that £1 billion cut in the sustainable communities plan would cut directly the help being given to key workers, first-time buyers and social tenants.

**Mr. Howard:** We have explained how the money that we make available will lead to more social housing, not less.

Let us look at the Government's record on social housing, because social housing is important. Labour Members ought to listen to this, because I suspect that not all of them know about it. Under the right hon. Gentleman's Government, the number of homes built as social housing for rent has fallen by more than 40 per cent., from 32,500 a year in 1997 to about 19,000 today. Is this not the choice faced by the country: the right to buy your own home and the extension of home ownership under the Conservatives, or get back to the end of the queue and take what you are given under Labour?

**The Prime Minister:** Actually, the right hon. and learned Gentleman is right in saying that the amount of social housing has fallen. That is precisely why it is foolish to deplete the stock that we have now. Instead we must build the stock back up, and allowing housing associations to do so is one very important aspect of that.

Let me say this to the right hon. and learned Gentleman, however. That is not the only thing that we have to do. We must also allow for more homes to be built in specific designated areas like the Thames gateway, where we have derelict land and buildings where we could build homes. Earlier today, the right hon. and learned Gentleman's shadow spokesman on housing, the hon. Member for Meriden (Mrs. Spelman), said that there was no question of the Thames gateway project going ahead under the Conservatives and that they would cancel it. Perhaps he will now confirm that that is right.

**Mr. Michael Meacher** (Oldham, West and Royton) (Lab): In view of reports circulating around President Bush's second inauguration that the Bush Administration are now contemplating an attack on Iran—allegedly, US special forces are already in place in that country—will my right hon. Friend give an unequivocal and categoric assurance to the House that he will in no way involve British forces in any such attack if it were to take place? Will he also give an assurance that he will seek publicly as well as privately strongly to dissuade the Americans from undertaking any such attack, including the use of Israeli planes to bomb Iranian nuclear installations?

**The Prime Minister:** I know of no such contemplation by the United States of America. I refer my right hon. Friend to what the Vice-President of America said the other day, when he made it quite clear there was no such contemplation by America. What he went on to say, however, and I fully agree with this, is that there is indeed a serious issue as to Iran, nuclear weapons and its obedience to the International Atomic Energy Authority. What we are doing in Europe, in concert with America and others, is trying to ensure that Iran complies with its international obligations. I hope that my right hon. Friend accepts, as I do, that we must do everything we possibly can to send the right signal to Iran that it does indeed have to comply with those obligations.

Q4. [210804] **Mr. Paul Tyler** (North Cornwall) (LD): Will the Prime Minister reiterate his manifesto commitment to make the composition of the House of

Lords more democratic and representative, and will he endorse the welcome given by the Leader of the House on Thursday to the all-party initiative that we have put forward to achieve that? A simple yes will suffice.

**The Prime Minister:** I am afraid that the hon. Gentleman will not quite get that. It is important that we have the debate about the future composition of the House of Lords. My own position is that I think it is very difficult to have a hybrid part-elected, part-appointed House of Lords. That is why I do not favour it, but the debate will continue and I have made it clear that it should be a free-vote issue.

**Mr. Seamus Mallon** (Newry and Armagh) (SDLP): The Prime Minister will be aware of the efforts that have been made in the past seven years to buy the IRA into peace and the political process. He now knows that the Ulster Defence Association, a loyalist paramilitary group, is demanding £78 million as its price for ending its violence and criminality. Will the two Governments finally realise that they cannot buy peace, they cannot buy a political process and they cannot buy political stability?

**The Prime Minister:** I agree entirely with the hon. Gentleman: we cannot do that. However, if people are unwilling to give up paramilitary activity, we must be able to find a way to move forward across the communities in Northern Ireland. That means that there are things for everyone, including his own party, to consider. I believe that it is important that we continue to strive to take this process forward on an inclusive basis, but, as I indicated last week, it cannot be the case that there is a process of transition. Frankly, time is running out for this decision to be made by those who are connected with paramilitary groups. People have to decide—they are either part of the democratic process or they are not. That moment of decision has long since passed and it has simply got to be clear whether people have made their decision or not.

Q5. [210805] **David Burnside** (South Antrim) (UUP): When the Prime Minister meets the leader of Sinn Fein-IRA, Gerry Adams, at Chequers early next week, will he outline the sanctions to be used against Sinn Fein-IRA for carrying out the biggest bank robbery in British history? Since his chief of staff is negotiating a financial package for the UDA to stop its criminality, would the Prime Minister be prepared to set up a British taxpayers' fund for the widows and orphans of members of the Royal Ulster Constabulary, the Ulster Defence Regiment, the Regular Army and the families of those officers in the Prison Service who fought against the IRA and loyalist paramilitary groups over the past 30 years? Will there be any taxpayers' money for them?

**The Prime Minister:** First, there is not such a negotiation. Secondly, let me take the opportunity yet again to pay our respects and sympathy to the bereaved of all the people who died, whether in the service of the RUC or any other form of service in Northern Ireland, as a result of acts of terrorism. I cannot add to what I said a moment ago, but if we are to take this process forward now, it can be on one basis only. That has been made clear and I will take the opportunity to make it clear yet again. If it proves impossible to go forward on that inclusive basis, we will have to look for another way forward. It is as simple as that. I know people criticise the fact that I am meeting the leader of Sinn Fein, but I think it important that that message is delivered, and delivered in a straightforward way.

Q6. [210806] **Mr. Kelvin Hopkins** (Luton, North) (Lab): Unison members at Luton and Dunstable hospital in my constituency are seriously concerned that a new scanner at the hospital cannot be fully utilised because primary care trust funds have been channelled to private scanner services at Stevenage and Bedford, meaning that my constituents must travel unnecessarily to be scanned. Does my right hon. Friend accept that that is privatising nonsense, and will he use his good offices to get the policy changed so that my constituents can take advantage of the scanner at the Luton and Dunstable hospital and save public money in the process?

**The Prime Minister:** Obviously, I do not know the precise circumstances of my hon. Friend's hospital, and it would be worth looking into that. If a PCT needs to commission care from elsewhere for NHS patients, free at the point of use, it should be able to do so. Overall, a large additional sum of money is going to my hon. Friend's constituency and to every constituency in the country. I am surprised by what he tells me and I will certainly look into it, but the most important thing is that we make sure that NHS patients get the quickest and best possible care, which is the purpose of the Government's reforms.

**Sir Michael Spicer** (West Worcestershire) (Con): What are the characteristics of old Labour that he dislikes so much? *[Interruption.]*

**The Prime Minister:** I am afraid that the hon. Gentleman will have to repeat that.

**Sir Michael Spicer:** What are the characteristics of old Labour that he dislikes so much?

**The Prime Minister:** Basically, that it never won two successive terms of Government and, perhaps, that it never put the Conservative party flat on its back, which is where it is now. Thankfully, we are running an economy with low inflation, low mortgage rates and low unemployment; fortunately, we are doing a darn sight better than the Government of whom the hon. Gentleman was a Member, who had—I thank him for allowing me to mention this—interest rates at 10 per cent. for four years, 3 million unemployed and two recessions. Whether it is old Labour or new Labour, it is a darn sight better than the Tories.

Q7. [210807] **Iain Wright** (Hartlepool) (Lab): Police community support officers are a huge success in Hartlepool, providing assistance to the police in their fight against crime and reassurance to residents. Yet their shifts end at 9 o'clock at night, precisely the time when antisocial behaviour starts to increase on our estates. What steps will the Prime Minister take to ensure that CSOs have the power and money available to them to ensure that they work later into the evenings?

**The Prime Minister:** My hon. Friend makes a valuable point. Although CSOs were opposed by the Opposition, most people now accept that they are a very good support for the police in patrolling our communities. He is right to say that people would like to see CSOs on duty even later at night. The exact hours they work has to be a matter for the chief constable, but I assure him that we will continue to invest in local communities and CSOs. We will not follow the proposals to cut the Home Office budget, which would be absolutely disastrous. We will continue with the antisocial behaviour legislation that has resulted in more than 40,000 fixed penalty notices and more than 3,000 antisocial behaviour orders. There is still a great deal to do, but the legislation is making a difference in many constituencies.

Q8. [210808] **Rev. Martin Smyth** (Belfast, South) (UUP): I was interested in the answer that the Prime Minister gave to my hon. Friend the Member for South Antrim (David Burnside). Is he unaware that his officials are negotiating? What message are the Government giving to international terrorists by continuing to pamper Sinn Fein-IRA and loyalist paramilitaries groups?

**The Prime Minister:** It is not our intention to pamper them at all. On the contrary, the intention is to get them to give up violence and join the political process. That is what we are trying to do. For all the real difficulties in the peace process, we should not ignore the tremendous progress that has been made in the past seven or eight years. We are at a point today where everybody, n only in Northern Ireland but in the Republic of Irelan is making it clear that they have had enough of politic parties being allied to paramilitary activity and that th has to stop. The fact that that message is being giv not only by the British Government but by the Iri Government is a significant advance.

Q9. [210809] **Tony Cunningham** (Workington) (Lab There is no doubt that huge investment has come in west Cumbria in recent years, with unemployme now the lowest it has been for a generation. Howev real challenges still exist, with threats to jobs in the loc steelworks, to civil service jobs and to jobs in t nuclear industry. It is worth reminding people th the nuclear industry provides 13,000 jobs in we Cumbria. Will my right hon. Friend continue to take personal interest in west Cumbria, so that all t tremendous work that has been done is not undone?

**The Prime Minister:** I congratulate my hon. Friend constituents on the work that they do in the nucle industry. He is right to say that unemployment h fallen substantially. That is in part because of t strength of the economy and in part because of the ne deal. It is also in part because much support has be provided by the Department of Trade and Industr Those programmes helped some 7,500 business in Cumbria last year. It would therefore be ve unfortunate if we were to cut that DTI support and t new deal and put at risk our economic stabilit Fortunately those are not our policies, but the polici of the Opposition.

## Measures to Combat Terrorism

12.31 pm

**The Secretary of State for the Home Department (Mr. Charles Clarke):** With permission, Mr. Speaker, I should like to make a statement about the future of the powers in part 4 of the Anti-terrorism, Crime and Security Act 2001. These matters have of course received the closest attention in this House and in the other place, through the work of the Intelligence and Security Committee, the Home Affairs Committee, and the Joint Committee on Human Rights—to all of which I pay respect. I appreciate, too, the valuable work carried out by a Committee of Privy Councillors under the chairmanship of Lord Newton of Braintree, and of course we have had the regular advice of Lord Carlile of Berriew on the operation of both the Anti-terrorism, Crime and Security Act and the Terrorism Act 2000. This work shows the comprehensive scrutiny that both Houses give to these difficult issues. And of course, what I am saying today follows on from the consultation paper that my predecessor published in February last year, which has informed the conclusions that I am presenting today.

As the House well knows, the part 4 powers are immigration powers. They enable me to certify and detain pending deportation suspected international terrorists whom, because of our international commitments, we cannot remove. Despite concerns when we legislated for part 4, the powers have been used very sparingly, with only 17 people certified since the powers were introduced. Those currently certified and detained were certified as being suspected international terrorists on the basis of a careful Security Service assessment of the significant threat that they pose—and that judgment has been upheld regularly by the Special Immigration Appeals Commission.

On 16 December last year the House of Lords Judicial Committee handed down its judgment on the compatibility of the part 4 powers with the European convention on human rights. The members of the Committee quashed the Human Rights 1998 (Designated Derogation) Order 2001 and declared section 23 of the Anti-terrorism, Crime and Security Act incompatible with articles 5, on the right to liberty, and 14, on freedom from discrimination, of the ECHR. They did so for two main reasons—first, because they considered that the part 4 powers were discriminatory in that they only applied to foreign nationals, and secondly, because they were not proportionate as a response to the threat that we faced from terrorism.

It is true that the part 4 powers apply only to foreign nationals. The reason for that is that when we looked at the very real threat that we faced from international terrorism in the immediate aftermath of the terrible events of 9/11, we were able to identify a small number of foreign nationals resident here who posed a particular danger to us. Prosecution for their activities was not possible for evidential reasons—although two of those certified and detained under the part 4 powers have since been convicted of criminal offences—and there was no realistic prospect of deporting them.

The part 4 powers were the means of containing those foreign nationals' activities where prosecution was not possible. I can tell the House that the Government believe that the powers have played an essential part in addressing the current public emergency, because they have been successful in containing the threat posed by those certified and detained under them.

Moreover, the powers have had another effect. It is clear from the intelligence reports that I have seen that the existence and use of the powers have helped to make the UK a far more hostile environment for international terrorists to operate in, with the result that some have been deterred from coming here, and others have left entirely, to avoid being certified and detained. I am, of course, pleased about that, and reaffirm that the UK must never be regarded as a soft touch or a safe haven for terrorists.

The Government believed that the part 4 powers were justified, because the threat appeared to come predominantly, albeit not exclusively, from foreign nationals, because foreign nationals do not have the same right to be here as British nationals, and because against the background of UN Security Council resolution 1373's strong condemnation of terrorism, it was necessary to take positive action against peripatetic terrorists who happened to be living here.

That said, however, I accept the Law Lords' declaration of incompatibility with the ECHR of section 23 of the Anti-terrorism Crime and Security Act. I accept, too, the Lords' judgment that new legislative measures must apply equally to nationals as well as to non-nationals. But we still need to decide how to deal with the threat presented by terrorists without the assistance of the part 4 powers.

My starting point is the threat that we face. That is, of course, a heavy responsibility for all concerned, and one that has the highest priority of all. That is why I have to take account of events happening around the world, and in particular here at home. I have had frequent discussions with the director general of the Security Service and the Metropolitan Police Commissioner since my appointment. I am left in absolutely no doubt that nothing has happened recently that diminishes the threat, or calls into question the state of public emergency threatening the life of the nation.

The 2001 Act was enacted because there was an unprecedented terrorist threat to the UK, which was assessed to emanate from al-Qaeda and those individuals and groups within the loosely co-ordinated series of overlapping terrorist networks linked to it. Our understanding of the threat has advanced since then, both from an increasing intelligence base and through the investigation of both successful and thwarted attacks. It is clear that some British nationals are now playing a more significant role in these threats. At the same time, networks consisting of foreign nationals with international links remain.

In the past year, we have seen the multiple attacks in Spain in March 2004, attacks at al-Khobar in Saudi Arabia in May, the attack on the Australian embassy in Jakarta, Indonesia, in September, an attack on an Israeli-owned hotel in Egypt in October, and the attack on the US consulate in Jeddah in Saudi Arabia in December 2004.

In these circumstances, I repeat that my judgment is that there remains a public emergency threatening the life of the nation. The absence of the part 4 powers would present us with real difficulties, so I now set out the ways in which we can meet this threat.

*[Mr. Charles Clarke]*

The Government believe that the answer lies in a twin-track approach: specifically, deportation with assurances for foreign nationals whom we can and should deport, and a new mechanism—control orders—for containing and disrupting those whom we cannot prosecute or deport.

I shall deal first with deportation with assurances. As the House knows, we have been trying for some time to address the problems posed by individuals whose deportation could fall foul of our international obligations by seeking memorandums of understanding with their countries of origin. We are currently focusing our attention on certain key middle-eastern and north African countries. I am determined to progress this with energy. My noble Friend Baroness Symons of Vernham Dean visited the region last week. She had positive discussions with a number of countries, on which we are now seeking to build.

I want to make it clear that prosecution is, and will remain, our preferred way forward when dealing with all terrorists. All agencies operate on that basis, and will continue to do so, but all of us need to recognise that it is not always possible to bring charges, given the need to protect highly sensitive sources and techniques.

There is a widespread misconception that if we could only adduce intercept as evidence, we would be able to prosecute those detained. However, the review of intercept as evidence found no evidence to support this, and I have consequently made a written statement today, explaining that the Government do not intend to change the existing arrangements. Intercept provides only part of the intelligence against individuals, and sometimes a small part; it does not stand alone. Some of the material that we have in these cases is inadmissible, and other material, while technically admissible, could not be adduced without compromising national security, damaging relationships with foreign powers or intelligence agencies, or putting the lives of sources at risk. So there are cases in which we remain unable to prosecute. However, that does not mean that we should do nothing to forestall suspected terrorists or to prevent them from planning, assisting or otherwise supporting those willing to carry out attacks.

The Government have therefore decided to replace the part 4 powers with a new system of control orders. We intend that such orders be capable of general application to any suspected terrorist irrespective of nationality or, for most controls, of the nature of the terrorist activity—whether international or domestic—and that they should enable us to impose conditions constraining the ability of those subject to the orders to engage in terrorist-related activities. Control orders would be used only in serious cases. The controls imposed would be proportionate to the threat that each individual posed. Such orders would be preventive and designed to disrupt those seeking to carry out attacks—whether here or elsewhere—or who are planning or otherwise supporting such activities. They would be designed to address directly two of the Law Lords' concerns: discrimination and proportionality.

I turn to the key features of the scheme. The Secretary of State would consider whether, on the basis of an intelligence assessment peovided by the Security Service, there are reasonable grounds for suspecting that an individual is, or has been, concerned with terrorism. If the answer to that question is yes, and if the Secretary of State considers such action necessary for the purposes of protecting the public from terrorist-related activities, he or she would impose controls on that individual. There would be a range of controls restricting movement and association or other communication with named individuals; the imposition of curfews and/or tagging; and restrictions on access to telecommunications, the internet and other technology. At the top end, control orders would include a requirement to remain at their premises. The controls to be imposed under the new scheme will not include detention in prison, although I intend that breach of a control order should be a criminal offence, triable in the usual way through the criminal courts and punishable by imprisonment.

There will be independent judicial scrutiny involving the hearing of evidence, in open and closed session, against the imposition of the order or any subsequent variation of its provisions. There will be a mechanism for reviewing and modifying conditions as circumstances warrant, subject again to independent judicial scrutiny. Other safeguards will include the Secretary of State reporting regularly to Parliament on the number of orders made. There will be independent annual review of the powers—as now with the part 4 powers—and annual renewal of them. I am considering separately what role the Intelligence and Security Committee of this House might play in that regard.

The Government of course intend to ensure that any future powers that we take in legislation are wholly compatible with the provisions of the European convention on human rights, and if necessary we will employ a new derogation to that effect. I have sought advice from the director general of the Security Service and the Metropolitan Police Commissioner about the powers that we need to deal effectively with the public emergency threatening the life of the nation, and to deal with British and foreign nationals whom we have grounds to believe are engaged in terrorism. On the basis of that advice, my judgment is that the range of powers that I have outlined, including a criminal sanction for breach, will be essential if we are to contain the threat that those who may be made subject to control orders pose to public safety.

I told the House on 16 December that I intended to renew the part 4 powers as necessary. However, my desire is to introduce a Bill to give effect to control orders as soon as is practicable. I can see advantages in enacting the Bill, if it is possible to do so, to a time scale that makes renewal unnecessary. Should that not be possible—I acknowledge that there are serious time pressures—I will seek to renew the part 4 powers for the limited time necessary to put the new arrangements in place. I will need to lay the renewal order in draft, and I will do so tomorrow.

For this reason, I will not be revoking the certificates on the current detainees between now and when the new legislation is in place, unless, of course, the threat that they pose changes and they no longer meet the criteria for certification. Those currently certified and detained were certified as being suspected international terrorists on the basis of a careful Security Service assessment of the significant threat that they pose. That judgment has

been upheld by the Special Immigration Appeals Commission. We believe that those detained under the part 4 powers continue to pose a threat to national security, and that we should seek to ensure that we take all necessary steps to address that threat.

These are all very difficult issues, with no easy answers. A careful balance has to be struck between the rights of individuals and the protection of society against threats from organisations that seek to destroy central attributes of our society, such as freedom of belief, speech and association, freedom of expression and even our central democracy. All parts of our society—Parliament, the legal system and the media—need an open debate about this so that we understand the complexities of the security situation that we face. I will shortly be bringing forward detailed proposals for the best way to conduct that debate.

My principal responsibility as Home Secretary is to preserve our democracy against those who seek to destroy it through terrorist attacks. The threat is real, and I believe that the steps I am announcing today will enable us more effectively to meet that threat. I am, of course, well aware that the proposals I am making today represent a very substantial increase in the executive powers of the state in relation to British citizens who we fear are preparing terrorist activities and against whom we cannot proceed in open court. That will be contentious, but I believe that the need for us to protect ourselves against the threat justifies the changes I propose. I commend the statement to the House.

**David Davis** (Haltemprice and Howden) (Con): I thank the Home Secretary for giving me advance sight of his statement, and more than that, for early notification of the substance of what he would say. I commend him for his welcome recognition of the primacy of law, and the concomitant seriousness with which he treated the judgment of the House of Lords. I also commend him for his efforts with the Governments of the countries from which the current Belmarsh detainees come. The claim from the Home Office that the current arrangements were only a prison with three walls always rang hollow when detainees had reason to fear execution on return to their home countries. I wish him good fortune with his undoubtedly difficult task on that front—it is obviously long overdue.

I also welcome the Home Secretary's announcement of a debate on the proper balance between liberty and security, which is central to the considerations before us today, and also long overdue. As I have said before, the task of the Home Secretary is not only the protection of life, as he describes it, but the protection of our way of life. It is a self-defeating exercise to sacrifice liberty in defence of liberty. Throughout our history, millions of British subjects have sacrificed their lives in defence of the nation's liberties, and it would be a sad paradox if we were to sacrifice a nation's liberty in defence of our own lives today.

From the perspective of those currently detained in Belmarsh and other foreign nationals, the proposal is clearly and undoubtedly an improvement. House arrest is better than imprisonment, even without any access to a garden, a phone, the internet, friends or relatives, which is effectively the state of detainee G today. The lower range of measures, down to tagging, only is clearly still better, and allows the Home Secretary to meet the House of Lords requirement for proportionality.

More concerning, however, is the intention to extend the proposals to British subjects. Some of the most ancient rights of Britons are those of natural justice: the right to presumption of innocence; the right of a person to know the charge against him; and the right to see or hear the evidence brought. All those rights are absent under the SIAC—Special Immigration Appeals Commission—rules. That is why Ian MacDonald, the Government's special advocate who resigned before Christmas, described the rules as

"contrary to our deepest notions of justice".

It is undoubtedly a Kafkaesque process. Will the Home Secretary explain whether, and how, he will bring the process more in line with normal rules of British justice, especially as it will now apply to British citizens?

I understand why the Home Office likes to describe the procedure as a sort of anti-terrorist ASBO, as it does in this morning's press, but we should not kid ourselves—it is not. The upper end of the scale—house arrest—is administrative detention. It is public internment. We know that throughout history internment has generally backfired, because of the resentment that it creates, so unless the process is clearly just, the Home Secretary could find himself confining one known terrorist only to recruit for our enemies 10 unknown terrorists. Justice must be seen to be done, because the perception of injustice could completely destroy or reverse the effectiveness of the proposal.

One detailed aspect of the proposal that must be understood is whether the control orders will be time limited or open ended. There is a world of difference between indefinite detention and a time-limited control order. Will the Home Secretary explain in detail how he thinks those orders will be used?

Even those of us with strong civil libertarian instincts recognise that these have to be compromised occasionally in the interests of security. However, that should happen only after all the avenues within our normal systems of democracy and justice have been exhausted. So the legitimacy of the Home Secretary's proposals rests on his having tried every other normal legal option first.

Over the years, many people—not only one Committee—have recommended making more such terrorism cases capable of being brought to trial by the use of intercept evidence. The most recent example is the eminent report by Lord Newton. All those studies are at odds with the review described in the Home Secretary's statement.

I understand that there may be practical difficulties, but I ask the Home Secretary to revisit the issue, and consider whether the mechanism proposed by Lord Newton—specifically the use of an independent security-cleared examining judge, who collates the sensitive information, ensures that it is fair and presents it to the court, but who prevents defence lawyers from going on fishing expeditions—could be used more generally to allow sensitive intelligence information of all sorts to be brought before the court. We are virtually the only major country in the world that does not use intercept evidence in court. That must make it even more difficult to bring terrorist cases to trial, and as such, degrades both our safety and our system of justice.

*[David Davis]*

I repeat that I would be far more comfortable accepting the Government's proposals if I were convinced that every other legal avenue had been exhausted before we got there.

The Home Secretary, as I understand it, intends that he will report on the process of detention to Parliament through the Intelligence and Security Committee. That is obviously sensible. However, I also believe that there should be a regular report back on the Floor of the House. That, of course, would be less detailed, because it would be open—but I continue to believe that the House of Commons in open session is still the best defender of liberty and justice for British citizens.

The Opposition will look very carefully at the detail of the proposals when the measures are laid before the House. Clearly, this issue has to be resolved as soon as possible. But it is vital to get it right, and in doing so protect our system of justice.

We should remember the words of Benjamin Franklin:

"They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

It is the job of us all to try to get an outcome that preserves for our citizens both liberty and safety, and the Opposition will do all they can to achieve both those aims.

**Mr. Clarke:** I am grateful to the right hon. Gentleman, and I appreciate the approach that he has taken. It is the case, both in the Intelligence and Security Committee and elsewhere, that there is a great deal of cross-party agreement about how to approach these issues.

I was delighted that the right hon. Gentleman welcomed my proposals for a substantial debate on these matters. In due course I will talk to him and his colleagues about how we might best take that forward. I am happy that there should be a regular report back on the Floor of the House, and there are already some vehicles for that.

I would observe that when we have that debate it is important to recognise that the threats that we face are very different from the threats that Benjamin Franklin was trying to address.

**David Davis:** He was a revolutionary.

**Mr. Clarke:** He was indeed a revolutionary in various respects, though rather an eccentric revolutionary. I think that I am right in saying that he used to stand naked in front of his windows to expose himself to the community as a whole. I am not sure that there is anybody doing that at the moment. *[Interruption.]* I do not recommend it.

I wish to make it clear that the Home Office was not involved in any briefing on these proposals. It has been at pains to come first to the House on these matters. A phrase such as "anti-terrorist ASBO" is not one with which I would agree; I do not think that it is right in the context of the process.

I agree with the right hon. Gentleman's comments on proportionality. He raises serious points on UK subjects but I put it to him—he knows that this is the case—that we have to address a reality, which is that there are UK subjects ready to use action to destroy the society of which we are a part. It is my obligation—and I think it is one shared by the right hon. Gentleman—to deal with that.

In terms of what the right hon. Gentleman says about going as far as we can to pursue normal rules of justice, to explore all avenues and to pursue all options, I agree with him. As I have said, prosecution in the courts is the best way to address these matters. That is the right way to proceed. We should not—I know that he does not—hide from the fact that all avenues having been explored, and so on, there are still issues that arise, including from some UK citizens. They are very small in number but they have to be addressed and they cannot be ignored.

On procedure, as I said in my statement, there will be independent judicial scrutiny involving the hearing of evidence in open and closed session against the imposition of any order or any subsequent variation of an order. I envisage the use of special advocates in the closed sessions. There will be a mechanism for reviewing and modifying the conditions of any order as circumstances change. The new mechanism will itself be subject to independent judicial scrutiny. Individuals will be served the order and will be able to challenge both it and the conditions that it imposes. The subject of the order will be told as much as possible, commensurate with the need to safeguard sensitive intelligence material. Further details will be in the Bill that I shall publish.

In response to the right hon. Gentleman's point about whether control orders will be indefinite in operation, I say that the order can be varied. The controls can be changed if the threat that the individual poses changes or diminishes over time. The orders can be challenged and they will be regularly reviewed, as I have indicated. On intercept evidence, I have set out the reasons clearly why I have taken the view that I have. Principally, it would not significantly increase our ability to secure convictions in this area. Technology is changing so rapidly that we should take account of that process. That said, I will continue to keep the situation under review, and be informed by the right hon. Gentleman and other Members as we consider these questions.

I am delighted that the official Opposition take a broadly constructive approach on these matters. I urge the right hon. Gentleman, when he considers the difficult question of the balance of liberty and security, even for UK subjects, to recognise the obligations that we all have to put security at the centre of our preoccupations.

**Mr. Mark Oaten** (Winchester) (LD): I thank the Home Secretary for the advance notice that he gave of his statement, and particularly for the constructive approach that he has taken on this issue. For three years the Government have appeared to be dragging their feet, but we now have the sense that the new Home Secretary, in particular, is genuine about finding a way forward. Liberal Democrats will give serious consideration to the measures proposed, especially to the control orders that the right hon. Gentleman is suggesting. Will he confirm that the standard of proof required for those orders will be very high? How many control orders does he envisage being issued? Is it likely that there will be more than the 17 cases of detainees now being held?

The idea of holding individuals in house detention is another solution that, again, we shall examine. Is the right hon. Gentleman really looking at ways in which that could be done without requiring a derogation from our human right commitments?

I am disappointed that the Home Secretary has ruled out the use of intercept communications in securing trials. I understand that they may not be helpful in the case of the current detainees, but does he acknowledge that in future cases information gained from phone tapping could be relevant, and could be used to obtain a trial? I simply ask that the right hon. Gentleman keep the door open on this issue.

I remain concerned about the idea of returning detainees to host countries. Does the Home Secretary acknowledge that any agreement to do that would require strong reassurances on human rights from those countries, and that detainees should be able to challenge any arrangement if they felt that the process was unsafe?

We shall be very constructive about legislation introduced on this issue. We are aware that the March deadline for renewing the derogation is looming. Our priority will be to balance the security of this country with the need to maintain strong principles of justice. Based on what I have heard today, I am encouraged in the belief that we can achieve cross-party support.

**Mr. Clarke:** I thank the hon. Gentleman for the general approach that he has taken, and for the constructive way in which he is ready to consider these matters. I acknowledge with him that it will be necessary to scrutinise the proposed legislation in detail, and I look forward to constructive proposals, should they come from the Liberal Democrats.

The standard of proof for the orders will be very high, as it correctly should be. There is nothing that I can constructively say to the House about numbers. We have no ambition to have significantly more control orders than the current number of cases. The whole point is that we cannot anticipate what threat will arise. The way to proceed is through the reporting procedures of various kinds that I have suggested, so that the House can consider the position and come to a view on the use of the orders once they are established.

On the derogation question, we are looking into all aspects of control orders in the context of the need to derogate. As I said in my statement, it is possible that we will need to seek to derogate from the European convention. Obviously that is a matter that we will take extremely seriously, and it would be put forward on the basis that the House considered appropriate at the time. But at the end of the day, my first responsibility is security, as I said earlier, and that is the approach that I will take.

On intercept evidence, I will keep that matter under review, but the fact is that surveillance sources for particular decisions include intercepts and a wide range of other surveillance measures that would not be addressed by the measure and could put people at risk. That is why the review concluded that allowing intercept evidence would not solve the problem in a significant number of cases.

On host countries, I agree with the hon. Gentleman about the need for strong assurances and we would take that issue into account in any memorandum of understanding. At the end of the day, it is for the courts to make their judgment on the issues that arise. I am glad that he wishes to balance security and justice. These are difficult questions and I hope that he will participate in active public debate about them because, for the sake of all parties in the House, it is important that we achieve the correct balance.

**Mr. John Denham** (Southampton, Itchen) (Lab): Will my right hon. Friend clarify the specific point about whether the orders that, at the extreme, could involve house arrest, would be issued for an indefinite period or whether they would be statutory and subject to review? He is right, I am afraid, to acknowledge that, in future, the role played by British citizens in this type of terrorism may become more significant than has been the case in the past, but the use of powers against British citizens will attract more public concern and scrutiny than their use against foreign nationals. Will he look carefully at whether he needs a more structured process of advice before issuing an order so that he is not simply dependent on the advice of the security services? There could be some independent examination of whether a case is prosecutable or an independent assertion that some measures are necessary, even though an individual cannot be prosecuted.

**Mr. Clarke:** I am grateful for my right hon. Friend's comments. On the timing of the orders, I want to emphasise that the orders can be varied. The controls can be changed if the threat that the individual poses changes or diminishes over time. They can be challenged and they will be reviewed regularly. That goes a significant way towards dealing with the concerns that the Home Affairs Committee may have. On the point about UK nationals, my right hon. Friend is correct and his Committee has played an important role in trying to address these issues in its debates. I hope that in the debate that I suggested was necessary, it will play the role that it has played in the past and stimulate substantive discussion. I am extremely grateful that my right hon. Friend, who has particular specialist knowledge and experience, has acknowledged that it is necessary to look at powers to deal with UK nationals, and not simply deal with the points made by the Law Lords in their judgment, given that there are issues of serious risk. It is a difficult question, but I very much appreciate his Committee's understanding approach.

**Mr. Francis Maude** (Horsham) (Con): No one will need to be persuaded that the use of powers such as the existing ones and those that the right hon. Gentleman proposes to introduce will make Britain a safer place. That almost goes without saying. However, does he accept—I think that he does—that the price we pay for living in a free country is the fact that we are more vulnerable? We cannot make an open or free society completely safe. While the powers that he proposes to introduce to replace part 4 of the Anti-terrorism, Crime and Security Act are less draconian than the existing powers, he is extending their scope. It is very important that such powers, which extend beyond our usual conception of the rule of law, should not become part of the fabric of our society.

**Mr. Clarke:** I accept the right hon. Gentleman's general point, and I have tried to address it. However, there is a serious point to be made. He is right to raise the question of safety and the balance between safety and liberty, but some of the threats that we are talking about, whether a twin towers-style disaster or an attack on an underground system or something else, are catastrophic, and thus different in nature from other safety issues that we address and take into the balance. It is extremely important that we recognise the threat that we may be under in those circumstances and deal with issues of reality when considering what steps to take.

**Ross Cranston** (Dudley, North) (Lab): I congratulate my right hon. Friend on the expedition with which he has acted and the inspired way in which he has responded to the very difficult and challenging judgement by the House of Lords. For what it is worth, I accept his view and that of his predecessor, my right hon. Friend the Member for Sheffield, Brightside (Mr. Blunkett), that there is a real threat that must be addressed. However, may I ask him about the prosecution avenue? Can he give the House an assurance that that will always be fully explored? Perhaps we need to revisit terrorism legislation to explore the width of some of those offences.

**Mr. Clarke:** I appreciate my hon. and learned Friend's general support. His knowledge and expertise in these areas is well known and I appreciate his approach. On his specific point about exploring the prosecution process and ensuring that we can pursue it at all levels, I can provide the assurance that he is seeking. I said in my statement that prosecution must always be the principal way of acting and it is certainly the best and most effective way of doing so. That is what we will pursue, which is why I am ready to accept his advice and look carefully at ways in which we can expedite that goal. However, I acknowledge, as I did in my statement, that there will still be cases where prosecution is not possible for various reasons, which is why I have proposed the regime that I set out today.

**Lady Hermon** (North Down) (UUP): Will the Secretary of State kindly clarify part of his statement that jumped off the page as I read it? He made it clear that he will progress the memorandums of understanding with various countries with energy and assured the House that Baroness Symons has received a positive response to the discussions that she has had. If that is the case and the Secretary of State is successful, as we hope that he will be, does that mean that in the long term deportation of foreign nationals will take place before control orders are introduced? Could we therefore end up with only UK nationals being subject to control orders?

**Mr. Clarke:** The hon. Lady is right that that is possible. It is critical that the House, the country and the legal system acknowledge that terrorism is an international activity that poses an international threat. It is not something which we can deal with simply within our own borders, so it is important that I seek to find agreements with other countries about how we deal with these things. There are agreements between other countries to deal with some of these issues and I believe that we should try to take that forward. Does that mean that, logically, one could reach the point where all foreign nationals were deported to their home countries and control orders would apply only to UK nationals? The answer to that question is yes. Frankly, however, I do not think that that is likely. It would take a considerable time to reach a point where deportation was the route for all foreign nationals. However, even if the logical outcome were fulfilled, I would still say to the House, as I tried to highlight in my statement, that we need a power to deal with UK citizens who wish to bring about the destruction of our society in various ways and whom, for reasons that we have discussed, we cannot prosecute.

**Mr. Robert Marshall-Andrews** (Medway) (Lab): The Home Secretary is right to identify the fact that this will represent the most substantial increase in the state's executive powers over the citizen for 300 years. First, does he acknowledge as a matter of principle, liberty and law that executive detention that is indefinite in nature and without trial is precisely that, whether in Belmarsh or a bungalow? Secondly, will he tell us whether independent judicial scrutiny will be undertaken by the High Court through judicial review or by another body?

**Mr. Clarke:** I think that I have already addressed the second point made by my hon. and learned Friend in my response to the right hon. Member for Haltemprice and Howden (David Davis), but I will repeat it. Independent judicial scrutiny will involve the hearing of evidence in open and closed session against the imposition of any order or any subsequent variation of an order. I envisage the use of special advocates in the closed sessions and there will be a mechanism for reviewing and modifying the conditions of any order as circumstances change. That new mechanism will be subject to independent judicial scrutiny itself. Individuals will be served an order and can challenge it and the conditions that it imposes. The subject of the order will be told as much as possible, commensurate with the need to safeguard sensitive intelligence material. I think that that deals with the point made by hon. and learned Friend, but I am ready to consider any other points that he and other Members may wish to make, both in Committee and in the House.

On the 300-year history, I was fairly up front in saying in my statement that there was a real issue here that needs to be tackled. In the 300-year history that we are talking about, there have rarely been threats of the type and scale that we have to face in these circumstances. That is why I have proposed the steps that I set out. We will have strong debate about these matters and there will be people who think that, even under the threat that we face, such powers are unacceptable. I understand that, but I consider it my responsibility as Home Secretary to do whatever I can to ensure the security of the whole of our society and what it stands for, and that is what I intend to do.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): The right hon. Gentleman will understand that the control orders, especially house detention, are capable of destroying the lives and livelihoods of individuals who have been convicted of no offence. Does

he understand that many of us are wholly opposed to such a proposal and will vigorously oppose it wherever it is made? I hope it will be made on the Floor of the House and that the Bill will be taken exclusively on the Floor of the House. I also deplore the fact that he continues to hold in detention the 12 detainees whose detention has been pronounced unlawful by the highest court of appeal in the country.

**Mr. Clarke:** I hear the right hon. and learned Gentleman's deploration, but I do not accept it. Those people have been the subject of testimony by serious concerned organisations that understand what they are about and we are not prepared to take the risk of such people at liberty destroying our society. I am very clear about that. He speaks about conviction in this context, and I note that he is wholly opposed to the proposals. I know his long history on these matters, and I am sure he will make his arguments with his usual eloquence. However, as he comes from a legal family of such distinction, I put it to him that the issues that I am talking about—that is, the relationship between security and liberty—are central issues that the judiciary and the whole of the legal process must address as much as anybody else, which is why I want a national debate. It is essential that the issues are addressed, because if he does not understand the threat that is posed to every right for which he and his family have fought over generations, he is missing the central point of the entire debate.

**Donald Anderson** (Swansea, East) (Lab): The positive response of those who speak on behalf of the Opposition parties indicates a realistic recognition both of the balance achieved by my right hon. Friend and of the nature of the threat at a time of biological weapons, chemical weapons, dirty bombs and so on. Can my right hon. Friend say more about the other part of the twin-track approach—that is, the relationship with countries from which those who are considered a significant threat come? What are the minimum and specific assurances that he will seek from those Governments?

**Mr. Clarke:** I appreciate the general support given by my right hon. Friend. His own experience in the foreign service leads him to speak with great authority on these matters. There are two aspects to his question. First, it is important that in any country to which deportation is considered, the individual does not face torture, the threat of death and so on—the various issues that are rightly raised in the European convention on human rights. Those are questions that we will raise explicitly. It is also important—this is the second part of the second track, so to speak—to recognise that those Governments themselves are sometimes under threat from the same kind of challenges that we have to deal with, and it is important for us to talk to them about how we can deal with these matters. But the fundamental issue is the one that he raises, and it is the reason why I put this in the context of the European convention on human rights at the outset. Obviously the individuals, the courts looking into the situation and others will want to be assured that should those individuals be removed to those countries, they are not at risk of the kind of treatment banned under international law. That will be the bottom line of our consideration of these matters.

**Mr. Edward Garnier** (Harborough) (Con): The Home Secretary will understand that, as a matter of principle, it is no less offensive to detain a man in his house than it is to detain him in prison by virtue of a ministerial edict. Would it not be safer and a better course for the Home Secretary to apply to the courts to have these people detained, on the basis of evidence that may be withheld from the public and which may even be withheld from the respondent to the application? The Home Secretary ought surely to make his application to the courts, rather than allow his ministerial edicts to be reviewed after the event by the courts.

**Mr. Clarke:** The hon. and learned Gentleman is right that that is a possible alternative way of going about it, but I believe that were I to surrender the responsibility of the Executive to the courts to take decisions on these matters, it would in the most real sense be a betrayal of the responsibility that I as Home Secretary and any future holder of this office bear for the security of the state. That responsibility must lie, and in my opinion rightly, with the Executive and in this case with the Home Secretary. To pretend that these matters can be dealt with at one remove by the judiciary on the basis of different issues is wrong. It is right, as the hon. and learned Gentleman acknowledged in his question, that the decisions that I or others make should be subject to review by the judiciary as to whether they have been correctly carried through. That is entirely proper. For me to say that I bear no responsibility for the matter and pass it on to someone else would be wrong.

**Jeremy Corbyn** (Islington, North) (Lab): Does the Home Secretary accept that many of us are extremely concerned about the general trend of anti-terrorist legislation, which allows administrative detention? What has happened at Belmarsh is the British equivalent of Guantanamo Bay. If an administrative order is made against an individual based on security information that the Home Secretary has received, and if that is challenged in a court, would all the evidence on which the Home Secretary made that decision be available to the defendant, or would it be merely a rubber-stamping exercise whereby the Home Secretary can detain or restrict indefinitely the movements of a substantial number of people on the basis of secret information?

**Mr. Clarke:** My hon. Friend's record and position on the matter is well known and understood, and we have had many debates about it. It is important to understand the difference between various forms of detention. It is not the case that detention in Belmarsh is the same as in Guantanamo. There is a series of different matters that need to be addressed. On his central point, I said in my statement and I say again that the judicial review of the Home Secretary's decision will work on the basis that the defendant has the right to access all the evidence that can be put to him, subject to the test that making that evidence available does not threaten national security. So there are issues that arise, and which my hon. Friend will no doubt push in Committee

*[Mr. Clarke]*

when we discuss the matter, but the principle established is that the defendant can have access to the evidence, with the exception—it is an important exception, which he highlights in his question—of information that would be prejudicial to national security if made public.

**Dr. Julian Lewis** (New Forest, East) (Con): Given that the most notorious of the detainees, Abu Qatada, has been described by the Special Immigration Appeals Commission as being

"at the centre in the UK of terrorist activities associated with al Qa'eda",

and that it added:

"He is a truly dangerous individual",

does the Home Secretary agree that it seems strange that there is no aspect of the anti-terrorism law that can be invoked to bring him before a court? Assuming that he and the others have to be let out of Belmarsh, how will it be practically possible to restrict access to telecommunications and the internet unless they are confined in an individual premises and everybody going in to see them is searched and prevented from taking in such communications equipment with them?

**Mr. Clarke:** On the hon. Gentleman's first point, the fact that judgments of the type that he described are reached does not say anything about the source of that judgment. The question is whether the source can be exposed in open court without risking people's lives, the national security system or whatever. That is the answer to his question. On the second part, he is right. The control order regime that I propose suggests a range of controls dealing with access to telecommunications equipment and so on, as I indicated, which will require policing to work effectively. Is it possible? Yes, it certainly is. Can we establish it? Yes, I am advised that we can. But are there issues that arise about it? Yes, there are. That is what we have to address when we consider the detail of the orders.

**David Winnick** (Walsall, North) (Lab): Considering what happened in Istanbul and Madrid, how could any Home Secretary not take into account the constant danger of terrorism to our country and our people? Bearing in mind the extended powers, what reassurances is my right hon. Friend giving to the Muslim community to let it know that no community in our country will be targeted and that all law-abiding people have nothing to fear?

**Mr. Clarke:** I am grateful for my hon. Friend's initial point, with which I completely agree. I have attended two meetings with representatives of the Muslim community to discuss those questions and make the precise point that he mentioned. I have not discussed the proposals that I have introduced today with the Muslim community, because I thought it more appropriate to come to the House before talking to other interests directly, but I will discuss those precise issues with members of the Muslim community to provide reassurance.

I reaffirm my hon. Friend's point that no law-abiding citizen of this country, whether they are Muslim or Christian and whatever their race, nationality, creed or belief, has anything to fear from the proposals that I have put in front of the House today. The proposals are intended to target those who aim to destroy the democracy within which we all flourish.

**Mr. Simon Thomas** (Ceredigion) (PC): I accept that the Home Secretary has taken time and care to consider his proposals. Many Back Benchers consider it our responsibility to resist any proposals from the Executive to expand their powers in this way, unless the evidence and the need is overwhelmingly demonstrated in this House. To that end, I support the call from the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg) for the matter to be debated on the Floor of the House, because all hon. Members will have something to say about the central question of the proportionality and application of the proposals.

In his reply to the hon. Member for Winchester (Mr. Oaten), the Home Secretary did not state the number of British citizens whom the proposals might affect. Although he may not be able to answer that question today, by the time that we examine the Bill, he must be able to say how many British citizens are likely to be affected and how many British citizens are being investigated in the context of terrorist activities. For example, animal rights terrorism shows how such measures could be applied much more widely than the context that we have been debating today. The proposals will considerably enhance the Government's powers and we must take a careful, measured approach.

**Mr. Clarke:** I want to make three points. First, this is not a numbers game, although numbers are important. As I said in my statement, the part 4 powers have been applied to 17 people since they were enacted, which provides a context. I agree that it is right for the Government of the day to report to the House in a variety of different ways on the number of cases, the situation and so on, but it is not a numbers game.

Secondly, I accept the hon. Gentleman's important point that, before any legislation—in particular, legislation that might involve a derogation from the European convention on human rights—is introduced, a detailed and substantive case must be presented to this House and the other place before they assess what to do. That process is needed to address his point about proportionality, which I accept is an obligation on any Home Secretary who seeks to introduce legislation.

My third point is an appeal to the hon. Gentleman. Although it is important to recognise that the role of Members of Parliament is to act as a check on the Executive and therefore question the Executive, it is also the role of Members of Parliament, as the elected representatives of their communities, to address such issues in the round and decide in the interests of the country as a whole how to deal with the balance between rights and security. That is why I have proposed a broad debate, which we have got. In my opinion, hon. Members should not simply ask, "What are the Executive doing? How can we deal with them?" That is one of their responsibilities, but I put it to the hon. Gentleman that another important responsibility is for elected representatives, and in particular political parties, to debate such matters in the round rather than simply existing as an anti-Executive element.

**Mr. Tam Dalyell** (Linlithgow) (Lab): Pursuant to the Home Secretary's answer to my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews), can we take it that judicial review by the High Court has been excluded in favour of action by the Special Immigration Appeals Commission? Will the Home Secretary's decisions be subject to the High Court and what is the position on judicial review?

Early in his statement, the Home Secretary said that intelligence reports make it clear that the existence and use of the powers have helped to make the UK a far more hostile environment for international terrorists to operate in, with the result that some international terrorists have been deterred from coming here and that others have left to avoid being certified and detained. Does he know that for a fact or is it informed and educated speculation?

**Mr. Clarke:** On the first point, I have nothing to add to my statement and my answers to previous questions, including the question from my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews). On the second point, it is more than informed speculation that the situation is much more secure and that the country is inhospitable for international terrorists. I am proud that the legislation has helped to achieve that result, which I want to ensure is a characteristic hallmark of this country.

**Dr. John Pugh** (Southport) (LD): Given the Home Secretary's ongoing security concerns and the record on suspicious detainees absconding from custody at John Lennon airport, will the Home Secretary consider improving Customs and Excise as well as legislative change?

**Mr. Clarke:** The proposals in the Serious Organised Crime and Police Bill have been specifically designed to ensure better co-operation between the various interested agencies, including Customs and Excise. The hon. Gentleman's point is well made, in the sense that we will invest to ensure that enough staff are available to address the threats and the proposals before the House will help immensely in achieving his ambition.

**Ms Diane Abbott** (Hackney, North and Stoke Newington) (Lab): Does the Home Secretary accept that many people outside this House welcome his acceptance of the Law Lords' ruling? For some time, many people have said that the legislation is so contrary to any notion of the rule of law that it represents a victory for the terrorist. Will he also accept that, in practice, in the medium term, most of the British nationals who are subject to control orders will be of the Muslim faith? To intern individuals in their own homes in the middle of communities in our great cities will be, if anything, more incendiary than putting them in prison. Many of us welcome the Home Secretary's proposal to hold a full and careful debate to discuss those ideas.

**Mr. Clarke:** I appreciate the first part of my hon. Friend's remarks. Her second point follows on from the point raised by my hon. Friend the Member for Walsall, North (David Winnick). It is important that the debate takes in all communities in this country, including the Muslim community. I reassert that members of the Muslim community have nothing to fear from the measures, unless they are explicitly involved in promoting terrorist activity. That distinction is the core point. If people are promoting terrorism and seeking to engage in terrorism, it is my responsibility to address that situation, whatever their religious faith or race. I cannot say, "You are a terrorist, but because you happen to be of x or y faith, it is okay." I cannot adopt that position, and I am sure that my hon. Friend would not. However, I agree with her fundamental point that plenty of room exists for misunderstandings around such questions and it is part of my obligation to ensure that as few misunderstandings as possible occur.

**Mr. Henry Bellingham** (North-West Norfolk) (Con): I welcome the Home Secretary's statement and feel that he deserves significant credit for moving so quickly. In the third paragraph of his statement, he discussed our international commitments on suspected international terrorists who are being kept in this country at substantial expense to taxpayers. Deportation with assurances will partly address that problem, but should we not revisit some of those international commitments? Is there not an opportunity for the UN to launch an initiative, too?

**Mr. Clarke:** I am more glad than I can say that the hon. Gentleman has raised the point that we need an international approach to the matter that involves the UN and other agencies, which is why I referred to the UN resolution in my statement. I highlighted the matter because working with other countries is the right way to go. On expenditure, we must spend whatever it takes to maintain our security, and I am determined that we will do just that.

**Vera Baird** (Redcar) (Lab): I compliment my right hon. Friend on the thought that he has put into trying to produce a reasonable solution to a very nearly intractable problem. I welcome his stated preference for trying suspected terrorists. Will he guarantee that that possibility will be pursued vigorously? In his view, will it be possible to put British suspects or any of the Belmarsh detainees on trial, and would changes in criminal procedure help with that? While the Belmarsh men were detained, how were British terrorist suspects, who could not be locked up under that law, being contained? I ask that not in a barbed way but in seeking a way forward.

**Mr. Clarke:** I appreciate the remarks of my hon. and learned Friend, whose experience in these matters is substantial. I can give her the guarantee that she seeks that I will pursue as energetically as I can a process of ensuring that trial procedures and so on are addressed in a way that means that prosecution in court leading to conviction is the best way to deal with these questions. I will consider any changes in procedure to achieve that.

As for the UK citizens currently involved, the security services have pursued a range of different measures under warrant from me, as Home Secretary, in accordance with the court. However, there have been constraints on the situation, which is why I propose such legislation.

**Mr. Michael Meacher** (Oldham, West and Royton) (Lab): While I very much welcome my right hon. Friend's compromise, will he recognise that that is exactly what it is? What is really wrong with the present law is that the standard of proof required, namely reasonable belief or suspicion, is lower even than in civil proceedings; that the Special Immigration Appeals Commission and perhaps his own independent judicial inquiry will still not enable detainees to challenge the evidence against them because they cannot see enough of it; and that so-called "evidence" extracted under torture of a third party is still admissible. Will he address those fundamental points, if not today, in his review of the legislation? In the meantime, will he ensure that his new civil orders, which we welcome, impose strict surveillance conditions, including banning access to the internet and mobile phones, but do not include house arrest, which would breach the human rights convention?

**Mr. Clarke:** I do not accept my right hon. Friend's contention that this is in any sense a compromise. It is not—it is an effort to find a way through to deal with the issues. On his specific questions, I dealt with them all in previous answers and I have nothing to add.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): Is my right hon. Friend aware that I have never been soft on terrorism, having taken a great interest in the affairs of Northern Ireland and having been in Dar-es-Salaam on the day that al-Qaeda blew up the American embassy? However, certain actions may be justified if there is held to be a threat to the life of a nation. Perhaps what is going on in Iraq in relation to terrorism is a threat to the life of that nation. What similar threat exists in this country as distinct from serious threats like those in the past from the Provisional IRA? Should not such problems be dealt with by the courts rather than by special action through the Executive?

**Mr. Clarke:** Let me make it clear that I absolutely accept that my hon. Friend is not in any sense soft on terrorism. That is not the case, as his personal record clearly shows. Nor, by the way, do I make that charge against others who might oppose our proposals. These are genuine and difficult problems that need to be addressed in a way that reflects that fact.

As for the courts taking responsibility rather than the Executive—that is, myself as Home Secretary—I go back to what I said earlier. I believe that this is a proper Executive responsibility that should be borne by the Executive—in this case, by the Home Secretary—and not by the courts. I accept that it is right for the courts to have the ability to review the decision that is taken: that is why we are putting this process in place. As I said very clearly in my statement, I have explicitly considered the evidence that has been put to me about the very real threats that we have to deal with, and my conclusion is that we are in such a state. That is why I believe that we have to act in the way that I suggest.

## Point of Order

1.34 pm

**Mrs. Caroline Spelman** (Meriden) (Con): On a poin of order, Mr. Speaker. At Prime Minister's question the Prime Minister stated that I said this morning tha we are opposed to the development of the Thame gateway. I have said no such thing this morning or eve In fact, I have publicly recognised the benefit of buildin on brownfield land. I hope, Mr. Speaker, that the Prim Minister merely inadvertently misled the House—o perhaps he was guilty of a little shameless opportunism

**Mr. Speaker:** These things are not a matter for me.

## Regulation of Financial Services (Land Transactions)

1.35 pm

**Mr. David Stewart** (Inverness, East, Nairn and Lochaber) (Lab): I beg to move,

That leave be given to bring in a Bill to enable activities relating to certain arrangements involving the acquisition or disposal of land to be regulated under the Financial Services and Markets Act 2000.

The Bill is designed to protect the elderly, the vulnerable and the unguarded from exploitation by the shadowy figures who lurk in the shallow end of the financial services gene pool. It would bring home reversion plans, which are a type of equity release scheme, under the full regulation and protection of the Financial Services Authority. In addition, it would provide a safety net of access to the financial ombudsman scheme and compensation. The Bill would also protect constituents who are, for example, purchasing Islamic products under the Ijara system or have a part- rental, part-purchase home tenure scheme.

What are equity release schemes and how do home reversion plans fit into the bigger picture? Equity release schemes are basically financial products that allow homeowners to realise the value of their property. There are two main vehicles. The first is the lifetime mortgage, whereby homeowners take out a loan secured on their property. That is already covered by the FSA and is well protected.

I am concerned about the second type—home reversions. They are subject to little regulation, control or monitoring. Homeowners sell part or all of their home in return for a lump sum, which is usually in the range of 30 to 65 per cent. of the property value. Such homeowners are usually over 60. They have a right to remain in the house under a lease until they die, with the proviso that they maintain the property, and they have to pay rent to the reversion provider. When the elderly person dies, the provider can sell the property. The lump sum received will depend on a series of factors, including the value of the property, which will not necessarily be independently surveyed, and the age, medical condition and life expectancy of the owners.

My hon. Friend the Member for Brent, North (Mr. Gardiner) said in a similar debate:

"Equity rich, cash poor, and slightly senile: the perfect victim for a whole new generation of financial service vultures."—[*Official Report*, 17 December 2003; Vol. 415; c. 275WH]

The financing of home reversions at the small end of the market is largely about private individuals; there is no central register of reversion transactions. Let me give a few examples of what could happen. A GP could arrange a home reversion for an elderly, confused patient; a private individual could carry out a transaction for a recently widowed neighbour; or a publican could help out an elderly regular at their bar. There are no standards or benchmarking, and there is no protection for the consumer. Those are the perfect ingredients for the unscrupulous to manipulate, misuse and milk the unwary.

I am not saying that all equity release schemes are a bad thing per se or that I have concerns about the whole industry. For example, the 17 members of the Safe Home Income Plans group provide high standards of consumer protection, with very few complaints and a market share of around 90 per cent. The overall market is worth £1.16 billion—a tremendous size. The Treasury estimates that 5 million homeowners over 60 are eligible for equity release plans, with a potential £700 million locked up in their homes.

The problem relates historically to pension mis-selling, specifically the Equitable Life fiasco. As long as we have an unregulated market, a series of elephant traps will be waiting to snare the unsuspecting and vulnerable pensioner at risk from the modern-day snake oil salesman selling dodgy deals administered by back-street, here-today-gone-tomorrow Arthur Daleys. Home reversions have no licensing requirements, no compensation arrangements, and no comeback from mis-selling. They are about as regulated as the average episode of "Celebrity Big Brother".

In conclusion, the Bill would protect the old and the vulnerable who are considering home reversion equity release products. It would bring the sheriff—the Financial Services Authority—back to the wild west town. It would bring independence through the financial ombudsman scheme and access to compensation. I believe that the Bill has the support of hon. Members of all parties and I strongly commend it to the House.

*Question put and agreed to.*

Bill ordered to be brought in by Mr. David Stewart, Angus Robertson, Sandra Osborne, Mr. Andrew Dismore, Ms Julia Drown, Sir Archy Kirkwood, Miss Anne Begg, Mr. Andrew Mitchell, Mr. Bill Tynan, Glenda Jackson, John Robertson and Mr. Alistair Carmichael.

### Regulation of Financial Services (Land Transactions) Bill

Mr. David Stewart accordingly presented a Bill to regulate financial services: And the same was read the First time; and ordered to be read a Second time on Friday 22 April, and to be printed [Bill 47].

# Modernisation of the House of Commons

1.41 pm

**Mr. Deputy Speaker (Sir Alan Haselhurst):** I have a brief statement to make to the House about today's debate. There will be a joint debate on the three motions in the name of the Leader of the House on sitting hours, connecting Parliament with the public and car mileage allowance. Mr. Speaker has selected all the amendments that have been tabled to the motion on sitting hours. A list has been distributed that also shows the order in which Questions will be put.

Under the order of the House on 24 January, at the end of the debate, or after three hours, I will call Members formally to move the amendments. If an amendment is agreed to, the Question will immediately be put on any consequential amendments. When the amendments have been disposed of, the Question will be put on the main Question on sitting hours, amended or not, as the case may be.

The Questions will then be put on the motions on connecting Parliament with the public and on car mileage allowance.

**The Leader of the House of Commons (Mr. Peter Hain):** I beg to move,

That the following Amendments to Standing Orders be made with effect from the beginning of the next Parliament:

Standing Order No. 9 (Sittings of the House)

Line 1, at beginning insert 'Subject to the provisions of Standing Order No. 1B (Election of Speaker by secret ballot),'.

Line 1, leave out from 'Mondays' to 'o'clock' in line 3 and insert 'at half-past two o'clock, on Tuesdays and Wednesdays at half-past eleven o'clock and on Thursdays at half-past ten'.

Line 5, at end insert 'Provided that, when the House sits on a Tuesday or Wednesday which immediately follows a periodic adjournment of more than two days or is the first day of a Session, references to specific times in the Standing Orders of this House shall apply as if that day were a Monday'.

Line 16, leave out 'Tuesdays and Wednesdays and at seven' and insert 'at seven o'clock on Tuesdays and Wednesdays and at six'.

Standing Order No. 10 (Sittings in Westminster Hall)

Line 4, after 'Wednesdays', insert 'beginning at half-past nine o'clock, which shall be suspended from half-past eleven o'clock until half-past two o'clock and may then continue for up to a further two and a half hours; except that if the Tuesday or Wednesday immediately follows a periodic adjournment of the House of more than two days, the sitting shall be'.

Line 8, leave out 'that period' and insert 'the periods of two and a half or three hours'.

Standing Order No. 11 (Friday sittings)

Line 1, at beginning insert 'Subject to Standing Order No. 12 (House not to sit on certain Fridays),'.

Standing Order No. 12 (House not to sit on certain Fridays)

Line 1, leave out paragraphs (1) and (2) and insert

'(1) Unless the House otherwise orders, the House shall not sit on any Friday other than those on which private Members' bills have precedence.'.

Line 7, leave out 'each of the Fridays so appointed' and insert 'a Friday on which the House is not sitting'.

Line 13, leave out 'so appointed' and insert 'on which the House does not sit'.

Line 24, after ''mendments', insert ', and notices of motions relating to proceedings on bills committed to a standing committee,'.

Standing Order No. 14 (Arrangement of public business)

Line 20, leave out 'Tuesday or Wednesday or four' and insert ', four o'clock on Tuesday or Wednesday or three'.

Line 23, leave out from 'at' to 'and' in line 25 and insert 'the hour specified in sub-paragraph (i) above'.

Line 32, leave out 'or four' and insert ', four o'clock or three'.

Standing Order No. 15 (Exempted business)

Line 23, leave out 'Tuesday or Wednesday or eight' and insert 'eight o'clock on Tuesday or Wednesday or seven'.

Standing Order No. 17 (Delegated legislation (negative procedure))

Line 3, leave out 'Tuesday or Wednesday or half-past eight' and insert 'half-past eight o'clock on Tuesday or Wednesday or half-past seven'.

Line 5, leave out from 'at' to 'the' in line 7 and insert 'that hour'.

Line 20, leave out from 'resumed' to 'but' in line 22 and insert 'less than half an hour before the time specified in paragraph (1) of this order,',

Standing Order No. 20 (Time for taking private business)

Line 28, leave out 'Tuesday or Wednesday or four' and insert 'four o'clock on any specified Tuesday or Wednesday or three'.

Line 38, leave out 'or four' and insert ', four o'clock or three'.

Standing Order No. 24 (Adjournment on specific and important matter that should have urgent consideration)

Line 24, leave out 'Tuesday or Wednesday or four' and insert 'four o'clock if it is a Tuesday or Wednesday or three'.

Line 29, leave out 'Tuesday or Wednesday or half-past ten' and insert 'half-past ten o'clock on a Tuesday or Wednesday or half-past nine'.

Line 55, leave out 'or four' and insert ', four o'clock or three'.

Standing Order No. 41A (Deferred divisions)

Lines 38 and 45, leave out 'three' and insert 'twelve'.

Standing Order No. 54 (Consideration of estimates)

Line 18, leave out 'Tuesday or Wednesday or four' and insert 'four o'clock on Tuesday or Wednesday or three'.

Line 23, leave out from 'at' to 'and' in line 25 and insert 'the hour specified in sub-paragraph (a) above'.

Line 27, leave out 'or four' and insert ', four o'clock or three'.

Standing Order No. 83I (Programme orders: supplementary provision)

Line 5, leave out 'ten o'clock (or on Thursday, seven o'clock)' and insert 'the moment of interruption'.

Line 15, at end insert ', four o'clock or three o'clock'.

Standing Order No. 88 (Meetings of standing committees)

Line 13, leave out from 'Mondays' to second 'in' in line 15 and insert 'between the hours of twenty-five minutes past eleven o'clock in the morning and half-past one o'clock in the afternoon on Tuesdays or Wednesdays or between the hours of twenty-five minutes past ten o'clock in the morning and half-past twelve o'clock'.

Line 20, leave out 'or'.

Line 21, after 'o'clock', insert 'or twenty-five minutes past ten o'clock'.

Standing Order No. 100 (Scottish Grand Committee (sittings))

Line 45, leave out from 'at' to the end of line 48 and insert 'the time specified in paragraph (2) of Standing Order No. 88 (Meetings of standing committees), subject to the proviso to that paragraph'.

Standing Order No. 108 (Welsh Grand Committee (sittings))

Line 44, leave out from 'at' to the end of line 47 and insert 'the time specified in paragraph (2) of Standing Order No. 88 (Meetings of standing committees), subject to the proviso to that paragraph'.

Standing Order No. 116 (Northern Ireland Grand Committee (sittings))

Line 57, leave out from 'at' to end of line 60 and insert 'the time specified in paragraph (2) of Standing Order No. 88 (Meetings of standing committees), subject to the proviso to that paragraph'.

We have three motions before us: on sitting hours, connecting Parliament with the public and phasing in the lower car mileage allowance, tabled at the request of the Members Estimate Committee.

First, I shall deal with sitting hours. The House agreed to our current hours in October 2002 by a narrow margin. Many Members have always been strongly opposed to the change and others have not liked how it has worked in practice. It was my aim as Leader of the Commons to try to find a consensus, and in the past 18 months the Modernisation Committee has taken extensive evidence from Members of Parliament, parliamentary staff and other interested groups such as the Lobby journalists. We were also helped by the Procedure Committee's survey last spring and I am grateful for that. However, no consensus was achievable. Opinion remains divided, with the principal point of difference being the hours on Tuesday.

The motion is in line with the Modernisation Committee's recommendation. It looks discouragingly complex, but its purpose is simple: to make permanent our current hours on Monday, Tuesday, Wednesday and Friday, to bring forward the start of the sitting to 10.30 am on Thursday and to allow Standing Committees to sit an hour earlier in the afternoon. An explanatory memorandum, which sets out exactly how Standing Orders would be changed, has been made available.

My hon. Friend the Deputy Leader of the House has tabled amendments to the motion, which would return Tuesday to the old hours—2.30 pm to 10 pm—as on Monday. Those amendments have been tabled to assist the House to come to a clear decision, but both the Deputy Leader and I shall vote against them.

I believe strongly that the package recommended by the Modernisation Committee represents the best way forward. It maintains our new hours, while addressing the widespread concerns about the compression of the working week.

**Mr. Eric Forth** (Bromley and Chislehurst) (Con): I am most grateful to the Leader of the House for giving way at this early state. I hope that, in the course of his remarks, he will give us his assessment of how he believes the new hours have enhanced the role of Parliament and the House of Commons, especially vis-à-vis the Government. Those assessments would be useful.

**Mr. Hain:** I shall happily give the right hon. Gentleman my assessment now, since he has asked me. The House has worked harder since the new hours were introduced. More scrutiny takes place.

**Mr. Forth:** Rubbish.

**Mr. Hain:** Let me give him the figures. In 2002, the last year of the old hours, the House sat for 1,176 hours in 150 days. In 2003, the first year of the new hours, the House sat for 1,206 hours in 153 days. It sat for longer and there was more time to hold the Government to account. In 2004, the House sat for even longer—1,239 hours.

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Will the right hon. Gentleman give way?

**Mr. Hain:** No, I should like to finish the point because the right hon. Member for Bromley and Chislehurst (Mr. Forth) has asked for the facts and I am providing them.

In addition, Select Committees also worked harder. Their meetings increased from 1,037 to 1,312 in the period that I outlined. The number of Committee reports increased from 201 to 232. *Hansard* shows Commons activity increasing under the new hours. Its length increased from 159 to 165 pages per day after the new hours were introduced. The new sitting hours therefore provide more opportunity for scrutiny and for the House to hold the Government to account.

**Mr. Heald:** Does the Leader of the House realise that what matters is the time available to cover the amount of legislation that the Government introduce? Although there may have been a few extra hours here and there, there has been a tidal wave of legislation. I do not necessarily mean the number of Acts of Parliament; I mean the number of pages in legislation, as the House of Lords Committee made clear last year.

**The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint):** What has that got to do with it?

**Mr. Hain:** I agree with my hon. Friend. If the hon. Member for North-East Hertfordshire (Mr. Heald) is making a point about programming, as he habitually does, I point out that we held a debate on that late last year and decided the matter. We are now debating sitting hours.

The opponents of the new hours are confounded by the facts. The House sat for longer and had more chance to question Ministers and hold the Government to account under the new hours.

**Mr. Robin Cook** (Livingston) (Lab): I congratulate my right hon. Friend on the robust case that he is making. Will he spell out to the House that we have the flexibility to sit for longer precisely because of the earlier hours? I understand that we are unlikely to finish voting today until between 8.30 pm and 9 pm. Would my right hon. Friend care to remind hon. Members that, under the old hours, that would mean finishing voting between 11.30 pm and midnight, which is an unattractive time to go home by public transport in London?

**Mr. Hain:** I agree with my right hon. Friend, whose distinguished period as Leader of the Commons saw the major reform of moving towards more modern hours. He is right that if we added an extra couple of hours to

*[Mr. Hain]*

a 10 o'clock finish this evening, we would be up until midnight and perhaps beyond. Is that a good time for Members of Parliament to decide the laws of the land?

**Mr. Forth:** Yes.

**Mr. Hain:** I do not believe that our constituents think that we should make the laws of the land when absolutely knackered in the middle of the night.

**Dr. Julian Lewis** (New Forest, East) (Con): A question arises about the quality of activity during the sitting hours. I have just had to make a hard choice. I was in the Chamber for the statement and so I have had to choose between having lunch and listening to the Leader of the House. I believe that I made the right choice, but I put my head in the Tea Room and saw that scores of his colleagues and mine had decided to have lunch rather than listen to him. Would not it be nice if we could both eat and listen to the opening speeches in major debates?

**Mr. Hain:** I hear mutters of "Bring a packed lunch", but I believe that that is against the rules of the House. I do not think that the hon. Gentleman made the right choice. He would have a far healthier existence if he had lunch rather than listened to me. We are considering a substantive point, not when one can grab lunch. Members of Parliament always find it difficult to grab lunch if they are busy.

**Sir Nicholas Winterton** (Macclesfield) (Con): Will the Leader of the House give way?

**Mr. Hain:** I shall give way to the hon. Gentleman, but I want to make progress because there is a time limit on speeches and I therefore want to limit mine so that others can get in.

**Sir Nicholas Winterton:** May I ask the Leader of the House for clarification? He has quoted a statistic relating to *Hansard*—the *Official Report*—stating that it now contains more pages. Was he including reports of the sittings in Westminster Hall in those calculations? It is important to accept that we now have a complementary Chamber that often holds debates at the same time as those in this House. *Hansard* will therefore inevitably have more pages, because it records Westminster Hall as well as the Chamber of the House.

**Mr. Hain:** Westminster Hall is part of the scrutiny to which we subject Ministers—[HON. MEMBERS: "Ah!"] It is. However, I can say to the hon. Gentleman that the figures that I gave the House exclude written questions. This is about the debating time on the Floor of the House.

**Sir Patrick Cormack** (South Staffordshire) (Con): Surely the answer that the Leader of the House gave to my hon. Friend the Member for Macclesfield (Sir Nicholas Winterton) was slightly disingenuous. After all, there are no votes in Westminster Hall on any matter at any time, and all the debates there are either Adjournment debates or examinations of Select Committee reports. That is not holding the Government to account. This is a smokescreen that the Government have put up to disguise their contempt for this Chamber.

**Mr. Hain:** I am sorry, but, distinguished parliamentarian though the hon. Gentleman is, I have to refute that fully.

The truth is that, under this Government and under the new sitting hours, we have seen increased sitting times, a greater opportunity for Back-Bench Members to make their case to a Minister in Westminster Hall, and greater Select Committee activity. Furthermore, the Prime Minister has made more statements to the House, thereby being held accountable to it, than his predecessor, and we have established a procedure whereby he can be questioned regularly by the Liaison Committee. That all adds up to considerably more scrutiny. However, the issue that we are discussing today is the opportunity for the House to have more modern sitting hours.

**Mr. Alan Williams** (Swansea, West) (Lab): May I endorse what the Leader of the House said about Westminster Hall? The important thing is that Select Committee reports are now debated, and Members—not only those on the Committee in question—are able to take part in those debates. Under the previous Conservative Administration, those reports simply gathered dust on shelves.

**Mr. Hain:** I am grateful to my right hon. Friend for endorsing the central point that I am making. Over the past few years, we have had the great advantage of sitting in more modern conditions and—as I want to discuss in a moment, if I am allowed to get there—implementing the modernisation of the House, in common with the modernisation of the conditions of other public sector workers and others elsewhere, that the House has voted for. In addition, as my right hon. Friend points out, there is now a greater opportunity for Select Committee reports to be debated in Westminster Hall and for Ministers to be present at those debates. That enhances the scrutiny and the excellent work of the Select Committees.

**Mr. Martin Salter** (Reading, West) (Lab): Does the Leader of the House agree that attempts to ridicule his figures by citing Westminster Hall carry no weight whatever? The figures show an increase in activity from 2002 to 2003 to 2004—this spans a period before the change in hours and the period after it—but Westminster Hall has been successfully in existence since 1999, so the arguments from the Conservative Benches carry no weight whatever, either in logic or in fact.

**Mr. Hain:** My hon. Friend makes his point very well. The right hon. and hon. Gentlemen on the Conservative Benches seem to be saying, "Don't confuse us with the facts". I am presenting the facts. They might take a different view from mine on sitting on Tuesday evenings, and they are entitled to do so. I respect their sincerity and their different view of how this Chamber should operate. However, they cannot advocate a change back

to the old hours by saying that the Commons has worked less hard under the new ones. On the contrary, we are working harder.

**Lynne Jones** (Birmingham, Selly Oak) (Lab): I thank my right hon. Friend for giving way to an hon. Lady.

My right hon. Friend the Member for Livingston (Mr. Cook) commented on the length of time that we might spend voting tonight. Could we not deal with this problem by having a more modern voting system, so that each Division did not take 15 to 20 minutes?

**Mr. Hain:** I am sorry, but on this matter I am a traditionalist. The present system has its advantages. For example, as a Cabinet Minister, colleagues bump into me regularly in the Lobby during Divisions, which provides me with an opportunity to be nobbled and for representations to be made to me.

By sitting an hour earlier on Thursday, we will make it again a day on which major business can be scheduled, re-balancing the working week while ensuring that whipped business ends early enough for Members to get to their constituencies on Thursday night. The amendment tabled by my hon. Friend the Member for Cunninghame, South (Mr. Donohoe) would have the effect of deferring almost all divisions after 6 pm on a Thursday. I understand the reasons for this, and I have discussed the matter with him. Members, particularly those with distant constituencies such as his should be able to get away promptly after 6 o'clock. I am very sympathetic to that, which is why we brought forward the finishing time on a Thursday to 6 o'clock in the first place. As a business manager, I shall be mindful of this issue when planning the business for a Thursday, and I am grateful to him for reminding me of it.

However, the amendment would mean that decisions on major business—including Second Reading debates on Bills—could be unresolved for almost a week. I am sure that none of us would find that satisfactory. Let us take as an example a key debate of the kind that has dominated the House over the past couple of years, such as that on Iraq or that on student fees. Under my hon. Friend's proposal, we could have had a situation in which a reasoned amendment was decided on, but nobody knew the outcome, because that amendment might not have attracted the same vote that had gone into the Lobby on the main motion. It would not be right for the House to leave a major decision such as that unresolved. I hope that my hon. Friend will not press his amendment to a vote today but, if he does, I must urge the House to reject it.

**Mr. Brian H. Donohoe** (Cunninghame, South) (Lab): Surely it is for the Leader of the House and the business managers to ensure that business of that nature is not taken on a Thursday. In that way, what I propose could well take place. This would allow people to get away at 6 o'clock. It would also allow meetings to take place and people would know that they could attend them.

**Mr. Hain:** I understand my hon. Friend's point. I am with him in not wanting delays long after 6 o'clock that would prevent people from catching trains or planes to get them back to the north of England, Scotland, the far west of England or wherever. As business managers, we shall endeavour to stop that happening, but his request would leave me unable to table major legislative business or to take Opposition day debates on a Thursday. Effectively, that would mean that the House was not working a full working week. I am seeking, with widespread support from across the House, to have not only Monday, Tuesday and Wednesday but Thursday as a day on which most, if not all, Members can be present to deal with what is invariably whipped business. My hon. Friend's point is a powerful one, but in scheduling that business, we need to be aware of the need of many Members to get away.

The amendments tabled by the hon. Member for South Staffordshire (Sir Patrick Cormack) would have the effect of keeping the starting time on Thursday at 11.30. However, it was the central recommendation in the Modernisation Committee's report that Thursday should be restored to a full sitting day, ensuring that we have a full four-day parliamentary week. I urge the House to reject those amendments.

I understand and respect the strong feelings of Members who want to change back to the old hours; I know that those views are sincerely held. However, this House has consistently voted for the modernisation of working practices right across the public sector, and we would look very odd if, after only a two-year trial, we reverted to hours designed to suit the lifestyles of our Victorian predecessors, when Members of Parliament were unpaid and could attend only in the evenings because they were earning a living during the day. I would find it difficult to explain to my constituents why we had gone back to making law in the middle of the night. Everybody knows that a Parliament of today would not have started with the sitting hours of yesterday. The House is already competing for attention in an era of 24-hour news and instant communication. It would look old-fashioned if we were to go back to the pattern of evening working that existed before radio and television.

**Mr. Gerald Howarth** (Aldershot) (Con): Given that we now have 24-hour news, which we did not have when the old sitting arrangements applied, surely it does not matter if we debate all through the night. The 24-hour news gatherers will be there to receive what we have to offer.

**Mr. Hain:** On that logic, we would be sitting on Christmas day as well.

**Mr. Forth:** Yes!

**Mr. Hain:** Be my guest!

I strongly urge Members on both sides of the House to join me in voting against the amendments and for the sitting hours motion as it stands.

The next motion before us, on connecting Parliament with the public, is also intended to address the lack of engagement with the parliamentary process felt by many of our constituents. The House should make itself more accessible, make it easier for people to understand the work of Parliament and do much more to communicate its activity to the general public. Much good work goes on already, but much more needs to be done.

*[Mr. Hain]*

I hope that the House will agree to give authority to the House of Commons Commission to take forward some key recommendations made in the Modernisation Committee report last year, in particular the proposal for a guide for first-time voters from the House to provide information about Parliament, why it matters, how to vote and so on.

**Mr. David Kidney** (Stafford) (Lab): Does my right hon. Friend agree that one area of good work is that being done by our own parliamentary education unit and that the challenge that we face is to replicate in the rest of the country what it does so well in the House? That means improving the website and the unit's relationship with local education authorities so that that same work can be done away from Westminster.

**Mr. Hain:** I very much endorse my hon. Friend's point. The evidence that we took on the matter in the Modernisation Committee made it absolutely clear to us that not enough is being done, despite the new citizenship element in the school curriculum, to explain how parliamentary democracy works and make it part of youngsters' education. The LEAs were simply not being linked to the work of the excellent education unit. We want to address that.

We also went to the National Assembly for Wales and found not only that its education unit is doing much more imaginative work with young people coming into the Assembly—we saw some of that work in action—but that it has a roadshow that goes out of the Assembly and into schools, making regular efforts to try to connect with young people and educate them about the Assembly. If that can be done in Wales, we should do it across the United Kingdom.

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): I voted against the change when it was introduced by a previous Leader of the House, but I have changed my mind and will today support the motions tabled by this Leader of the House. One of the downsides of the new sitting hours is that our constituents no longer get the opportunity to come down and do a tour of the House of Commons on Tuesday or Wednesday mornings because the House is sitting, which makes it more difficult. Has he therefore taken any further forward the possibility of ensuring that the building is open at weekends so that visitors can see the place then?

**Mr. Hain:** The hon. Gentleman makes an important point—I, too, have a constituency remote from Westminster—which I have discussed with the Officer of the House who leads on these matters. He has an imaginative strategy for attracting more visitors, including from schools, to the House. We shall consider the hon. Gentleman's point.

**Ian Lucas** (Wrexham) (Lab): I echo the point made by the hon. Member for West Derbyshire (Mr. McLoughlin). My constituents in Wrexham used to be able to come down, have a tour of the House, see it working in the afternoon and go back home, all on the same day. The 2001 changes have prevented that from happening, substantially diminishing my constituents' contact with the House.

**Mr. Hain:** My hon. Friend's constituents, like mine, still have the opportunity to do that on Mondays. That is an important point. One point that I have discussed with Officers of the House—I think there is an understanding about this; I certainly hope so—is the fact that Members of Parliament such as my hon. Friend and, as it happens, me who are in the same situation should be given at least some priority on Mondays. Those who live nearer Westminster should perhaps be encouraged to apply to undertake such visits on Tuesdays, Wednesdays or Thursdays.

**Mr. Forth:** Does the Leader of the House think that the parliamentary roadshow will be as successful as the euro roadshow?

**Mr. Hain:** Done seriously and done effectively, I am sure that the right hon. Gentleman, as a good parliamentary democrat, would welcome young people seeing at first hand through our excellent officials in the education unit how Parliament works, why it is so important and what their rights and duties are.

I have tabled the motion on the car mileage allowance at the request of the Members Estimate Committee, with the support of members of the Committee from all parties. The report of the Members Estimate Committee sets out the background and an explanatory memorandum has been made available.

The Committee is very conscious of the considerable concern among Members about the abrupt implementation of the sharp reduction in the car mileage allowance, which we agreed last November. As Chairman, Mr. Speaker therefore wrote to me to ask that I table a motion before the House to enable Members to determine whether they favour not altering the decision, but phasing in the new arrangements over the next Parliament—an opportunity that they did not have in November—and to decide the appropriate mileage threshold used in determining the rate payable. I have done so. This is a House matter and it is right that the House should have an opportunity to decide.

**Peter Bottomley** (Worthing, West) (Con): Can the House—and, for that matter, the taxpayer—know what the cost will be if the motion is passed?

**Mr. Hain:** As the hon. Gentleman knows, we are already making a considerable saving for the taxpayer, given the decision we made last November. That saving will start from the original implementation date of 1 April and continue progressively to increase over the phased period.

I return to the principal motion. I urge Members to join me in voting for the motion on the sitting hours to implement the proposals recommended by the Modernisation Committee. I hope that Members will not vote for the Tuesday amendments, as I believe that that would be, and would be seen to be in the country, a significant step backwards. It is for the House to decide. Whatever the decision this afternoon, we must accept it as the settled will of the House. I commend the motion.

2.6 pm

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): As the Leader of the House said, today's debate is not about the most important issue we face involving sitting hours, which is the lack of time given for the scrutiny of legislation as a result of the Government's routine guillotining of our business and the fact that they now expect the Opposition to play the role of humble supplicants begging them for sufficient time to do our job of scrutinising their Bills and opposing their policies. The so-called programming of legislation is not done by agreement. It is imposed, and it is wrong.

Although I am about to express views about our sitting times, I think it only right to set the debate in its proper context. What the Government have done in rationing and starving us of the time needed to do our most important job of making the law is a disgrace. Today's proposals will not affect the overall time available to consider Bills and hold the Government to account.

The House will decide on the question of the sitting hours on a free vote. I accept that, for some Members, this is totemic—a battle involving modernity and family-friendly hours. Those of us who take a different view are sometimes portrayed as traditionalists, longing for a return to jolly times in the Strangers Bar or the Smoking Room in the evening, but the truth is that that caricature is untrue and for most of us the issue is how to do the job well and fit everything into the limited time that is now available.

In Britain today, there are no normal working hours. Only about a third of people work nine-to-five and most professional people expect to have to work in the evening at least a couple of times a week: lawyers expect to prepare their cases and teachers expect to do their marking. It is not unusual to have to work in the evenings. In fact, it is quite hard to think of a professional job in which someone can expect their evenings off.

With the House sitting in the morning every day except Monday, there is increased pressure on time as we try to fit everything into a shorter period. That is particularly bad on Tuesdays, which is a day full of Committee sittings, all-party group meetings, lobbies and constituents' visits. At the same time, the House and Westminster Hall are sitting. I shall give some examples involving what happened yesterday.

**Joan Ruddock** (Lewisham, Deptford) (Lab): Is it not the case that the House is sitting not shorter hours, but different hours? The day has been pulled forward by three hours, so we can do the same amount of work. If the hon. Gentleman is about to complain about bunching on Tuesdays and Wednesdays, the solution is in the report of the Modernisation Committee, on which he sat. It is that there should be a full day for debates on Thursdays.

**Mr. Heald:** As the hon. Lady knows, I am very supportive of the change on Thursdays, which I will come to in a moment, but she is missing a point. I fully accept that the hours of sitting are the same and there is no disagreement between us on that. The point is, however, that whereas under the old hours it was possible to complete one's Committee work and still be in the Chamber for most of the debate, under the current hours it is not. That is why the Chamber is empty on Tuesdays, as I am about to explain.

If we take yesterday as an example, in the morning, 200 Members from all parties were involved in Standing Committees, Select Committees, all-party groups and the busy programme in Westminster Hall. In the afternoon, 350 Members were engaged in Committee activities and all-party groups. In addition, MPs' private meetings were booked in the W Rooms and elsewhere in the Buildings. We know that there are 59 Cabinet Committees, although we are never told when they sit, but I bet that some of them are on Tuesdays. If we add to that external meetings, launches by all parties, particularly in this busy period, lobbies, constituents visiting Members, constituency correspondence, necessary telephone calls and all the rest, the fact is that there is a great deal of bunching, clashing and difficulty on a Tuesday. At one time, one could finish Committee, hope to have lunch and still go to the debate, or finish Committee in the afternoon and hope to catch most of the debate in the main Chamber, now one cannot.

The Procedure Committee questionnaire prompted a good response. It showed that less than a third of Members, 31 per cent., said that they wanted to keep the current Tuesday hours. More than half, 52 per cent., wanted to return to 2.30 to 10. Thirteen per cent. wanted a very long day starting at 11.30 and ending with business after 7. Overall, 65 per cent. wanted the House to sit on Tuesday evenings. The same was not true for Wednesdays and Thursdays, when morning sittings were considered more useful, and of course, normally, no Standing Committees sit on Wednesdays.

To request three days of the week when the House sits in the mornings, and two days when it does not, is not unreasonable. It is not a request for a return to old hours but a call for a balanced week.

**Ms Meg Munn** (Sheffield, Heeley) (Lab/Co-op): Surely what the hon. Gentleman's list demonstrates is that all MPs have many demands on their time. To suggest that all MPs want to be in the Chamber all the time is complete nonsense. Most MPs follow particular issues and come into the Chamber at the relevant time. The real issue is how MPs manage their time. The fact is that lots of MPs do not feel that they should have to stay here till 10 o'clock at night because other MPs cannot manage their time.

**Mr. Heald:** Of course, all Members have the opportunity to say what they want in relation to their week. It may well be that different Members of Parliament run their lives in different ways, and that is entirely legitimate. My view, however, is that there is a great deal of clashing of commitments on Tuesdays, which makes life difficult for colleagues. Many people would like to be able to attend more of the main debate in the Chamber on a Tuesday. After all, some of the most important business is often taken on a Tuesday, as it is one of the days that attracts the main debates.

**Mr. George Howarth** (Knowsley, North and Sefton, East) (Lab): To confirm a point to which the hon. Gentleman referred, one Cabinet member confirmed to me earlier that they were unable to be present for this

*[Mr. George Howarth]*

debate because they had to chair a Cabinet Committee meeting. He made the point that that was because of these hours.

**Mr. Heald:** The other point is that the times at which we have votes as a result of the Tuesday hours also interfere with the work of Committees.

**Mr. Peter Pike** (Burnley) (Lab): The hon. Gentleman gave statistics a few moments ago about people who wanted a return to the old hours on Tuesdays. Will he accept that one statistic that he did not mention is that quite a large number of Members said that they would like to take unwhipped business after 7 o'clock on a Tuesday, such as private Member's Bills? I know that the report clearly identifies that the issue of private Members' Bills will have to be considered in the next Parliament, which I fully accept. That is different, however, from saying that we want to return to the old system of taking three-line Whip business until 10 o'clock. As my right hon. Friend the Leader of the House said, on some occasions, particularly near the end of the Session, people moan because we go on after 7 o'clock

**Mr. Heald:** If, as the hon. Gentleman says, Members take the view that they want to take unwhipped business after 7 o'clock, they ought to vote for the Deputy Leader of the House's motion. The reason for that is that if one votes for the Leader of the House's motion, one is stuck with a firm cut-off at 7 o'clock.

If I may continue on the Procedure Committee's responses to the questionnaires, the reasons that were given by Members for favouring evening sittings on Tuesday were well thought-through. They were not just, "Let's return to jolly evenings in the Smoking Room". The first and foremost reason was that there would be fewer clashes between House, Committee and other meetings, which was raised by 165 Members. The second reason was that there should be more time during office hours for constituency work and to respond to telephone calls, which was raised by 156 Members. The third was that there should be less concentration of meetings, which was raised by 132 Members. The fourth was that it would make more effective use of the parliamentary day and allow more visitors' tours. Other reasons given included improving the collegiate atmosphere, but those attracted little support. The main reasons related to how to do this difficult job well.

**Helen Jackson** (Sheffield, Hillsborough) (Lab): Is not the main issue that Members of Parliament now have increased resources to manage their constituency and parliamentary business, with secretaries in their offices to answer the telephone and pagers to receive those telephone messages, and what they are asking for is the choice to manage their parliamentary and constituency life successfully within normal working hours, so that they have the evenings to work, not work, or attend other meetings, political or otherwise, as they see fit? That choice will allow them to become real people and to manage their working lives like other professionals that the hon. Gentleman has mentioned.

**Mr. Heald:** The hon. Lady has her viewpoint, but I remember talking to my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth) about how useful the telephone can be, and how one can use it to speak to constituents who have a difficult problem. One can solve a lot of problems on the telephone. I recommend it to the hon. Lady—it is good to talk.

**Sir Patrick Cormack:** I suspect, though I do not speak for myself, that many would not be influenced by my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth). Will my hon. Friend draw attention to the admirable evidence given by the Foreign Secretary, however, which is as brilliant an exposition of the case that he puts as one could find?

**Mr. Heald:** Some of the best evidence that the Modernisation Committee heard on this issue was striking. I have never supported anything other than the return of the Tuesday hours, and some of us were not keen for the Modernisation Committee to lecture the House about what ought to happen on Tuesdays. Some votes were taken, which were recorded in the report and which my hon. Friend will have seen, to the effect that the House should not be lectured, particularly in circumstances in which two thirds of the House want to sit on Tuesday evenings. To have the Modernisation Committee telling us that we are all wrong, as if we are children or foolish, is just not right. As my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack) said, however, there is no one quite like the Foreign Secretary when it comes to explaining why Tuesday evenings should return.

**Angela Eagle** (Wallasey) (Lab): Will the hon. Gentleman agree that apart from the surprise of hearing that the right hon. Member for Bromley and Chislehurst (Mr. Forth) has embraced new technology, this debate is not helped by trying to determine whether there are clashes, whichever shape of hours we get? I remember finding—when, some time ago, the House sat late every night—that I had to be in four places at once, dealing with official business.

**Dr. Julian Lewis:** You could have sent your twin.

**Angela Eagle:** Unfortunately she was not a Member at the time, so she could not have helped me out.

Clashes are not the issue, especially as we have introduced Westminster Hall sittings, and more events that improve ministerial accountability to Parliament are going on at the same time. Clashes will occur regardless of the shape of our sitting hours. Does the hon. Gentleman agree that they do not provide a good enough reason for us to return to late-night sittings?

**Mr. Heald:** I believe that it used to be possible to spread out the day better, especially on Tuesday, which I think is the busiest day. All the most difficult debates take place on Tuesday or Wednesday, and Tuesdays attract a great many Committee meetings. *[Interruption.]* The Leader of the House asks, sotto

voce, why we do not want to return to the old hours on Wednesdays. Wednesdays do not involve the Standing Committee work load. Yesterday was an example of a day with a very heavy Standing Committee work load.

**Mr. Hain:** As the hon. Gentleman knows, the parliamentary Labour party switched its meetings from Wednesday mornings to Monday evenings for a variety of reasons. One was because it wanted to encourage Select Committees to make more use of Wednesday mornings, so that members of both Select and Standing Committees would not find that their meetings clashed as they sometimes do now. I would encourage Select Committees to take that Wednesday morning opportunity, and in that case the hon. Gentleman's argument would not stand.

**Mr. Heald:** May I pray in aid the Procedure Committee's questionnaire? It shows that Members did not feel the same about Wednesdays as they did about Tuesdays. Perhaps the Leader of the House sees no difference between Tuesdays and Wednesdays, but a wide trawl of Members of Parliament revealed that for them it was a serious issue. Tuesdays were different.

**Mrs. Alice Mahon** (Halifax) (Lab): I would like to lay the myth that everyone who comes here has always worked from nine till five before. My constituents keep the public services going by the 24-hour clock. I worked two nights a week when my children were little, and I thought that those were normal hours.

In fact, the parliamentary Labour party's committee stopped meeting on Wednesdays because no one was attending. Attendance is much better since we started meeting on Mondays.

**Mr. Heald:** A PLP meeting is such an exciting event that it must have been the clashes that stopped Members attending.

I agree that we should start at 10.30 am on Thursdays. That would enable us to have a full day's business, which is not currently possible on Thursdays. We would be able to have Opposition days, as the Leader of the House pointed out, and also Second Reading debates. What this debate boils down to, however, is whether we should return to our former hours on Tuesdays.

I do not think that we should deliberately try to create a stressful pattern of life for Members of Parliament. I am not necessarily one to pray in aid the views of psychologists, but it has been suggested that the new hours on Tuesdays are more psychologically stressful than the old hours. *[Laughter.]* No, no, this is true: In April, in a paper to the annual conference of the British Psychological Society, a Dr. Weinberg reported that a serious study by psychologists at Salford and Lancaster universities had found an increase in symptoms of stress among Members following the introduction of the reforms, and had concluded that the reforms were not working. The amount of stress reported was related to the amount of work that we had to do, and the difficulty involved in juggling demands. On 19 April last year the *Manchester Evening News*, that great organ, reported that

"the researchers now think the way to make most MPs happy may be a compromise between the new and old rules".

That is what I support.

It is not, of course, up to psychologists to tell us how to lead our lives, but surely new Labour would listen to the British Psychological Society.

**Angela Watkinson** (Upminster) (Con): Unless Members live very close to London, if they leave the House at 7.15 or 7.30 pm on a Tuesday or a Wednesday, by the time they arrive home—unless their journeys are very short—young children are asleep in bed. Then in the morning they must leave too early to do the school run. The "family-friendly" argument does not hold water. Does my hon. Friend agree with that?

**Mr. Heald:** Yes, I do. Obviously how serious that is depends on where Members live. It would never be possible for Members based in the north of England, in Scotland or further west to get home in the evenings anyway. My children are all grown up, but if they were young it would not be possible for me to get home to north Hertfordshire in time to see them before bed—or even in the mornings, because I would have to get up too early in order to be here for my 8 am meetings.

**Several hon. Members** *rose—*

**Mr. Heald:** I have an embarrassment of riches, but I will give way to the hon. Member for North Cornwall (Mr. Tyler).

**Mr. Paul Tyler** (North Cornwall) (LD): Before he leaves the point about psychologists, could the hon. Gentleman tell us precisely how the causal connection is established? Might it not be that some Members find life more stressful because when they are in their constituencies they recognise that they no longer have safe seats?

**Mr. Heald:** As I was about to say, according to the Aberdeen *Press and Journal* of 19 April; those extra symptoms of stress are known as the Kennedy syndrome—after the leader of the Liberal Democrats—because

"there is an increase in anxiety and fatigue and a tendency to perspire because of nervousness."

Let me respond to the hon. Gentleman's point. Of course we cannot make an exact causal connection, and I would never claim to be a psychologist or to know much about the subject; but I thought it right to present the House with evidence from a serious paper from the British Psychological Society, because I think that we should take account of stress and similar issues. There is a big demonstration in Portcullis House today. It is to do with body mass, stress and so forth, so obviously such matters are important.

**Mrs. Anne Campbell** (Cambridge) (Lab): May I return to the subject of family-friendly hours? Many Members live much too far away to visit their families, whatever our sitting hours, but is it right to deny those who live near London the option of doing so?

**Mr. Heald:** That is why we are having a free vote. If the hon. Lady and I got on a train at 8.45 pm to return to Royston and Cambridge, we would not arrive home

*[Mr. Heald]*

in time to see our children, if they were young. Indeed, it would make life very difficult to do that every night, as I am sure the hon. Lady does not. Of course she would become much fitter, because she would be cycling home every day rather than twice a week.

**Several hon. Members** *rose—*

**Mr. Heald:** I think that I had better make some progress.

The change to the old hours on Tuesdays would give Members more time to spend on constituents and their problems, by means of both correspondence and telephone, and when lobby groups visited they would have more opportunities to meet Members. Another non-sitting morning on Tuesday would allow more school parties to visit the House, particularly from further away.

I think that many Members do value the social contacts that still take place on Monday evenings, and which ensure that a Member knows other Members in both his or her parties. That has always facilitated the work of the House. The Whips probably worry about it, because it has led to many an all-party campaign, but a number of us would welcome the extension of the Monday hours to Tuesdays.

Whatever the future of Tuesday sittings, I hope that the decision will be made on the basis of what is in the national interest—allowing Members to do the job as well as possible—rather than what is convenient for individual Members. I believe that it would be better to allow more time on Tuesdays for all the tasks that are now required in the lives of busy Members of Parliament.

The other two motions are supported by both the House of Commons Commission and the Members Estimate Committee.

**Several hon. Members** *rose—*

**Mr. Deputy Speaker:** Order. This may be the appropriate moment to remind the House that Mr. Speaker has placed a 10-minute limit on Back-Bench speeches.

2.29 pm

**Mr. George Howarth** (Knowsley, North and Sefton, East) (Lab): I rise to support amendment (a), which stands in my name and that of my hon. Friend the Deputy Leader of the House. I will try to stay within the 10-minute rule, rather than be pulled up at the end, so I will make just a few remarks.

It seems that we have set out on a journey. I congratulate my right hon. Friend the Leader of the House on a genuine effort to see whether consensus could be forged. The only criticism I make is that, having found out where that consensus was, the Modernisation Committee made a recommendation locating it somewhere else entirely. There is a consensus—it is just not one that the Committee agrees with. The Procedure Committee report more fully and accurately reflected where the consensus lies. I have signed the amendments that, with lead amendment (a), would restore Tuesday sittings to a 10 o'clock finish.

**Helen Jackson:** Will my hon. Friend give way?

**Mr. Howarth:** No, I am not going to give way to my hon. Friend.

**Helen Jackson** *rose—*

**Mr. Howarth:** I have made it clear that I will not give way to my hon. Friend. The reason is—I hope that she will have the opportunity to catch your eye later, Mr. Deputy Speaker—that when one has only 10 minutes to make a serious case, there is not time to give way. Although whenever I speak I try to be generous, on this occasion, I am not going to be.

**Mr. Forth:** On a point of order, Mr. Deputy Speaker. Can you confirm for the benefit of the House and the hon. Gentleman that we now have provision for what we call injury time, which allows and indeed encourages the taking of interventions, even during time-limited speeches?

**Mr. Deputy Speaker:** The right hon. Gentleman is perfectly correct, but equally, it is up to each hon. Member whether to give way, mindful of the fact that a 10-minute limit can become an 11, 12 or 13-minute limit.

**Mr. Howarth:** In view of the special pleading of the right hon. Member for Bromley and Chislehurst (Mr. Forth)—a rare event—I will give way, once, to my hon. Friend the Member for Sheffield, Hillsborough (Helen Jackson).

**Helen Jackson:** I am most grateful to my hon. Friend, with whom I have discussed this issue on many occasions. Does he agree that many of the hon. Members who will vote to revert to the old hours on Tuesday—particularly Opposition Members perhaps, but also many Labour Members—would never have supported the setting up of the Modernisation Committee to instigate the many reforms that it has instigated in Parliament since I have been here?

**Mr. Howarth:** I have discussed these matters with my hon. Friend on many occasions, as she says, and we have been friends for many years. However, that intervention only confirms me in my view that I should not have bothered to allow an intervention in the first place.

My hon. Friend the Member for Cambridge (Mrs. Campbell) intervened on the hon. Member for North-East Hertfordshire (Mr. Heald) on the issue of family-friendly hours. For someone such as me, whose family is 200 miles away, these are not family-friendly hours. It would be impossible for me to commute back home to Knowsley from Westminster regularly. Hours could never have been family-friendly for me. However, I accept her point. It is not for me to decide what is family-friendly for someone else. Those who choose to base themselves in London will have a different take on what is family-friendly. It is a neutral argument whether the hours are or are not family-friendly. It depends on

individual circumstances. We should be working towards what is in the best interests of conducting the business of the House in the best way possible. We should not be bothering ourselves too much with the argument about family-friendly hours, because those will vary from family to family and Member to Member.

The original report that brought about change argued that the reforms would bring us closer to the public. Like most hon. Members, I keep a fairly careful eye on opinion polls. I do not necessarily change my views in accordance with the polls but it is important to know what people are thinking. In the two years or so since these reforms have been implemented, I have not noticed a huge outpouring of public affection for the people's elected representatives, whichever party they represent. If anything, if I am to judge by opinion polls and what we read in the newspapers, all of us—some more than others—are more unpopular than we were two years ago. If that was the objective, it seems that we have not satisfactorily met it.

The other argument, which I have always found a bit strange, was that our constituents expect us, like them, to work normal hours. My hon. Friend the Member for Halifax (Mrs. Mahon), for whom I have huge affection, not only because of her contribution in the House but because of the wisdom that she brings to almost all arguments, made the point that in her working life that never was the case. When I do surgeries on Friday evenings, as I am sure many other hon. Members do, never once has a constituent said to me, "What are you doing here at 9 o'clock at night doing a surgery with us? We expect you to work normal hours." In fact, sometimes they queue up until half-past 9 to see me. Never once do they say, "We don't think it's very good that you are working these long hours to try to resolve our problems."

The same applies to Saturday mornings. When I help to open the new Northwood community centre on Saturday—the money was provided by a Labour Government—no one will be coming up to me and saying, "You shouldn't be here at the opening of this community centre. We expect you to be at home having a good rest after your efforts in Westminster on our behalf last week." So that argument does not stack up either.

I want to finish on the point about what is modernisation and what is not. I was in the House in the 1980s, and used to sit up all night. In fact I once made a speech of two hours and 12 minutes on an amendment concerning the Durham Aged Miners housing association. What I found to say for two hours and 12 minutes I have no idea, but I can guarantee that it did not make the legislation under consideration any better. I accept that those days are gone and should remain in the past. Such filibustering—not that filibustering could ever take place in the House, Mr. Deputy Speaker—should not form any part of our proceedings. I do not want to go back to that.

Many of our modernisation measures have been for the benefit of the way in which we conduct our business. I support them for that reason. What I do object to, however, is those who say they are modernisers then defining what modernisation is. If some of my hon. Friends—I will not single anyone out—declare that such and such is modernisation, then by definition it must be modernisation. I think I am a moderniser, but because I do not agree with them, I am branded as some northern male dinosaur who wants to spend all his time in the bars and thinks that is what it is all about. That is the subtext of what many of my hon. Friends have said, and the subtext of what they consider to be modernisation.

I will be watching football in the Strangers Bar tonight, hoping that it is a draw because I do not like either Manchester United or Chelsea. But that is not what motivates me. How we conduct the business of the House and how we conduct ourselves as a House of Commons motivates me. Therefore, let us not have any more hon. Members saying, "We are the modernisers, everyone else is a dinosaur." It is not like that.

I started by saying that the Leader of the House made a genuine effort to find consensus. We now know where that consensus is. The argument about modernisation should be about that. It should not be about modernisation as defined by someone else simply because that is what they want.

2.39 pm

**Mr. Paul Tyler** (North Cornwall) (LD): A few moments ago, the hon. Member for North-East Hertfordshire (Mr. Heald) described himself as a traditionalist. He should take note that one of my constituents—Sir Goldsworthy Gurney, of Bude in north Cornwall—invented and installed the first gas lights in the Chamber. That, of course, made the major difference; until then, the House sat until the daylight hours ceased, when candles had to be lit. If the hon. Gentleman is a true traditionalist, he should propose that we end the sittings of the Chamber when candles have to be lit.

The advent of those gas lights made it possible for the Members in those days to go off and make their living up the road, in the Inns of Court and the courts, and then to come here after lunch. Those days have gone; one or two Conservative Members may still treat Parliament in that way, but very few. Traditionalists be warned; there is always a precedent for everything, which does not mean that the past is a better place.

I hope that all Members will approach the subject as the hon. Member for Knowsley, North and Sefton, East (Mr. Howarth) did just now. There are three key objectives for the compromise that we are seeking to attain. First, surely we should be trying to improve the product of this place. Anyone who has attended and participated in late evening sittings, let alone late night sittings—I remember 1974, when I had to sit up all night as the swing vote on every Committee on which I served, because the Government had no majority—knows that we are not at our best late in the evening and therefore that we do not give legislation or the Executive action of the Government of the day the careful scrutiny and informed votes that it should have.

The second objective surely must be to communicate better with those who send us here, and to do so at a time and in a form that enables them readily to understand what Parliament is doing on their behalf. I disagree with the hon. Member for Knowsley, North and Sefton, East, who said that we were less popular now because of the change in hours; that is nonsense. The reason why some Members are less popular is because the electorate have been seeing what line they took on, for example,

*[Mr. Paul Tyler]*

Iraq; I cannot remember which way the hon. Gentleman voted. We have had a better assessment of what the House is doing since the new hours came in because the late night television news, and the overnight early editions that go to his constituency and mine, are much better informed.

Only thirdly should today's objective be to try to make this place more convenient for those who work here. Every different—and, one might say, difficult—MP has different needs, which is why it is important for us all to recognise that the other two objectives come before the differences that we may have in terms of our work needs.

**Dr. Julian Lewis:** As for people being jaded and tired when important votes are taking place, I put a serious point to the hon. Gentleman. With the previous hours, and those that we still have on Mondays, the main speeches of the debate—the opening speeches, in which the main cases for and against the motion are stated—happened at a time when people were relatively fresh, and they did not clash with the hours when people would normally be having lunch. Also, people had dinner at a stage of the debate when there were only a small number of people in the Chamber—those who were waiting to speak. With the new hours, people have to choose constantly between starvation and participation at lunchtime, which does not improve their judgment. In addition, does the hon. Gentleman have any hard data on whether the electorate even know what hours we keep and what hours we stop? I do not think they have the faintest idea.

**Mr. Tyler:** Let me take the last point first. It is clear from the evidence that the Modernisation Committee has taken, and from the discussions that we have all had with those who represent the broadcast and written media, that those concerned find it much easier to interpret the work of Parliament with the present hours, particularly when the divisions in the evening take place around 7 pm or 7.30 pm.

The hon. Gentleman will not remember—he was not a Member—but Trevor McDonald, or whoever presented "News at Ten", used to say, "Something is going on in the House of Commons. The Government have a very small majority. The Government of Mr. Major may indeed be defeated this evening. I may be able to tell you before the weather forecast, but probably not." If that is the way to communicate with the electorate, take it away, my friends.

The hon. Gentleman was not in the House when we had a great many late evening and late night sittings. I can tell him that the quality of response by most Members to the wind-up speeches, and the degree to which those responses were well informed about the issues at stake at 10 o'clock, left a great deal to be desired. He was not here and he does not have that experience, so I must take his evidence as not particularly persuasive.

I have the same priorities as the hon. Member for Knowsley, North and Sefton, East. The first is a better parliamentary product, and the second is better interaction with the electorate. We are not a commercial company; we are here as representatives of the people. We are not just having an internal discussion this afternoon; what we do is important for those who send us here. Thirdly, but only thirdly, do I believe that we should be looking at family-friendly or MP-friendly hours. We should really be looking at voter-friendly hours.

**Barbara Follett** (Stevenage) (Lab): We should also be looking at the hours that are kept by the people apart from ourselves who work in this House. When the Modernisation Committee, on which the hon. Gentleman serves with me, took evidence from the staff side and from unions, we heard that they were quite adamant that a move back on Tuesday or Wednesday night would be retrograde, and that we should take that into account.

**Mr. Tyler:** The hon. Lady is quite right; not only would it be retrograde, it would cause huge staffing problems and would be costly.

As the Leader of the House rightly indicated, there are some rough edges in the present arrangements, as I am the first to acknowledge. We need to address them, and the Modernisation Committee heard evidence of, and recommended solutions to, those problems. The first is obviously the impact on the work of Committees; a lot of the oral and written evidence that we took—the best evidence—concerned the impact on the work of Committees.

Here, the Select Committee has made two crucial suggestions to assist. The first is that Standing Committees should have the same freedom and flexibility as Select Committees to decide precisely when they sit and how they work. In particular, the former need no longer keep up to three hours to have lunch. That is an absurd anachronism. Some Members clearly have an obsession with the precise time at which they feed themselves. The way in which the House operates should make it as—

**Mr. Gerald Howarth:** Will the hon. Gentleman give way on that point?

**Mr. Tyler:** No, I will not give way on that point, for goodness' sake.

**Mr. Howarth:** Will the hon. Gentleman give way?

**Mr. Tyler:** Alright; I give way to the luncher.

**Mr. Howarth:** The hon. Gentleman is making light of something that is rather serious. It is not just a question of our feeding ourselves, although that is an essential process for everybody on the planet. There is a much more serious point. As the Foreign Secretary pointed out in his submission, lunchtime provides an opportunity to meet constituents and people who have points to make to us. As a Front-Bench spokesman, it provides me with an opportunity to meet people involved with defence. Lunch was an important component, but lunch has been destroyed for three days of the week. If Members want to participate in a debate

or hear an important issue being debated in this House, lunch has been completely rubbed out, which substantially impairs our effectiveness in this House.

**Mr. Tyler:** That is the hon. Gentleman's view. When I had a real job outside this House, I used to advise clients that any MP who had time for lunch was not worth talking to. That may put the hon. Gentleman in his proper category.

We can all meet constituents at any time of the day, over a cup of coffee or tea. I encourage anyone who wants a substantial discussion with me to catch me at the end of the day, after my parliamentary duties are completed in this place. Many of us can do that; I recommend it to the hon. Gentleman, who may get a much better dinner than lunch.

The important issue is that Committees should be in charge of their own timetable and be able to plan the way in which they operate. The other change for which there is broad support is that we should seek to take away the bunching of Committee work, all-party work and all the groups in this building from Tuesday and Wednesday. We should extend that work more into Thursdays and encourage it more on Mondays.

The Select Committee's proposal that we bring forward the start time of the main business in the Chamber on Thursday to make it possible for there to be some substantial business, such as Second Reading or Opposition day debates, would mean more whipped business on Thursdays. That will mean more people being here, and more people being prepared, able and willing to take part in all forms of Committee activity. There is wide acceptance of the idea that avoiding the present midweek bulge on Tuesday and Wednesday is crucial to improving the balance of our workload through the parliamentary week. I hope that all hon. Members will support that proposal. I cannot see how any conscientious Member of Parliament could possibly oppose making Thursday a full parliamentary day again, and I hope that we will have support for that.

As the hon. Member for Burnley (Mr. Pike) mentioned, the Committee took much evidence and spent much time trying to find a practical way to take private Members' Bills on Tuesday evenings, after the moment of interruption. There were considerable difficulties and, reluctantly, we came to the conclusion that the way in which private Members' Bills are handled will have to await fuller and deeper consideration. That is not least because there is a trade-off. If the Government give more time for private Members' Bills—and I hope that the Government will take them more seriously—private Members may have to reduce the number that have a serious prospect of reaching the statute book. I would be in favour of that trade-off. I came 16th in the ballot one year, and apart from having to appear every Friday to see what might happen, it was simply an opportunity for some contact with the press. If we had only 10 Bills, but all of them serious candidates for the statute book, that would be a good deal to make.

I hope that in due course the Modernisation Committee will address the whole issue. In the meantime, however, simply to transfer private Members' Bills from Friday to Tuesday evening would be enormously complicated. For example, it would mean that staff would be on parade from early in the morning until very late at night on Tuesday. That would have staffing resource and financial consequences.

I agree with the Leader of the House about deferring all Divisions after the first on a Thursday. Imagine if we had voted on a reasoned amendment to a Second Reading on a Thursday, but could not vote on the Bill itself. Though it would be attractive to ensure that we could all get away after the first Division on a Thursday evening, it would be absurd to restrict the House by saying that the second and any subsequent Divisions had to be deferred until the following Wednesday. I hope that the House will recognise that. I accept the assurances given by the Leader of the House that he would seek to avoid having a succession of Divisions at 6 pm on a Thursday.

Before I leave the subject of the Standing Orders, I wish to address Standing Order No. 14(2), and I hope that the Deputy Leader of the House will be able to give me a specific assurance on the issue. It is now wildly out of date. My colleagues and I are very disappointed that the opportunity has not been taken to deal with the allocation of Opposition days more sensibly. The allocation does not even follow the Standing Order as it is written, and I hope that we will receive an undertaking from the Deputy Leader of the House, or the Leader of the House if he is back in his place, that the matter will be reviewed in the light of the parliamentary arithmetic after the election, in line with all the other allocations. Every Committee is allocated on a proportional basis, according to the strength of the parties in the House, and that too should be reflected in Standing Order No. 14(2).

I strongly endorse the recommendations of the report from the Modernisation Committee on reconnecting Parliament with the public. We decided in the course of our inquiry that we should place much more emphasis on electronic accessibility. I understand the concerns that were expressed earlier about visiting groups, especially schools. We all like to take schools round this building and to show them a parliamentary democracy at work. However, if students in my constituency happen to come here once in their school lifetime, they are lucky; coming from Cornwall is an expensive business for a low-income area. If they do come, the likelihood that the visit will coincide with a time when they are really interested in what is going on here is limited. It is far more likely that they will want to go online to see what we are doing and to interact with the work of our Standing and Select Committees. Therefore, the emphasis given in the report to online accessibility is the true value-for-money option. In due course, we will no doubt have a wonderful new visitor centre, but that will be many years, and many millions of pounds, hence.

**Mr. Forth:** Ugh!

**Mr. Tyler:** The right hon. Gentleman and I have a common interest in trying to make Parliament more lively for those who are interested in our work, and more accessible, in a way that also makes it more interactive. People need to see what we are doing and feel that their input is appreciated at an appropriate time.

**Mr. Bill Wiggin** (Leominster) (Con): The hon. Gentleman mentions making the Chamber more lively.

*[Mr. Bill Wiggin]*

Does he agree that this debate should have taken place after the election, when hon. Members who are retiring will not have a vote on matters that will affect all of us in the next Parliament?

**Mr. Tyler:** The hon. Gentleman makes a good point, but the difficulty is that the new Parliament would not know how to start, because the Standing Orders under which we operate at present are only temporary. We have to have some in place. I also suspect that had incoming MPs been asked to take this decision shortly after getting here, their limited experience might mean that the changes did not receive the measured consideration required. This is the right moment to take this decision.

I endorse the sensible transitional arrangements to take account of existing contractual and other commitments in relation to the car mileage allowance, which includes an element for the purchase of a vehicle, not just its running costs—that is the difference with the private sector.

We will have a free vote, like all the other parties, and I am sure that the majority of my colleagues will be in favour of making this place more relevant to our electorate and ensuring that we communicate better with them. Above all, I hope that we will all agree that the purpose of this afternoon's decisions is not to make our working conditions more convenient for us, but to make our work more relevant, more effective and more productive for those whom we serve.

2.56 pm

**Mr. Robin Cook** (Livingston) (Lab): I congratulate the Modernisation Committee and the Leader of the House on their proposals on connecting with the public. I strongly believe that the biggest challenge that we face is the large and growing number of the public who do not feel ownership of the political process and are dropping out of participation in it. Over the next three or four months, all of us will spend much of our time working hard to try to ensure that as many people as possible vote for our parties. That is a proper and legitimate concern of party politicians, but we should also find a modicum of time to reflect on the other major test of the forthcoming election, which will be how many people vote at all. Anything that we can do to improve education, information and knowledge about what Parliament does and how it works has to be welcome and I therefore commend the useful and valuable proposals of the Modernisation Committee.

As the guilty party who introduced the modernisation package, I always regarded the proposals on hours as being among its less important items. Some of our other proposals have made the House more effective and were therefore accepted as consensual. I do not think that anybody would wish to go back to the previous requirement of a fortnight's notice for oral questions, for instance. Question Time is now that bit more topical and up to date. There was a bit of a battle to reach an agreement to circulate the text of statements in the Chamber the moment the Minister sat down, but I think that all Members welcome that innovation. It has helped the exchanges that follow and the scrutiny of the Minister over the statement.

I am a realistic politician and I understand that what makes debate is not what is important, but what is controversial. The changes on the hours have certainly been controversial. I agree with my hon. Friend the Member for Knowsley, North and Sefton, East (Mr. Howarth) that there is no consensus on the matter. All I can suggest is that, as we have strongly divided views on the matter, we should proceed with respect for each other's views.

I deprecate those who have suggested that those who want the new hours do not have an appetite for the job. I have proved my enthusiasm for long hours. I was here in the 1974 Parliament when—at least every second week, if not more often—we would have an all-night sitting.

I was young in those days and it may surprise the House to hear that I was opinionated. I took a perverse pride in working those long hours and sitting up all night building socialism. I imagined that my electors back home admired what I was doing. With the wisdom of maturity, I can understand that they thought that I was daft to work those hours. Of course, they were right: it was no way to carry through proper business.

One or two people have referred to the question of shorter hours, but the change did not shorten the hours of the House. Before I examine that, I would say in parenthesis that I am not entirely sure that we are wise to equate length of sitting hours with quality of scrutiny. This Chamber sits much more often than nearly any other Parliament in the world. For every two days that continental Parliaments sit, we sit for three, and it is not immediately evident that the quality of our legislation is that much better as a result.

Nevertheless, the fact is that the changes in our hours have not reduced the debating time in the Chamber. In the first year after the change, the amount of debating time rose by 30 hours, and in the second year it rose by 60 hours, in part because of the earlier finishing time at 7 pm.

The shadow Leader of the House said that that was a firm cut-off time, but it is not. What we are debating is the curious notion of what is called, in parliamentary jargon, the moment of interruption. It has always been possible for business to continue after the moment of interruption, and that used to be routine. However, carrying on a debate after the moment of interruption if that comes at 10 pm makes it certain that the House will sit until midnight. I gently counsel those who want to revert to that practice, and the hours that we used to have, that we will find that we have reduced and not increased the sitting hours of the House because Ministers and Whips will not wish to continue until midnight.

I have been tremendously impressed to hear in this debate about the frustration experienced by colleagues who serve on Committees. They have said that they wished that Committees did not sit at the same time as the Chamber because they want to be able to attend debates here. They long for a return to the hours when the Chamber sat in the evening so that they could spend happy evenings sitting here.

I love this place, but it is important that we are honest about it. When I was a junior Back Bencher in the 1970s, I was invariably called to speak between 7 pm and 9 pm, when other hon. Members had dinner. I was therefore

able to make my speeches in near-total privacy. The idea that changing the finishing time back to 10 pm will allow excited debate with full Benches is not one that I recognise from my experience.

The reality is that hon. Members are asked to do an impossible job. Most of us work at least 60 hours a week, if not more but, however long we work, we cannot do all that we are expected to do. We are all familiar with the problem of having to juggle with being in at least two places at the same time, and that will be the case whatever hours we adopt for the Chamber. However, I am encouraged by the fact that Select Committees had 300 more sittings last year than was the case three years ago. That suggests to me that, at the very least, the difficulties and problems that we face are not insuperable.

I make one plea in respect of this debate. I am distressed that it focuses on the question of whether we should sit into the late evening. For me, the debate has always been about why we should not sit in the morning. That is the crucial issue. I am all in favour of this House exercising proper scrutiny of the Government, but the whole point is to do so when people outside are listening and noticing.

A very important statement was made earlier today. It has led on all the lunchtime news bulletins and it will dominate the media agenda for the rest of the day. Under the previous hours, that statement would not have been made until the middle of the afternoon, long after the lunchtime bulletins had finished. There would not have been time for the newspapers to analyse it properly the next day.

Decisions of this House are much better reported the next day if they are taken at 7 pm rather than 10 pm. I had the opportunity to see that at first hand when I was still Leader of the House. Shortly after we changed the hours, we had the debacle over the amendments proposing a change in the composition of the House of Lords.

I was the Minister in charge of those proceedings and the House will remember that we failed to agree to a single proposal or option on offer. We had the relevant votes comparatively early in the evening, which enabled every newspaper to carry an editorial the next day saying what a cod we had made of the matter.

As a Minister, I should probably have preferred the vote to have taken place at 2 am, so that no one noticed the result but, as a parliamentarian, I had to welcome the fact that the public knew about what had happened and had time to comment on it and analyse it. When we voted on tuition fees at 7 pm, for the first time ever, more people watched the parliamentary channel than either Sky television or BBC News 24. That has to be the ultimate test of whether we are connecting with the public.

I want to end with one final thought. I fully agree with some colleagues who say—the right hon. Member for Bromley and Chislehurst (Mr. Forth) has said it often—that what we say and do is far more important than when we say and do it. However, there is no law that says that the quality of our speeches improves the later in the day that we make them.

Those hon. Members who entered the House by St. Stephen's entrance will have passed Fox, Burke and Pitt frozen for all time in attitudes of declamation against each other. Their great debates on human rights, the French revolution and Britain's place in Europe all took place in the morning and in the afternoon. None of them complained that scrutiny of those issues would have been better had it carried on until 10 pm.

As the hon. Member for North Cornwall (Mr. Tyler) pointed out, the House sat into the evening only after the introduction of gas lighting in the 19th century. It sat in the afternoon and evening precisely so hon. Members could earn their living at the Bar or in the City.

We are all professionals now and quite well paid. We should adopt hours that reflect that professional status and our full-time commitment to the job. That might put us a little more in touch with the modern world in which our constituents live and work.

3.7 pm

**Sir Nicholas Winterton** (Macclesfield) (Con): I am pleased to follow the right hon. Member for Livingston (Mr. Cook). He was a distinguished Leader of the House, which he led with and by example. In addition, he chaired the Modernisation Committee exceedingly well. I was delighted to work with him then, as I am delighted to work with the current Leader of the House.

The right hon. Member for Livingston referred to parliamentary questions. The change in our practices in that respect was the initiative of the Procedure Committee rather than the Modernisation Committee. I hope that he will accept that modest correction to what was otherwise a splendid speech. He and I are both parliamentarians, although the conclusion that I reached is slightly different from his. In my short speech, I hope to explain my reasoning.

Hon. Members will know that I have the honour to chair the Procedure Committee, which circulated a questionnaire about sitting hours last January. We published the results in our second report last March. In paragraph 13 of that report, we made some points for the Modernisation Committee and the House to take into account. I shall go through some of them briefly this afternoon.

As my hon. Friend the Member for North-East Hertfordshire (Mr. Heald) stated earlier, the questionnaire found a slight overall preference for a reversion to the old hours on Tuesdays. I am glad that the Government have tabled amendments to allow the House to decide on that, and I pay tribute to them for doing so.

I have had many discussions with hon. Members who take very different positions on these matters and I know that many are not in favour of taking what they consider a backward step. However, some of the arguments that I have read in the past few days are, to say the least, a little exaggerated. I have also read editorials and articles in newspapers such as the *Evening Standard* and others, written by people whose knowledge of this place I expected to be greater. They have made statements that are very far from the truth. Those of us who want a modest change back to the old hours, particularly on a Tuesday, are not trying to work less—we are actually trying to work longer and to do a better job. The question is how time is allocated. That said, I respect the sincerity of the case put by the Leader of the House.

*[Sir Nicholas Winterton]*

Reverting to the old times on a Tuesday would not mean voting, as some have said, into the small hours. The moment of interruption—that technical phrase to which the right hon. Member for Livingston referred—would be 10 o'clock, so it would not mean going back to Victorian timings, which were bound to be unsuitable anyway. In fact, as historical statistics show, the moment of interruption was midnight from 1888, when it was introduced, to 1906 and it was not changed to 10 o'clock, as the right hon. Gentleman knows, until 1946. If the old Tuesday hours are so unacceptable, I have to ask the rhetorical question why there is no pressure to change the Monday hours as well. *[Interruption.]* Well, I do not think that there is.

I shall support amendments (a) to (l), which would enable us to revert to the old Tuesday hours. Members who want to go back to the old hours on Wednesdays as well can achieve that by voting against the entire motion. I should point out to the Leader of the House and the Deputy Leader of the House that I shall be voting merely to restore the old Tuesday hours. I shall not try to restore the old hours on Wednesdays. I shall also vote for bringing forward the start of business on a Thursday to 10.30 am.

The Procedure Committee pointed out that Standing and Select Committee sittings have to be taken into consideration, as well as the sittings of this House. I am glad that the Modernisation Committee paid considerable attention to that issue. The proposed earlier start on Thursdays—which would restore Thursday sittings to the same length as those on Mondays, Tuesdays and Wednesdays—would of course result in very short sittings of Committees in the morning and, presumably, correspondingly longer ones in the afternoon. Despite that, it is important that we ensure that Thursday is a full day, so I shall support that proposition.

A number of colleagues still seem to think that we can run the House of Commons as if it were an ordinary commercial office, with us all arriving at, say, 9 o'clock and leaving at 5 o'clock. The Procedure Committee pointed out that we all work in at least two places—our constituencies and here—and we might even claim to have duties overseas as well. For many Members, the House and their constituency are many hundreds of miles apart. We surely need, therefore, to choose hours that will work for us as Members of Parliament, rather than just copying those in use elsewhere. In any event, nine-to-five jobs are perhaps becoming less commonplace.

The Procedure Committee recommended that decisions should be made in full knowledge of the effects on staff of the House and their working patterns. The hon. Member for Stevenage (Barbara Follett) raised that issue in an intervention and it certainly was important that, this time, we consider the impact on staff. The report that gave rise to our current sittings did not really do that. I am delighted that we have put that right, and that the Modernisation Committee took the hint—I think—from the Procedure Committee. Indeed, there is detailed evidence to justify this recommendation.

It is important to realise that those of us who are deeply committed to and involved in this House do a tremendous amount of work here during the week—be it as members of the Speaker's Panel of Chairmen, as Chairmen of Westminster Hall, as members of the Commonwealth Parliamentary Association and the Inter-Parliamentary Union or as members of other Committees of the House, including the all-party groups. Such work does seem to be rather heavily concentrated on Tuesdays and Wednesdays, and the House needs to take that into account. Perhaps the Government will win the day and the House will decide to stick with the current hours, but I hope that this issue will be kept under review. It is important that Committee work, which in my view is as important as what goes on in this Chamber, is in no way prejudiced and disadvantaged. I want us to get rid of some of the bunching of Standing and Select Committee sittings.

In my view—it is shared by the right hon. Member for Swansea, West (Mr. Williams), who chairs the Liaison Committee with great distinction—I see a time when the Modernisation Committee might be terminated and I hope that the Leader of the House will give some attention to this issue. What remains of modernisation—if there is any modernisation to do in future—might be assumed by the Procedure Committee. There is some danger in a Committee that dictates how this House deals with its business being chaired by a Cabinet Minister. It would be perceived as much fairer and more democratic if it were chaired, as other Select Committees are, by an experienced Back Bencher.

I am obviously very happy with "Connecting Parliament with the Public". This Friday, I shall attend the Cheshire UK Youth Parliament election day at Chester county hall. It is important that we educate young people and seek to make them more interested in what goes on in this House.

The Leader of the House has acted very responsibly in tabling the car mileage allowance motion. It does not change the decision that was taken in the latter half of last year, but it makes the situation much fairer. It treats those who represent very large constituencies with much more justice, and I hope that it will be passed.

I commend the Leader of the House and the Deputy Leader of the House on tabling these motions. I hope that Members will vote on them entirely freely and exercise their right as Members of Parliament to judge the work that we seek to do, which is to work hard and, if necessary, long in the interests of our constituents.

3.16 pm

**Mrs. Anne Campbell** (Cambridge) (Lab): I was among those who suggested to the Leader of the House some months ago that this debate should be postponed. I did so partly because many of the Members who decide on this issue today will not be in a position to experience any changes that are made. I understand why such a postponement has not been possible, but as a result, this debate is likely to continue, regardless of the decision reached today. New Members entering the House may want to debate this issue again; indeed, I doubt whether it will ever be possible to decide that it will never again be debated.

I am one of the Members of this House who are fortunate enough to represent a constituency within travelling distance of the House. That does not enable

me, however, to get home in time to attend evening meetings, but last night I was able to go home in order to attend a job fair that was held in my constituency today. It was an interesting fair, which was attended by a number of employers. I took the opportunity to talk to them about what they were doing, and several asked me about today's business of the House. I told them what we would be debating and the issues. Every single one of them was horrified at the thought that we might revert to the old sitting hours on a Tuesday; not one could understand the reasoning behind such a change.

I ask Members to think about the effect of any decision taken today on opinion in the outside world. We shall look extremely foolish if, having adopted what I think of as normal business hours, we reverse that decision after only two years and go back—it would be going back—to a dark age. Most people simply would not understand that decision.

I would like to come back to whole question of how we can make Parliament more efficient and businesslike. One reason why the Government have spent a good deal of time debating family-friendly issues or the work-life balance—whatever one wants to call them—is the large amount of stress that people experience in the workplace. I do not think that hon. Members are different from people who work in business. We have found that people who are able to make some choice about their working hours and are thus able to be flexible, to have a good relationship with their families and to arrange their domestic affairs as they would wish suffer from less stress than those who are fixed to rigid hours and have less contact with their families. That is important for us, because if we put ourselves in less stressful situations, we make better decisions. We are also then better able to debate and analyse matters, and to represent our constituents.

**Mr. Jon Owen Jones** (Cardiff, Central) (Lab/Co-op): I think that I am one of the few people to speak in the debate with a young family, so I suffer from such stress. As has been said before, what is family friendly for those who live in London is not family friendly for those who live a long way from London.

If we were to move towards a situation in which we had very family-friendly hours for those who live in London—more so than they are now—it could make the House more representative in one way, but it would become less representative geographically. Such very family-friendly hours would make it more likely that Members with families would locate to and live in London, whatever constituency they represented.

**Mrs. Campbell:** I do not think that there is conflict between family-friendly hours in the House for Members who live in London and those who live away from London. A main driver for Members who live away from London must be starting late on a Monday so that they can travel here easily on a Monday morning, and finishing early on a Thursday afternoon so that they can get back to their constituencies on a Thursday evening. The Modernisation Committee's proposals achieve exactly that. They give us an optimum time period in which we can satisfy the needs of both Members who live outside London and those who live in London. There is not necessarily a conflict between the two.

**Mr. Wiggin:** Will the hon. Lady give way?

**Mrs. Campbell:** I shall continue for a moment, although I might take an intervention later.

We now know about the use of the telephone by the right hon. Member for Bromley and Chislehurst (Mr. Forth) and the modern technology that he has perhaps espoused for some time, although I am not sure. I, too, use the telephone to contact my constituents, but I find that they are much more likely to be available in the evening than during the day. That means that there is an argument for Members being free in the evening so that they can use that time to contact constituents, rather than attending debates in the Chamber or Select Committee sittings.

I turn to the matter of reconnecting people with Parliament. The all-party group on parliamentary reform, which I chair, recently sent out a notice to hon. Members about a meeting that we are holding in March. We are asking them to invite two young people from their constituencies to come to Westminster one day in March—on 2 March, I think—to debate with hon. Members the Modernisation Committee's proposals in "Connecting Parliament with the Public". The event will be important, so I hope that hon. Members will take advantage of it. It presents an opportunity to get young people here so that they can see how Parliament operates and engage in real debate. I am delighted that the Leader of the House has agreed to participate in the event, because his presence will allow young people to feel that it is as important as it is.

I hope that we will decide to keep the current hours. Two years is a short time in which to arrive at a definitive decision on whether to return to the old hours, so I hope that hon. Members will vote to keep the new hours on Tuesdays and Wednesdays and to adopt the earlier hour on Thursdays.

3.25 pm

**Mr. Eric Forth** (Bromley and Chislehurst) (Con): I have been worried right from the start of this so-called modernisation process that it only ever seems to move the relationship between the House and the Government in one direction, which can be summed up by the word "convenience". Everything that the Modernisation Committee has asked us to do can easily and readily be seen as convenient for Members and, even more importantly, for the Government. That has radically, and perhaps irrevocably, altered the relationship between the Government and the House of Commons. I regret that, because it is bad constitutionally and bad for Parliament. Although I would like the situation to be reversed, I do not know whether that will happen.

**Mr. Tyler:** Does the right hon. Gentleman realise that the hon. Member for North-East Hertfordshire (Mr. Heald) argued that the change back to the old hours on Tuesdays should be made because the new

*[Mr. Tyler]*

arrangements are inconvenient to colleagues? He is directly contradicting the case made from his Front Bench—not for the first time.

**Mr. Forth:** I feel very comfortable in that position and I am not deterred in the slightest.

Let us consider public perceptions of what we do here. I think that we are saying to the public, "We want what is convenient to us, because some of us found it rather unacceptable to be working into the evenings and we really want to go off to the cinema in the evenings rather than doing our parliamentary work". Given that and the fact that the Government have such tight control over the guillotining of Committees and the work that we do—many debates and votes on such things as money and Ways and Means resolutions that were held before have been entirely eliminated—we are being taken in only one direction. The motion represents yet another such movement. It might not be especially important in itself, but it is part of a general move that Members themselves have made to say, "We do not want to be inconvenienced; we want to do what is comfortable". Of course the Government benefit from that, which is a negative factor.

It is ironic to compare what we do and how we do it with the situation in the House of Lords. It is now true to say that their lordships meet more often and sit longer than us, and it is generally accepted that the quality of their scrutiny of legislation and work to hold the Government to account is far superior to anything that we do here.

**Joan Ruddock:** The right hon. Gentleman is not comparing like with like. We elected Members have a duty to our constituents, and a great deal of time has to be devoted to that. So there is no comparison with the amount of time that can be spent in the Chambers.

**Mr. Forth:** Of course that is true. However, I hope that the hon. Lady recognises that, as elected Members, our primary duty is here in the House. In the hon. Lady's case, she is here to support the Government but hold them to account—in my case, I am here to oppose the Government and hold them to account—and to legislate. What we do for our constituents we do in our different ways, and that is right and proper. For the hon. Lady to suggest that her constituents, in some mysterious way, should come before her work at Westminster strikes me as a rather odd interpretation of her duties. I would not accept that as a conclusion.

If we accept the proposition—I hope that most Members will do so—that their lordships now do more valuable parliamentary work than we do, that must, at least in some way, be because the Government have less control over what happens in the House of Lords and because their lordships sit during the hours that they believe are appropriate for doing their job as parliamentarians.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): Does my right hon. Friend agree that the essential difference when it comes to the scrutiny of legislation is that in the House of Lords there are no timetables and no guillotines, whereas in this place a guillotine is uniformly imposed—for example, on Monday, when we considered the Gambling Bill, the Government provided four and a half hours on the Floor of the House.

**Mr. Forth:** I agree with my right hon. and learned Friend. If he wanted to, he could tempt me into saying that perhaps we would do a better job if, as in the good old days, every Bill were considered in Committee on the Floor of the House. That would have the valuable effect of slowing down the progress of legislation, which I am sure we would all consider to be highly beneficial.

The problem with the Parliament office block analysis that we are being offered more and more by the so-called "modernisers" is the implication that underlies it, which is that we are here to process legislation as quickly and conveniently as possible. For a legislating Government, that is manna from heaven, but it does not make parliamentary sense.

I admire colleagues who tell me that their constituents are hanging on our every word and gazing laser-like upon what we do in this place. Admire my constituents as I do, few of them spend much time talking to me about the hours that the House of Commons works, or the way in which it is structured. They prefer to trust me and to leave that to me, and they are right to do so.

If we are talking about perceptions, we must be careful about the analysis. That leads me to say a few words about nonsensical motion 3, under the heading "Connecting Parliament with the Public". It contains a lot of vacuous and gratuitous nonsense. It is self-serving, self-delusional and rather sad. At the very same time that many Members have complained that because of the changes we have made, which we are now discussing, our constituents have fewer opportunities to come to the House, we produce nonsense about parliamentary roadshows, which would involve some nonsensical bus puffing out what we do to a hapless public, as if that would make them any more impressed with what we do.

I asked the Leader of the House earlier whether he thought that the much-vaunted euro roadshow, on which huge amounts of public money were spent a short time ago, would be an exemplar for what the parliamentary roadshow will do. He was unable to give an answer. We know well, Mr. Deputy Speaker, that this is another boondoggle, another piece of nonsense and something that will cost a lot of money and have no effect.

The same ridiculous motion continues,

"authorises the House of Commons Commission to fund the publication and distribution of a new voters' guide".

That would involve more money, more nonsense and more material going through letterboxes that would hardly ever be read.

If we want to be serious about a new voters' guide, I would want it to be linked back—this is something that the House will hardly ever hear me say but I will say it this once; it is a novelty and I offer it for what it is worth—to the website so that young people who come to our website could access the guide without it being printed, distributed and put through letterboxes, only to be put in waste bins throughout the land. The proactivity that is mentioned in the next ridiculous line

of this absurd motion would not be by us at taxpayers' expense but by the voters or the young people, if they wanted to access information about us and what we do. Why do we not turn the proposal on its head and save the hapless taxpayer some money, so he or she is not asked to spend money on a guide that they will almost certainly never read?

I hope that I will have an opportunity to vote against the motion. It rather pathetically exemplifies how we look through the wrong end of the telescope when we engage in this sort of exercise over and again. We talk at great length about the hours that we work and the perceptions that people have. We regret that the public take less and less interest in what we do, and then we wonder why that may be.

I would offer as a simple solution the fact that what we say is often desperately boring and uninteresting. What we do in the Chamber is often so consensual these days that people cannot tell the difference between any of us. As for whether they should turn up for the next election to vote, I suspect that that will be determined by people's perceptions of whether what we are offering is of relevance to them, whether they have a real choice and whether they think that the outcome of the next election is so obvious and pre-determined that their turning out will make no difference.

Those are entirely different matters from the hours that we work or people thinking that if we work late into the night we are all slightly potty and not worth voting for. My analysis would be completely at odds with what we have been offered up to now. I shall vote for a restoration of the Tuesday hours, which would be a small step in signalling that the House wishes to take more seriously its responsibilities vis-à-vis the Government. I expect no more than that.

I will not vote, sadly, for the motion tabled by the hon. Member for Cunninghame, South (Mr. Donohoe), because it, too, suggests that we believe that the proceedings of the House should be compromised, in this case, so that people can catch their train or aeroplane to go home, which is utterly the wrong message to give. We should tell people that we are prepared to work in Parliament as long as necessary to do our job properly. If that causes us the odd inconvenience, we should be prepared to accept it.

3.35 pm

**Julie Morgan** (Cardiff, North) (Lab): I am pleased to speak in support of the Modernisation Committee's recommendations, and against the amendment that would restore late-night sittings on a Tuesday.

The new hours have been a great improvement. The Leader of the House said that activity has increased and that the House has sat longer, as have Select Committees. I believe that the work of those Committees is a vital part of the work of the House. It is not desirable to conduct business late at night, and a move backwards would create a bad impression among the public, as Members have already said. Many Members have said that the issue is of no interest to their constituents, but people in my constituency are concerned about the way in which the House conducts its business, and have asked me whether the House is still sitting long hours. Whatever the reasons for reversing the decision on Tuesday hours, the public would view it as a return to the jolly hours in the Smoking Room, as the hon. Member for North-East Hertfordshire (Mr. Heald) said.

We should make greater attempts to make contact with the public and encourage people to stand for public office. That important issue is relevant to our debate. We have not debated at great length the fact that many groups are under-represented in Parliament, particularly women, who make up over 50 per cent. of the population but only 18 per cent. of the House of Commons. One reason for that discrepancy is that women have not been attracted to a place with awkward sitting hours that has the reputation of being a men's club. All constituency parties, of whatever political persuasion, have been reluctant to select women, because they caricature Members of Parliament as middle-aged men in grey suits. The clubby portrayal of life in Westminster makes them think that they should select male candidates, so our reputation plays into the unconscious sexism of many constituency parties. Restoring late-night Tuesday sittings would be a big setback to efforts to attract a more representative group of parliamentarians.

The newer institutions that we have set up have reasonable sitting hours, and have much more representative Members. The Welsh Assembly, for example, has 50 per cent. men and 50 per cent. women, and women account for more than 40 per cent. of Members in the Scottish Parliament. Reasonable sitting hours and good gender-balanced representation go together, and more normal hours would bring a more representative group of MPs. The current sitting hours were introduced for a limited period, but many candidates who hope to be selected as MPs at the election expect to serve in a House with reasonable sitting hours. In Wales, we are likely to have five extra women MPs, and those candidates put themselves forward in the expectation of working reasonable hours. There is a bigger issue here—we are not just changing the hours of the House. We are discussing what sort of Parliament we want.

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): Has the hon. Lady alerted those candidates to the fact that the kind of Parliament very much depends on the electorate's decision as to the balance between parties? In a Parliament like the present one, where there is a large majority, life is not so difficult for Back Benchers, but a Parliament with no overall majority or a very tight majority will involve Members in much more work in this place, whatever the hours.

**Julie Morgan:** The candidates are aware of that.

It is important to consider what sort of Parliament we want. Do we want a modern democracy that is seen to be trying to connect with the people, or do we want what the public see as an historic club, inward and backward-looking? That is what the public will think we are deciding today. I accept that that is not the reason for all hon. Members' decision, but that is the impression that the public will gain. We want Parliament to be seen as taking everybody's views into account. We want

*[Julie Morgan]*

Members to be representative of all sections of society. We must therefore have the sort of Parliament that seems to be in touch with people's everyday lives.

Others have pointed out that people in some professions and some jobs have to work long hours and in the evenings, but we do not have to do that here. We are not working less. We are moving the hours forward in the day. We are working longer, as the Leader of the House said.

**Mr. Wiggin:** Can the hon. Lady think of any reason why a Select Committee whose members want to sit late on a Tuesday night should not do so?

**Julie Morgan:** I am sorry, I do not understand the point that the hon. Gentleman is making.

**Mr. Wiggin:** The answer is no, there is no reason why members of Select Committees who want to sit late on a Tuesday night should not do so. That rather plays to the hon. Lady's argument, and I was hoping she might agree with me.

**Julie Morgan:** I certainly think that there is a case for using Tuesday evenings for other activities. If that is the point that the hon. Gentleman was making, I agree with him. We want to make this place appealing to the public. Our decisions tonight will affect the way in which the public see Parliament.

**Mr. Hain:** Does my hon. Friend agree that it is up to Select Committees to choose to sit whenever they want to sit, including on Tuesday or Wednesday evenings? It is up to Standing Committees to choose, within the rules, to sit later on Tuesday evenings, if Members feel they must occupy their time in that way.

**Julie Morgan:** I agree that it is possible for all those bodies to choose when they want to sit.

**Mr. Richard Shepherd** (Aldridge-Brownhills) (Con): The hon. Lady has been generous in taking interventions. What she has described is her perception of how the world should be. However, there are many of us who think it is not important how we see who should be here and what they should be doing. What matters is how our constituents see it. It is they who will make the choice. I have never had anyone say anything about the hours that we sit, other than an occasional comment. The substance of who comes here and what they represent is determined not by us, but by our constituents.

**Julie Morgan:** I agree. The public determine who comes here, but the hon. Gentleman must surely accept that the public's perception of what happens here influences how they choose candidates and sometimes how they vote. The debate is much wider than whether or not we move our hours forward.

I hope that the House will not vote to reverse the sitting hours on a Tuesday. I congratulate the Modernisation Committee on its report and give it my wholehearted support.

3.44 pm

**Sir Patrick Cormack** (South Staffordshire) (Con): We have heard a lot of talk about connecting Parliament with the people. Parliament connects with the people in a variety of ways, including the quality of individual representation provided by Members of Parliament, which includes welcoming constituents to this House, showing them how it works and taking them round—something that has become well nigh impossible since we changed our hours.

The connection also depends on the quality of press and media reporting of this place. One of the scandals of modern times is the way in which the Chamber is ignored by all but the sketch writers and those who occasionally report speeches by Front Benchers. I remember the day when all the quality papers, and some of the others too, in effect carried a précis of *Hansard*. People knew what was said here, which connected them with Parliament. The papers are awash with political news and speculation, but very little of that is direct reporting of Parliament. I say that to the right hon. Member for Livingston (Mr. Cook), who is no longer present and who made much of the fact that the new hours are more media friendly.

When I entered this House in 1970, the hours and the place were very different. When we considered the ill-fated Industrial Relations Act 1971, which was introduced by the Conservative Government, we sat through the night on many occasions. I am not arguing that that improved the quality of the legislation, but it gave the Opposition an opportunity to hold us to account in a way in which no guillotine motion ever does these days. I would not necessary return to open-ended hours, although I remember a certain firebrand, the right hon. Member for Livingston, coming here in 1974. I was told, "You must watch that young man. He's going to do marvellous things in Parliament." In many ways, he has done marvellous things in Parliament, and I am sorry that he is not here now to hear the compliment.

After a two-year experimental period, we are deciding how we can best do our jobs. Every Member of Parliament—those who are here and those who are not—brings different qualities and attributes to this most peculiar of jobs. It is not really a job; it is a way of life, and we all approach it slightly differently. The longer Members are in the House, the more they become involved with a range of issues, some of which touch on foreign affairs—for instance, I have done a fair amount for the Commonwealth Parliamentary Association. Some hon. Members are involved in all-party groups, and I have chaired the largest of those, the all-party arts and heritage group, for many years. All those commitments involve keeping in touch with people outside the House.

Hon. Members must also deal with their constituency commitments and correspondence. I rarely receive fewer than 30 letters a day and frequently receive many more than that. I have always been one of those Members who is in their office very early in the morning, and Monday is the only morning of the week that I can spend wholeheartedly working on my parliamentary and constituency duties without neglecting this

Chamber. Much to my wife's anger and chagrin, I invariably come to London on a Sunday, so that I can be in my office by half-past 7 on a Monday morning to work. The new hours have made it impossible for me to maintain the same connection and service with the individuals and bodies outside this House with which and with whom I am connected. *[Interruption.]* I wish that the hon. Member for North Cornwall (Mr. Tyler) would shut up for a moment.

It is sad that the camaraderie that existed in this place for evening after evening in the Smoking Room and the Dining Room is a thing of the past. I frequently dine in the House on Tuesday or Wednesday, but rarely more than a handful of hon. Members are present to exchange views, discuss the issues of the day and talk about the problems and conflicts with which we are all involved. We are not here for our personal convenience, but as public servants to do a job for our constituents by representing them here at Westminster and playing a full part in helping to hold the Government of the day to account.

I believe that the combination of the change of hours and the imposition of the automatic guillotine on every Bill has emasculated this place. That is extremely dangerous, especially when we have a Government with an overwhelming majority, as we do at the moment—although I trust that we will put that right at the next general election by electing a Government, albeit with a smaller majority, comprising Members from this side of the House.

Unless we have a degree of flexibility in hours that is not allowed for in the motion, we will not fulfil the full role of an adult Parliament. I have tabled an amendment about Thursdays. I did so not because I wish to truncate business on Thursdays but because I do not want to see another morning eaten into and further bunching and clashing as regards Committees. My ideal solution—although I am happy to accept the compromise that is before us today in a spirit of conciliation—would be to go back to the normal hours on Wednesdays and Thursdays, although I realise that that is unlikely to earn the approbation of the House. On Thursdays, it would be a very small concession to sit from 11.30 am until 7 pm; we could then have a full day's business, which the Leader of the House was anxious to commend to us.

Whatever Members think about the Thursday amendment, I very much hope that those on both sides of the House will carefully consider a reversion to Tuesday hours. That is not to suggest going back to the dark ages and sitting beyond 10 o'clock. I am not one for all-night sittings, as I said, although I like to have a more open-ended timetable. It is a very modest proposal; and I was glad that it received the enthusiastic support of my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth), because it goes nowhere near as far as he would ideally like to go. However, it would restore something of the spirit and atmosphere of Parliament as those of us who have been here a long time know it and love it, give Members more opportunity to do things in the morning in response to the many demands that are made on their time, and restore a breath of sanity to our proceedings that has gone over the past two years.

I entirely accept the good faith of the Leader of the House, who of course sees things from a different perspective. When one sits on the Government side of the House, it is inevitable that one's prime interest, particularly if one is a Minister or a Cabinet Minister, is to get the business of the Government whom one serves through the House. When the right hon. Gentleman sits on this side of the House again, his perspective will change, just as my right hon. Friend the Member for Bromley and Chislehurst changed from a remarkably fierce gamekeeper into a wonderfully free-ranging poacher after 1997.

This is an opportunity for us to make a modest change before the general election so that those who are elected here on 5 May, or whenever it is, will have a timetable that has been agreed by those who have experienced both situations. Every Member of this House was elected knowing what the hours were, but they were not what they are now. I know that it is hotly contested and the Division will be keenly fought, but I hope that we will at least make this modest bit of progress so that when Members are elected in May, or whenever, they will be able to judge for themselves. I warmly commend the amendment that the Deputy Leader of the House tabled but, sadly, will not vote for.

3.54 pm

**Joan Ruddock** (Lewisham, Deptford) (Lab): I speak as a member of the Modernisation Committee, and although I want to concentrate on the sitting hours, I commend to hon. Members the motion on connecting the public with Parliament.

The debate is nominally about the hours that we work, and of course we all have a personal preference. However, it is also about the culture of this place, outside perceptions of this place and, most importantly, how well Parliament does its work of holding the Government to account and communicating with our electorate.

Let me deal with the culture first. When we changed the hours two years ago, a majority of those of us who had been Members of Parliament for more than 10 years voted to retain the old hours. A majority of those who had become Members of Parliament in the past 10 years voted for the earlier starts and finishes, as I did. However, as one of those who was elected more than 10 years ago, let me tell it like it was.

In my first year, we sat for 218 days. On 166 of them—76 per cent.—the House sat between 10 pm and 2 am. On 26 days the House sat after 2 am. Those were the good old days of the thriving parliamentary culture that the hon. Member for South Staffordshire (Sir Patrick Cormack) remembers so fondly. For me, a woman who had worked all her working life for long hours in pressured jobs, it was none the less a huge culture shock to come to this place.

Although I was used to working long hours, I was not used to dining for long hours or to going from dining to the Strangers Bar or the Tea Room or the Smoking Room. Of course, it was an age of extraordinary, and occasionally great, oratory in the House, but part of the long-hours culture was built around one that was already disappearing from everyday life. As *The Times* reported:

"When there were votes at 10 pm, the bars and restaurants teemed with MPs gossiping and plotting."

*[Joan Ruddock]*

The Strangers Bar was the heart of that culture and, as Chris Moncrieff reported in the same article, the Strangers

"used to get very rowdy— I've seen fisticuffs in there."

I never saw a fight, but I recall seeing more than one hon. Member swaying on his feet as he addressed the Chamber.

Was that a Parliament of which we could all be proud? Was it a Parliament of people who were in step with their constituents? Was it a Parliament dedicated to holding the Government to account? Not in my judgment. I do not suggest, and I know that others have not suggested, that those who want to revert to late hours on Tuesday wish to return to that boozy old boys' culture, but we need to recognise it for what it was and acknowledge that, progressively, as new people have come into this place, there has been a change in the culture that predated the change in the hours.

People spend less time in the Chamber because they are in Westminster Hall, on Select Committees or dealing with their constituents, who make increasingly onerous demands on all of us. The experimental new hours have been difficult for some people because they have required change in working hours and all change is difficult. However, as the Modernisation Committee acknowledged, those of us who pressed for change have listened to people's complaints, looked at the whole week and made proposals accordingly.

The hon. Member for Macclesfield (Sir Nicholas Winterton) asked why nobody proposed moving to early hours on Mondays. There is a good reason for that. We recognise that people must have time to travel on Monday from their constituencies and it is therefore logical to have a late night on a Monday. The same logic cannot and does not apply to any other day of the week.

**Mr. Gerald Howarth:** Many Labour Members who support the hon. Lady's argument have tried to draw parallels between us and the commercial world. She will be familiar with many people, perhaps friends, who live a long way from London but work there and who, to fulfil their duties, do not take up Monday morning in travelling to their office. They travel to London on a Sunday night.

**Joan Ruddock:** I could not agree more. However, early Mondays are not proposed because it is acknowledged that because of the stress of the job and the fact that all Members of Parliament have to undertake constituency engagements at weekends—

**Mr. Forth:** Stress?

**Joan Ruddock:** Perhaps with the exception of the right hon. Member for Bromley and Chislehurst (Mr. Forth), it is reasonable that people should spend time in their constituencies and with their families on Saturday and Sunday. Travelling on a Monday is logical and appropriate for the good workings of this place and for some balance in one's private life. But there is no argument for returning to a late night on a Tuesday for those reasons.

People have said that they have difficulty coping with all that they have to do on a Tuesday morning, and the Modernisation Committee agrees that there has been a bunching of activities on Tuesdays and Wednesdays. However, the solution to that is in our own hands and available to us today. It is to move to a slightly earlier starting time on Thursdays, so that we have a proper day with the five-hour space that we need for a Second Reading debate. More change, not less, is required to make the House a functioning institution in which we can be effective in our jobs.

People have said that Select Committees keep being interrupted by Divisions in the House. However, the Committees often chose to work at times at which they would be interrupted in that way. This is not a new phenomenon. If Chairs and members of Select Committees do not wish to have those interruptions, they can sit in the mornings. Wednesday morning in particular has been made available to enable Select Committees to sit at that time. I sit on two Select Committees. I know how much work we do, and I know that we have been effective in holding the Government to account. I also know that the Select Committees as a whole have produced more reports under the new hours than under the old ones.

The solution is in our hands. The working week under the new hours has not proved to be a full four-day week, and that has brought this place into disrepute. The former Prime Minister, John Major, said of MPs:

"A lot don't come in Monday, are around on Tuesday and go home Wednesday afternoon."

That is unacceptable. We need to put it right, and we can do so. We can work a proper four-day week in reasonable hours.

The shadow Leader of the House talked about the psychologist's report and the stress that MPs have experienced under the new hours. I recall that, with the old hours that I have described, seven of our Members died in office. I cannot make a causal connection between those hours and those deaths, but I suggest to the hon. Gentleman—I am sorry that he is not in his place—that he cannot make the causal connection to which he referred either.

As we have all said, we need to communicate the work that we do here via the media. There is not a shadow of doubt in my mind that enabling the media to digest the votes properly, to hear the debates and to communicate them to our constituents at a time when they are not in their beds, is an important aspect of the modernisation that we have enjoyed.

I want to make a brief comment on what a return to a 10 pm finish on Tuesdays would mean. In the past two years, when business and votes have been required beyond the cut-off time of 7 pm, this has resulted in our being able to leave at about 8.30 in the evening. A return to late nights on a Tuesday would end all that.

**Paul Farrelly** (Newcastle-under-Lyme) (Lab): Perhaps we should be drawing not only commercial parallels but international parallels in this debate. I am not opposing late night sittings on Mondays, for the very sensible reasons that my hon. Friend has given. However, not a single legislature on the list that I have here sits until 10 pm even on one night, let alone two, three or four. That list includes the legislatures of

France, Germany, Japan, Canada and New Zealand. Yet we still manage to sit for more hours than any of them, and on more days.

**Joan Ruddock:** My hon. Friend makes an extremely telling point.

Let me return to what late night sittings on Tuesdays would mean. In the year before we moved to the new hours, the House sat on 201 days. On 78 of those days it sat beyond 10.30 pm. Sometimes it was closer to midnight; very occasionally it was after midnight. That is what people will be voting for today if they vote for a return to the old hours on a Tuesday—*[Interruption.]* That is a fact. If hon. Members vote for a return to such hours, that will be up to all of us. However, I ask Members of the House to think about all the hundreds of people who support us in a huge variety of ways in the service of the House of Commons. Those people do not want to return to the old hours.

I ask Members to listen to what Dr. Chris Pond said in evidence to the Modernisation Committee. Speaking of the distant past, I agree, he said:

"I think the way we did business in the 70s and early 80s was, frankly, absurd. I think if Members look back on those days, a few may look back with nostalgia but, equally, there were times when Members were walking around like zombies during the Consolidated Fund and that was not a sensible way to conduct the business of a great nation. The more we approximate to normal working hours, I think the more effective we will eventually be."

**Sir Robert Smith:** Will the hon. Lady give way?

**Joan Ruddock:** Sorry, but I do not have time.

That is the view of the leader of the trade unions of the House of Commons.

**Barbara Follett:** Does my hon. Friend know how much sitting late in the evening costs in overtime and in taxis just to get Doorkeepers and Tea Room staff home?

**Joan Ruddock:** I do indeed; my hon. Friend makes a good point. Two members of staff of the House have been mugged leaving here late at night. They left in the hour before they could have had a free taxi.

**Sir Robert Smith:** Will the hon. Lady give way?

**Joan Ruddock:** I want to conclude; others want to speak.

We have a solution to rebalancing the working week, making us more effective Members of the House, holding the Government to account, enabling us to identify with our constituents ensure that the business of the House can be communicated to them at a reasonable time of day. I commend the motion.

4.6 pm

**Mr. Gerald Howarth** (Aldershot) (Con): I am delighted to follow the hon. Member for Lewisham, Deptford (Joan Ruddock), who is always extremely courteous in giving way and in presenting her arguments. As she knows, I have a particularly personal interest in so far as my son-in-law, James Cartlidge, is the prospective Conservative parliamentary candidate for her constituency of Lewisham, Deptford. All I will say to her on James's behalf is that if she is finding it too stressful here, all she has to do is to give way to my son-in-law. Then she will be able to enjoy a more leisurely time.

May I also say to the hon. Lady that in response to my intervention, she acknowledged what I think is an important point that shows a slight difference of view between two different camps in the debate? I agree that this is a different job. I do not believe that there are parallels between what we do here and the commercial world. Indeed, I do not believe this to be a job: it is a vocation.

Every day that I come into this place I pinch myself, because I have been accorded such a privilege by my fellow citizens, who have sent me to this, the oldest Parliament in the world. Indeed, despite all the brickbats, it is respected throughout the world. I therefore do not believe in making parallels between the honour of serving the people of this country in this great Parliament and serving in the commercial world. They are two entirely different activities, which cannot be equated.

I also take the view, which was advanced by the hon. Member for Knowsley, North and Sefton, East (Mr. Howarth), that modernisation should not be considered synonymous with progress. Most Conservative Members, and many Labour Members too, regard the Government's use of the word "modernisation" as simply an attempt to close down the debate. All people need to do is advance a case on the ground that it is modernising, and that is the end of the argument. Apparently, no one can possibly be considered to have an argument worth listening to unless it involves modernisation. I take a totally different view.

I am pleased that the Foreign Secretary, too, took that view in his evidence to the Committee. I hope that the former Foreign Secretary, the right hon. Member for Livingston (Mr. Cook), who takes a very different view, has read the submission of his successor, because it encapsulates many of our arguments. The compression of our time brought about by the new hours has made life very difficult for us all.

It is a loss, because as my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack) said, so many other things could previously be encompassed during the morning, such as visits from constituents. Yesterday, for example, I had visitors from the Pegasus Bridge museum in Normandy. I could show them the House of Lords, but I could not bring them here. We are not serving our constituents by denying them the opportunity of visits, although that is only one small part of it—constituency work, meeting people, undertaking telephone calls, all of which go on in the morning, are now increasingly denied to us.

The e-mail system has now imposed even more burdens on us. Every constituent who has access to this new technology feels not only that they have instant access to us, which is of course entirely their right, but expects an instant answer, too.

**Mr. Forth:** Well, they are not getting one.

**Mr. Gerald Howarth:** As my right hon. Friend says, in his case, they are not getting one. On one occasion, a constituent sent me an e-mail saying, "I saw you open my previous e-mail" at such and such a time, and that I had not yet replied. I responded, "I am not an automaton sitting in front of a computer screen. I am a Member of Parliament and I have different duties."

The Foreign Secretary also mentioned in his submission the effect that consolidation of Prime Minister's Question Time into a single day has had on attendance in the House and on the whole ambience of the House and the way in which it is treated. He is absolutely right to say that taking away that quarter of an hour of Prime Minister's Question Time on Thursday has made Thursday into a "come if you can" day; otherwise, Members go off and do something else. That has reduced this place to at best a three-day week, but as far as most of us are concerned, it is more like a two-and-a-half-day week.

I support the amendment of my namesake, the hon. Member for Knowsley, North and Sefton, East (Mr. Howarth). It is an entirely sensible and modest proposition. It is not a return to what the hon. Member for Cardiff, North (Julie Morgan) called the dark old days. It is a sensible and modest proposal, and it should commend itself to all Members of the House.

**Mr. George Howarth:** Before the hon. Gentleman concludes, will he reflect my view that if he and I agree, there really must be a consensus?

**Mr. Gerald Howarth:** Yes, and that is why it will not get reported, but I will come on to that in a minute.

No one is suggesting that we return to all-night sittings. There was something mediaeval about all-night sittings, and I have no desire to return to them. A return to a 10 o'clock finish on Tuesday night has been represented, however, as somehow a return to all-night sittings. That is simply absurd. This is a compromise that therefore ought to commend itself to the House.

The right hon. Member for Livingston made two points to which I want to refer. First, he said that the changes that we have instituted would bring us into line with others. I have tried to deal with that argument by saying that I do not believe that we are like others. If one works in the City these days, however, one is sometimes there all night and all weekend. My son is a trainee lawyer working in the City, and during the Marks and Spencer business, he was there from Friday until Monday morning. We should not therefore delude ourselves that we are somehow exceptional in that respect.

What the right hon. Member for Livingston said about the convenience of the new hours for the media tells us an awful lot about this Government's desire to manipulate and to manage the news. The idea that a statement made at 4 o'clock in the afternoon will not get through to the people is simply ridiculous. It gets through to them on the 6 o'clock news, or on the 10 o'clock news, which most people watch. The hours are not in Parliament's interests, but they are unquestionably in the Government's interests. As I hope to be on the Government side of the House on 6 May, I could be said to have a vested interest in a system that benefits the Government, but I am here principally as a Member of Parliament. That is my first duty, and that is why I am not attending a conference on air power this afternoon. I am here because I think that this Parliament is important to the people.

As always, my hon. Friend the Member for South Staffordshire spoke about this place with vigour and passion. He spoke of the failure of the press to report the House. Perhaps we are not as well perceived now as we have been in the past, but whereas the newspapers—especially what used to be called the broadsheets—used to feature an extensive report of comments made by individual Members, the only report now is the parliamentary sketch. Although it is often very amusing, the sketch is invariably trivial, and it invariably writes down this place and pokes fun at it. That is the purpose of the sketch. In the old days, the sketch sat alongside the objective serious report. Now there is no objective serious report, only the poking fun. Is it any wonder that the public thinks that this place is just fun, when that is the only way in which those who command the media are prepared to broadcast it to the nation?

**Paul Farrelly:** I too, to my shame, have worked City hours in the past, and I do not want to return to them. I have also been a journalist. The point that the hon. Gentleman is making now, however, has nothing to do with sitting hours. Logically, bringing forward our sitting hours means that newspapers are better able to meet their deadlines.

**Mr. Howarth:** I accept the hon. Gentleman's point, but my point, which has already featured in the debate, concerns how this place is perceived. The press are not reporting this place, although the hours have been made easier for them. Perhaps their reporting was better when much of the activity took place when the sun was over the yard-arm than it is at a more abstemious time of day. I do not know; what I do know is that they are not reporting this place seriously.

This afternoon we have a real opportunity to make a modest change that commands support throughout the House, which would even out our week a little, and which would not greatly inconvenience Members with young families who live in London and want to do things on weekday evenings. They would still have Wednesday and Thursday evenings. I think that in the interests of Parliament, in the interests of holding the Government to account and in the interests of managing our time in this place, a move to a 10 pm finish on Tuesdays is the very least we could do.

4.17 pm

**Mr. Brian H. Donohoe** (Cunninghame, South) (Lab): Given the time constraint, I shall be fairly brief.

My amendment (m) makes a fairly modest proposal. It has been obvious to me since I came here in 1992, as I am sure it is to all Members, that our diaries are becoming fuller. We are busier not just here but in our constituencies. The aim of my amendment is to ensure that, on Thursday evening, there is just one vote, and we know when we will be leaving. We would finish our business at 6 pm, or if other amendments are carried, at 5 pm. That is desirable for many reasons.

**Mr. John Taylor** (Solihull) (Con): The hon. Gentleman says that he has been here since 1992 and has never been busier. I have been here since 1983 and I have never been busier, but I have experienced two outright clashes between Select Committee and Standing Committee sittings during this week alone. Will he say something about that? We have a very compressed working week now: everything seems to pile on to Tuesday or Wednesday.

**Mr. Donohoe:** Although I have some sympathy with what the hon. Gentleman has said, it has nothing to do with what I propose in the amendment.

The amendment will allow Members locally who are—*[Interruption.]*

**Mr. Deputy Speaker (Sir Michael Lord):** Order. The hon. Gentleman will know Mr. Speaker's views about electrical devices that go off in the Chamber. The hon. Gentleman has done nothing more than disturb his own speech on this occasion.

**Mr. Donohoe:** I apologise unreservedly. It is these newfangled ones. It has never done that before. It must have a mind of its own and known that I was on my feet in the Chamber. Someone may have paged me to tell me that I should shut up, but I do not intend to do so.

I was talking about hon. Members being able to get to meetings. Hon. Members have mentioned that they make use of Monday mornings. We know when we are coming and we know when every day's business starts. The problem is that, every day of the week, we do not have a clue when the business will end.

I am one of the Members who has to travel fair distances on a Thursday night. This week, for example, I have had to book three different flights. There is not much sense in that. Because of the uncertainty about travel arrangements, as well as the other points, the amendment has a lot of merit. My point should be considered.

From some discussions that have taken place, I know that there is a fair strength of feeling in the House about the matter. During just a couple of Divisions, I managed to secure some 52 names. It may not be enough to get a majority, but I appeal to all to consider what I have asked for on the basis of what it will entail.

The Leader of the House mentioned the amendment, as did others. I am satisfied in part with what he said because it went some way towards what I am asking for. However, on the basis of the record over the past few weeks, I would still want to press the amendment to a vote. In the past few weeks, on the Tuesday and the Wednesday, the business has collapsed early without any vote. If the business managers of this place are worth their salt, and I presume that they are, they should be able to order the business of the week so that, on a Thursday, we did not have the kind of business that he mentioned—debates on Iraq, on Second Readings and on the Railways Bill, which takes place this Thursday. Because of that fact more than any other, I believe that what I am proposing is sensible. I ask right hon. and hon. Members to support me.

4.23 pm

**Mr. Richard Shepherd** (Aldridge-Brownhills) (Con): When I was first elected just over 25 years ago, I was conscious that I was sent here with the ability to express on behalf of the community that gave me a majority some of its fears and views on the way in which public and Government business was conducted. Along with that went a vote. If there is a scandal between a generation ago and today, it is that there is a great diminution in the consideration of public business on this Floor. That is detailed in the Modernisation Committee report of last year. It is detailed in the Procedure Committee report.

The scandal of the current House of Commons is that it is no longer discussing, or even considering vast chunks of important public legislation. That is a fact. We have had legislation that goes to the heart of our freedoms and the Government's, obsession with a security and police state, but we have not been able to discuss it on the Floor of the House of Commons until it comes back from the Lords.

I ask myself: is that a consequence of the hours that we sit or of other rules that we impose on ourselves? Is that because we no longer consistently start business at 2.30pm, but do so earlier? I do not think that it is a question of the hours that we sit, whether morning or afternoon. Something else has happened. One has only to look at the Order Paper: "No vote"; "No debate"; "No debate"; "No debate". The very essence and vitality of this House is being sucked out. But do I believe that that is because we sit at 11.30 am? In truth, I do not, which is why I am indifferent to the motion. I will come to express the views of Aldridge-Brownhills as best as I am able, whether it is 9 o'clock at night or 9 o'clock in the morning.

If I am being truthful, this House is looking to its own convenience. That is what this debate is about. It is much more convenient for modern people with young families in a modern world to go off home at 7.30 pm. I hope that the worm will turn in this House on the Standing Orders that mute our voice. The only war debate that we have had that was important in terms of our vote was limited, and by whom? By the Government, and to one day. There were hundreds of us who wanted to speak in that debate.

The heart of this place is being sucked out, not because of the hours but because of ourselves and the rules that we have constructed. In truth, the report of the Modernisation Committee, of which I am an inadequate member, shames me. The quality of work that comes out of Select Committee reports across a wide range of areas is not the detailed scholarship that we used to see.

I wanted to see from this debate that the House believed in its function, which is to look at the law. We have that one vote that we were sent with, to say aye or no. I wanted the House to understand that every one of us must be able to speak on the Floor of the House of Commons. That is what I wanted to see from the debate.

4.28 pm

**Mrs. Alice Mahon** (Halifax) (Lab): I realise that time is against me, but I wish to support the amendment tabled by my hon. Friend the Member for Knowsley,

*[Mrs. Alice Mahon]*

North and Sefton, East (Mr. Howarth) to bring back Tuesday evenings. When I was elected to this House 18 years ago, I was acutely aware of the privilege that the people of Halifax had bestowed upon me. This is not like any other job in the world. In this House, we have a voice and we can speak for our constituents. We are not here to do a nine-to-five office job.

When the hours were changed, we were told that it would make Parliament more effective, but I think that the change is destroying Parliament. The place is dead and the truth is that our work is now compressed into two and a half days a week. The conflict between what a normal MP does and attending the Chamber is growing. One need only look at the poor attendance at main speeches to see that.

The second point is that public access has been seriously restricted. I have taken great pride in inviting schools, particularly sixth forms, down to the House of Commons. I usually book a room for a question and answer session and try to take them into the Chamber. That has paid off over the years. I have had volunteers from university in my office who say that that they visited here 14 years ago. We cannot do that now unless we come down on a Sunday night for a Monday morning.

Lunchtime meetings have been dismissed as long lunches, but I meet a variety of people then and I have to choose between doing that or coming here for questions. I am also enthusiastic about all-party groups because my experience of them has been good. Many years ago, I helped to set up the all-party breast cancer group, which has influenced Government policy and been a huge success. Since the advent of the new hours, I have had to step down as one of the joint chairs and I have also had to stand down from other groups close to my heart. That is a shame.

**Mrs. Jackie Lawrence** (Preseli Pembrokeshire) (Lab): Does my hon. Friend agree that this is not an argument about modernisation of the House, but a discussion about whether we can do our jobs properly? The present hours prevent us from doing so.

**Mrs. Mahon:** I could not agree more. I also wish to reject the notion that women do not want to enter Parliament because of the hours. We have just had a selection procedure in Halifax, at which brilliant women from John O'Groats to Land's End queued up. Not one of them asked about the hours in this place. In 18 years, I have never had an e-mail, letter or message that has said, "I would vote for you, but you work silly hours." No one at any surgery has ever said that either. It is nonsense to claim that our hours affect whether people vote.

The new hours have severely damaged Parliament and its effectiveness. The Chamber is half empty and the scrutiny of the Executive does not happen as it should. Committee sittings have been disrupted. We invite expert witnesses, but have to leave them when the Division bell goes. What is the response of the so-called Modernisation Committee? It advises us to meet in the evenings or on a Saturday morning. It is nonsense. Nor have I have ever seen before so many vacancies on popular Select Committees on the Labour party Whip.

Members no longer get to see Ministers. They used to have to eat here at least a couple of nights a week. They now go off to some fashionable restaurant or club. They come here in a chauffeur-driven car and live in a little elite bubble, and we cannot get at them. I used to get at Ministers regularly when we worked late. Ministers no longer have as much contact with Back Benchers and that removes them from the real world. Many of my constituents work on a 24-hour clock. I did it myself when my children were younger and it is nonsense to say that people do not.

Outside meetings are also suffering. Somebody has already mentioned the fact that we had only one day to debate the war, which was possibly the most important vote in my 18 years in Parliament. I have held meetings in Westminster Hall and other parts of the Palace and the security people have come in and said, "It's half-past 8 and we need you to empty the place." It is sad that such meetings should be shut down.

The new hours have shrunk the parliamentary week, interfered with MPs' activities, undermined public access, made no difference to women wanting to come here and reduced contact between MPs and Ministers, not to mention contact among MPs. The new hours have destroyed one of the greatest debating chambers in the world and the Modernisation Committee should vote for the change back.

**Hon. Members:** "Hear, hear!"

4.33 pm

**The Deputy Leader of the House of Commons (Mr. Phil Woolas):** We set out to achieve consensus and it seems we have done so in some parts of the House.

This has been an important debate. The decisions that we are about to make will affect the way the House operates and the way it is perceived outside. I have been asked for two commitments on behalf of the Government, so I shall deal with those now. The hon. Member for North Cornwall (Mr. Tyler) asked for a commitment that, if we were in government after the general election, we would review the allocation of Opposition days on the basis of proportionality of representation. That would be our policy, and the allocation would be reviewed. I appreciate that he understands that that is not part of our debate today.

The second request was from the hon. Member for Macclesfield (Sir Nicholas Winterton), who asked about the Procedure and Modernisation Committees. As he knows, that is a matter for the next Parliament and is not directly related to this debate. However, my right hon. Friend the Leader of the House has heard the points that he made.

The Modernisation Committee has considered carefully the options for future sittings of the House and produced a package of proposals that it considers the best way forward. The package means that we would keep our current hours on Monday, Tuesday, Wednesday and Friday, but that the start of Thursday's sitting would be brought forward to 10.30 am. Maintaining the moment of interruption at 6 pm would mean that Thursday would be restored as a full sitting day. My right hon. Friend the Leader of the House has tabled a motion—the main motion under consideration—that would implement the package.

The Modernisation Committee also recommended that the House should be able to express a clear view on Tuesday sittings—a matter on which the House was unfortunately unable to reach a consensus. To facilitate that expression, I have tabled amendments that would return Tuesday to the old hours of 2.30 pm to 10 pm—the same hours that obtain on a Monday. I do not personally support those amendments, to which my hon. Friend the Member for Knowsley, North and Sefton, East (Mr. Howarth) spoke with his usual clarity and elegance. Instead, I urge the House to join me and my right hon. Friend the Leader of the House in voting against them.

**Mr. George Howarth:** I am grateful to my hon. Friend for the help that he has given on this matter, if not for the way that he will vote this evening. Does he accept that the problem was that the Modernisation Committee declined to accept the consensus that was achieved?

**Mr. Woolas:** I understand my hon. Friend's point and I am grateful for the thanks that he expressed to me and my right hon. Friend the Leader of the House in respect of trying to reach a consensus. I always thought that it would be a difficult job, but my right hon. Friend has to reach across the spectrum of the whole House, as I hope that my hon. Friend acknowledges.

Hon. Members on all sides of the argument would be well advised to listen to my next point, which I want to emphasise. If the motion in the name of my right hon. Friend the Leader of the House were to fall, in the next Parliament we would have to revert to the hours of 2.30 pm to 10 pm on Mondays, Tuesdays and Wednesdays, and to the hours of 11.30 am to 7 pm on Thursdays.

**Mr. Forth:** Hooray!

**Mr. Woolas:** I do not think that even the right hon. Member for Bromley and Chislehurst (Mr. Forth) went that far in his speech.

Some people outside the House have suggested that we would revert to sittings lasting all night. They were abolished by previous Standing Orders, but we would push votes and debates after the moment of interruption up to midnight and even beyond. I am grateful to my hon. Friend the Member for Reading, West (Mr. Salter) for analysing what happened in previous Sessions. The results show that we went beyond the moment of interruption 78 times in 2003, and that debates often finished after midnight, even before votes were held. *[Interruption.]*

**Mr. Deputy Speaker:** Order. The general conversation in the Chamber means that I am having difficulty hearing the Minister. The House must listen to the Minister.

**Mr. Woolas:** Those who support the amendment in the name of my hon. Friend the Member for Cunninghame, South (Mr. Donohoe) may wish to bear in mind the commitment given by my right hon. Friend the Leader of the House regarding whipped business on a Thursday. I hope that they will bear in mind also that delaying votes by deferred Division on major business—currently, deferred Divisions are used in respect of secondary business—would have a significant impact on the timing of business in the other place. My right hon. Friend and I are also concerned about that.

Furthermore, the House should bear in mind another point raised in the debate—that delaying votes would mean that we would not be able to reach a conclusion on a Thursday night. I also urge the House to reject the amendments tabled by the hon. Member for South Staffordshire (Sir Patrick Cormack), as they would undermine the objective of the Modernisation Committee's central recommendation that Thursday should be restored to a full sitting day.

This has been an excellent debate. Unfortunately, we have been unable to reach the consensus that we set out to reach, but we have certainly narrowed the area of disagreement. Greater consensus exists now than existed during the debate in October 2002, which has been to the benefit of the whole House. I urge Members to join the Leader of the House in voting against the amendments and for the main motion as it stands, and for the motions on connecting Parliament with the public and the car mileage allowance. We must now come to a firm decision, so that Members and staff can plan with certainty for the Parliament ahead.

**Mr. Deputy Speaker:** Order. I remind the House that, if an amendment is agreed to the motion on sitting hours, the Question will immediately thereafter be put on any consequential amendments. When the amendments have been disposed of, the Question will be put on the main Question on sitting hours, amended or not, as the case may be. The Questions will then be put forthwith on the motions on connecting Parliament with the public and on the car mileage allowance. The first amendment relates to the time of Tuesday sittings.

*Amendment proposed:* (a), in line 6, leave out "at half-past two o'clock, on Tuesdays and" and insert "and Tuesdays at half-past two o'clock, on".—*[Mr. George Howarth.]*

*Question put,* That the amendment be made:—

*The House divided:* Ayes 292, Noes 225.

**Division No. 47]** **[4.40 pm**

**AYES**

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainsworth, Bob *(Cov'try NE)*
Amess, David
Ancram, rh Michael
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Baker, Norman
Barker, Gregory
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bennett, Andrew
Benton, Joe *(Bootle)*
Beresford, Sir Paul
Borrow, David
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Bradley, rh Keith *(Withington)*
Brazier, Julian
Breed, Colin
Brennan, Kevin
Burgon, Colin
Burnett, John
Burnham, Andy
Burnside, David
Burt, Alistair
Butterfill, Sir John
Byrne, Liam *(B'ham Hodge H)*
Campbell, Gregory *(E Lond'y)*
Carmichael, Alistair
Cash, William
Chapman, Ben *(Wirral S)*
Chidgey, David
Chope, Christopher
Clark, Paul *(Gillingham)*
Clarke, rh Kenneth *(Rushcliffe)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clifton-Brown, Geoffrey
Coaker, Vernon
Cormack, Sir Patrick
Cotter, Brian
Crausby, David
Cryer, John *(Hornchurch)*
Cummings, John

Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davis, rh David *(Haltemprice & Howden)*
Dismore, Andrew
Djanogly, Jonathan
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M.
Donohoe, Brian H.
Dorrell, rh Stephen
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Fisher, Mark
Flight, Howard
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Galloway, George
Gapes, Mike *(Ilford S)*
Gardiner, Barry
Garnier, Edward
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Godsiff, Roger
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hamilton, David *(Midlothian)*
Hammond, Philip
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Hayes, John *(S Holland)*
Heald, Oliver
Healey, John
Heath, David
Heathcoat-Amory, rh David
Henderson, Ivan *(Harwich)*
Hendry, Charles
Hepburn, Stephen
Heppell, John
Hermon, Lady
Heyes, David
Hinchliffe, David
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Howarth, Gerald *(Aldershot)*
Hoyle, Lindsay
Hughes, Simon *(Southwark N)*
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Jenkin, Bernard
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Kaufman, rh Sir Gerald
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
Kilfoyle, Peter
Knight, rh Greg *(E Yorkshire)*
Kumar, Dr. Ashok
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lawrence, Mrs Jackie
Leslie, Christopher
Lewis, Ivan *(Bury S)*
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Lidington, David
Lilley, rh Peter
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Loughton, Tim
Love, Andrew
Lucas, Ian *(Wrexham)*
Luff, Peter *(M-Worcs)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
Mackinlay, Andrew
Maclean, rh David
McNulty, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mann, John *(Bassetlaw)*
Marshall-Andrews, Robert
Martlew, Eric
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Mitchell, Andrew *(Sutton Coldfield)*
Mitchell, Austin *(Gt Grimsby)*
Moonie, Dr. Lewis
Morley, Elliot
Moss, Malcolm
Mountford, Kali
Mudie, George
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Organ, Diana
Owen, Albert
Paterson, Owen
Pearson, Ian
Pickles, Eric
Pickthall, Colin
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Gordon *(Pendle)*
Prescott, rh John
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Quinn, Lawrie
Raynsford, rh Nick
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, John *(Glasgow Anniesland)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Rooney, Terry
Ruane, Chris
Russell, Bob *(Colchester)*
Sarwar, Mohammad
Sayeed, Jonathan
Sedgemore, Brian
Shephard, rh Mrs Gillian
Sheridan, Jim
Short, rh Clare
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spellar, rh John
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Straw, rh Jack
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Swayne, Desmond
Syms, Robert
Tami, Mark *(Alyn)*
Tapsell, Sir Peter
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Tipping, Paddy
Touhig, Don *(Islwyn)*
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Tyrie, Andrew
Vaz, Keith *(Leicester E)*
Viggers, Peter
Ward, Claire
Watkinson, Angela
Watson, Tom
Watts, David
Weir, Michael
White, Brian
Whittingdale, John
Widdecombe, rh Miss Ann
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wills, Michael
Wilshire, David
Wilson, rh Brian
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Wishart, Pete
Wright, David *(Telford)*
Younger-Ross, Richard

**Tellers for the Ayes:**
**Ms Bridget Prentice and Mr. Nick Ainger**

## NOES

Ainsworth, Peter *(E Surrey)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Arbuthnot, rh James
Atherton, Ms Candy
Atkins, Charlotte
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baird, Vera
Beard, Nigel
Begg, Miss Anne
Benn, rh Hilary
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blizzard, Bob
Blunkett, rh David
Blunt, Crispin
Boateng, rh Paul
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Brooke, Mrs Annette L.
Brown, rh Gordon *(Dunfermline E)*
Browning, Mrs Angela
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burns, Simon
Burstow, Paul
Byers, rh Stephen
Cable, Dr. Vincent
Cairns, David
Cameron, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin

Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Coffey, Ms Ann
Cohen, Harry
Connarty, Michael
Conway, Derek
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corston, rh Jean
Cousins, Jim
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cunningham, rh Dr. Jack *(Copeland)*
Curry, rh David
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Doran, Frank
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hague, rh William
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harvey, Nick
Hendrick, Mark
Hewitt, rh Ms Patricia
Hodge, rh Margaret
Holmes, Paul
Horam, John *(Orpington)*
Howarth, rh Alan *(Newport E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Iranca-Davies, Huw
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Kevan *(N Durham)*
Jones, Nigel *(Cheltenham)*
Jowell, rh Tessa
Keeble, Ms Sally
Keetch, Paul
Kelly, rh Ruth *(Bolton W)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kidney, David
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Kirkwood, Sir Archy
Ladyman, Dr. Stephen
Lansley, Andrew
Laws, David *(Yeovil)*
Lepper, David
Letwin, rh Oliver
Levitt, Tom *(High Peak)*
Liddell-Grainger, Ian
Linton, Martin
McCafferty, Chris
MacDonald, Calum
McIsaac, Shona
Mackay, rh Andrew
McKechin, Ann
McKenna, Rosemary
McLoughlin, Patrick
MacShane, Denis
Mactaggart, Fiona
Malins, Humfrey
Mallaber, Judy
Maples, John
Marsden, Gordon *(Blackpool S)*
May, rh Mrs Theresa
Meacher, rh Michael
Mercer, Patrick
Milburn, rh Alan
Miliband, David
Moffatt, Laura
Mole, Chris
Morgan, Julie
Morris, rh Estelle
Munn, Ms Meg
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Osborne, George *(Tatton)*
Osborne, Sandra *(Ayr)*
Ottaway, Richard
Perham, Linda
Pike, Peter *(Burnley)*
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Randall, John
Reed, Andy *(Loughborough)*
Robertson, Hugh *(Faversham & M-Kent)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Ruddock, Joan
Ruffley, David
Ryan, Joan *(Enfield N)*
Salter, Martin
Sanders, Adrian
Savidge, Malcolm
Sawford, Phil
Selous, Andrew
Sheerman, Barry
Shepherd, Richard
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Southworth, Helen
Spelman, Mrs Caroline
Spring, Richard
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Strang, rh Dr. Gavin
Stunell, Andrew
Swire, Hugo *(E Devon)*
Taylor, Dan *(Stockton S)*
Taylor, Matthew *(Truro)*
Teather, Sarah
Timms, Stephen
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Wareing, Robert N.
Whitehead, Dr. Alan
Wicks, Malcolm
Wiggin, Bill
Willetts, David
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Woodward, Shaun
Woolas, Phil
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Noes:**
**Margaret Moran and James Purnell**

*Question accordingly agreed to.*

*It being more than three hours after the commencement of proceedings,* MR. DEPUTY SPEAKER *proceeded to put forthwith the Questions necessary for the disposal of business to be concluded at that hour, pursuant to Order [24 January].*

*Consequential amendments made:* (b), in line 9, leave out 'Tuesday or'.

(c), in line 14, leave out

'at seven o'clock on Tuesdays and'

and insert—

'and Tuesdays, at seven o'clock on'.

(d), in line 17, leave out from 'after' to 'Wednesday' in line 20 and insert—

Tuesdays' insert 'between half-past nine o'clock and two o'clock;

(aa) on Wednesdays beginning at half-past nine o'clock, which shall be suspended from half-past eleven o'clock until half-past two o'clock and may then continue for up to a further two and a half hours; except that if the'.

(e), in line 39, leave out ', four o'clock on Tuesday or' and insert—

'or Tuesday, four o'clock on'.

(f), in line 45, leave out

', eight o'clock on Tuesday or'

and insert—

'or Tuesday, eight o'clock on'.

(g), in line 48, leave out

', half-past eight o'clock on Tuesday or'

and insert—

'or Tuesday, half past eight o'clock on'.

(h), in line 54, leave out

'four o'clock on any specified Tuesday or'

and insert—

'or Tuesday, four o'clock on any specified'.

(i), in line 59, leave out

'four o'clock if it is a Tuesday or'

and insert—

'or Tuesday, four o'clock if it is a'.

(j), in line 61, leave out

'half-past ten o'clock on a Tuesday or'

and insert—

'or Tuesday, half-past ten o'clock on a'

(k), in line 67, leave out

'four o'clock on Tuesday or'

and insert—

'or Tuesday, four o'clock on'.

(l), in line 77, leave out from 'insert' to 'Wednesdays' in line 80 and insert—

'or Tuesdays, between the hours of twenty-five minutes past eleven o'clock in the morning and half-past one o'clock in the afternoon on'.—*[Mr. Donohoe.]*

*Amendment proposed:* (m), in line 64, at end insert—

'Line 6, at beginning insert "Subject to paragraph (2A) below,".

Line 28, at end insert—

"(2A) Sub-paragraphs (a), (c), (d) and (e) of paragraph (2) above shall not apply to sittings of the House on Thursdays."'.—*[Mr. Donohoe.]*

*Question put,* That the amendment be made:—

*The House divided:* Ayes 80, Noes 388.

**Division No. 48]** **[4.55 pm**

**AYES**

Allen, Graham
Barron, rh Kevin
Begg, Miss Anne
Beith, rh A. J.
Berry, Roger
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Bradley, rh Keith *(Withington)*
Byers, rh Stephen
Cable, Dr. Vincent
Cairns, David
Campbell, Gregory *(E Lond'y)*
Carmichael, Alistair
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Connarty, Michael
Crausby, David
Cryer, Ann *(Keighley)*
Cunningham, Jim *(Coventry S)*
Davidson, Ian
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M.
Donohoe, Brian H.
Doughty, Sue
Drew, David *(Stroud)*
Drown, Ms Julia
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzsimons, Mrs Lorna
Foster, Michael Jabez *(Hastings & Rye)*
Griffiths, Jane *(Reading E)*
Hall, Mike *(Weaver Vale)*
Hamilton, David *(Midlothian)*
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Heyes, David
Hoyle, Lindsay
Humble, Mrs Joan
Iddon, Dr. Brian
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Lepper, David
Lilley, rh Peter
Llwyd, Elfyn
McFall, rh John
McKechin, Ann
McKenna, Rosemary
McWilliam, John
Mahon, Mrs Alice
Marsden, Gordon *(Blackpool S)*
Martlew, Eric
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
Ottaway, Richard
Price, Adam *(E Carmarthen & Dinefwr)*
Robertson, Angus *(Moray)*
Robinson, Peter *(Belfast E)*
Ruane, Chris
Sanders, Adrian
Sarwar, Mohammad
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Stewart, David *(Inverness E & Lochaber)*
Stringer, Graham
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Tipping, Paddy
Turner, Dr. Desmond *(Brighton Kemptown)*
Tynan, Bill *(Hamilton S)*
Wareing, Robert N.
Wishart, Pete

**Tellers for the Ayes: John Robertson and Sandra Osborne**

**NOES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Ainsworth, Peter *(E Surrey)*
Alexander, Douglas
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Barnes, Harry
Battle, rh John
Beard, Nigel
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Beresford, Sir Paul
Betts, Clive
Blackman, Liz
Blunt, Crispin
Boateng, rh Paul
Borrow, David
Boswell, Tim
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brennan, Kevin
Brooke, Mrs Annette L.
Brown, rh Gordon *(Dunfermline E)*
Browning, Mrs Angela
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnett, John
Burnham, Andy
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Byrne, Liam *(B'ham Hodge H)*
Cameron, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Cash, William
Caton, Martin
Chaytor, David
Chidgey, David
Chope, Christopher
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Kenneth *(Rushcliffe)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clifton-Brown, Geoffrey
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Conway, Derek
Cooper, Yvette
Cormack, Sir Patrick
Corston, rh Jean
Cotter, Brian
Cousins, Jim
Cruddas, Jon
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Tony *(Workington)*
Curry, rh David
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Davis, rh David *(Haltemprice & Howden)*
Dawson, Hilton
Dean, Mrs Janet
Dismore, Andrew
Djanogly, Jonathan
Dorrell, rh Stephen
Dowd, Jim *(Lewisham W)*
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Duniwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Fitzpatrick, Jim
Flight, Howard
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Francois, Mark
Gale, Roger *(N Thanet)*
Gapes, Mike *(Ilford S)*
Gardiner, Barry
Garnier, Edward
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra

Gill, Parmjit Singh
Gillan, Mrs Cheryl
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Grogan, John
Hague, rh William
Hain, rh Peter
Hall, Patrick *(Bedford)*
Hammond, Philip
Hanson, David
Harman, rh Ms Harriet
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Hayes, John *(S Holland)*
Heald, Oliver
Healey, John
Heath, David
Heathcoat-Amory, rh David
Hendrick, Mark
Hendry, Charles
Hepburn, Stephen
Heppell, John
Hermon, Lady
Hewitt, rh Ms Patricia
Hinchliffe, David
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hope, Phil *(Corby)*
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howarth, Gerald *(Aldershot)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Simon *(Southwark N)*
Hurst, Alan *(Braintree)*
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Jenkin, Bernard
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Keetch, Paul
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Ladyman, Dr Stephen
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Laws, David *(Yeovil)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell-Grainger, Ian
Lidington, David
Linton, Martin
Loughton, Tim
Love, Andrew
Lucas, Ian *(Wrexham)*
Luff, Peter *(M-Worcs)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonnell, John
MacDougall, John
McIsaac, Shona
Mackay, rh Andrew
Mackinlay, Andrew
Maclean, rh David
McLoughlin, Patrick
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
Mahmood, Khalid
Malins, Humfrey
Mallaber, Judy
Maples, John
Marshall-Andrews, Robert
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miller, Andrew
Mitchell, Andrew *(Sutton Coldfield)*
Moffatt, Laura
Mole, Chris
Moore, Michael
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Moss, Malcolm
Mountford, Kali
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Murrison, Dr. Andrew
Naysmith, Dr. Doug
Oaten, Mark *(Winchester)*
O'Brien, Mike *(N Warks)*
O'Brien, Stephen *(Eddisbury)*
Olner, Bill
O'Neill, Martin
Opik, Lembit
Organ, Diana
Osborne, George *(Tatton)*
Owen, Albert
Paterson, Owen
Pearson, Ian
Perham, Linda
Pickles, Eric
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Portillo, rh Michael
Pound, Stephen
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prisk, Mark *(Hertford)*
Prosser, Gwyn
Pugh, Dr. John
Purnell, James
Quinn, Lawrie
Randall, John
Raynsford, rh Nick
Redwood, rh John
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Ruddock, Joan
Russell, Bob *(Colchester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Shipley, Ms Debra
Simmonds, Mark
Simon, Siôn *(B'ham Erdington)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, rh Jacqui *(Redditch)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Stemberg, Gerry
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Stunell, Andrew
Sutcliffe, Gerry
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tami, Mark *(Alyn)*
Tapsell, Sir Peter
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Teather, Sarah
Thomas, Gareth *(Clwyd W)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Timms, Stephen
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Tredinnick, David
Trickett, Jon
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Turner, Dennis *(Wolverh'ton SE)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Vaz, Keith *(Leicester E)*
Viggers, Peter
Ward, Claire
Watkinson, Angela
Watson, Tom
Watts, David
Weir, Michael
Whitehead, Dr. Alan
Whittingdale, John
Wicks, Malcolm
Wiggin, Bill
Willetts, David
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wills, Michael
Wilshire, David
Wilson, rh Brian
Winnick, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Noes:**
**Mr. Nick Ainger and**
**Ms Bridget Prentice**

*Question accordingly negatived.*

*Main Question, as amended, put and agreed to.*

## CONNECTING PARLIAMENT WITH THE PUBLIC

*Motion made, and Question put forthwith, pursuant to Order [24 January].*

That this House notes with approval the First Report of the Select Committee on Modernisation of the House of Commons of Session 2003–04, on Connecting Parliament with the Public

(HC 368) and the First Special Report from the Committee containing the House of Commons Commission's response thereto (HC 69); agrees that the House should make itself more accessible, make it easier for people to understand the work of Parliament and do more to communicate its activity to the general public; welcomes the steps taken or planned as set out in the Commission's response, including those planned to bring about the radical upgrade of the website envisaged by the Modernisation Committee; endorses the Committee's conclusion that further consideration should be given to facilities such as a Parliamentary roadshow in the light of evaluation of other outreach initiatives; authorises the House of Commons Commission to fund the publication and distribution of a new voters' guide; and would welcome more proactive promotion to the media and the public of the House and its work.—*[Mr. Hain.]*

*The House divided:* Ayes 375, Noes 14.

**Division No. 49]** **[5.10 pm**

**AYES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Amess, David
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bacon, Richard
Baker, Norman
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Bosteng, rh Paul
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Breed, Colin
Brennan, Kevin
Brooke, Mrs Annette L.
Brown, rh Gordon *(Dunfermline E)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnett, John
Burnham, Andy
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Chidgey, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Cooker, Vernon
Coffey, Ms Ann
Cohen, Harry
Connarty, Michael
Conway, Derek
Cooper, Yvette
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Davis, rh David *(Haltemprice & Howden)*
Dean, Mrs Janet
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M.
Donohoe, Brian H.
Doran, Frank
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Evans, Nigel
Ewing, Annabelle
Farrelly, Paul
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Follett, Barbara
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Goodman, Paul
Greenway, John
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Heald, Oliver
Healey, John
Hendrick, Mark
Hendry, Charles
Hepburn, Stephen
Heppell, John
Hermon, Lady
Hewitt, rh Ms Patricia
Heyes, David
Hinchliffe, David
Hoban, Mark *(Fareham)*
Holmes, Paul
Hope, Phil *(Corby)*
Horam, John *(Orpington)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Jowell, rh Tessa
Keen, Ann *(Brentford)*
Keetch, Paul
Kelly, rh Ruth *(Bolton W)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Ladyman, Dr. Stephen
Laws, David *(Yeovil)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lidington, David
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lhwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
Luff, Peter *(M-Worcs)*
Lyons, John *(Strathkelvin)*
McCabe, Stephen
McCafferty, Chris
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
Mackay, rh Andrew
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Martlew, Eric
Mates, rh Michael
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Andrew *(Sutton Coldfield)*
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Moore, Michael
Moran, Margaret
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Murrison, Dr. Andrew

Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
Oaten, Mark *(Winchester)*
O'Brien, Mike *(N Warks)*
O'Brien, Stephen *(Eddisbury)*
Oliver, Bill
Opik, Lembit
Organ, Diana
Osborne, George *(Tatton)*
Osborne, Sandra *(Ayr)*
Owen, Albert
Pearson, Ian
Perham, Linda
Picking, Anne
Pickles, Eric
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Gordon *(Pendle)*
Prescott, rh John
Price, Adam *(E Carmarthen & Dinefwr)*
Primarolo, rh Dawn
Prosser, Gwyn
Pugh, Dr. John
Purchase, Ken
Purnell, James
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Peter *(Belfast E)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Selous, Andrew
Sheerman, Barry
Shephard, rh Mrs Gillian
Sheridan, Jim
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, rh Jacqui *(Redditch)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Spink, Bob *(Castle Point)*
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Stunell, Andrew
Swire, Hugo *(E Devon)*
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Thomas, Gareth *(Clwyd W)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Tredinnick, David
Trickett, Jon
Trimble, rh David
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Tyrie, Andrew
Vaz, Keith *(Leicester E)*
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Weir, Michael
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Wills, Phil
Wills, Michael
Winnick, David
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Wishart, Pete
Woodward, Shaun
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Nick Ainger and**
**Ms Bridget Prentice**

**NOES**

Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Fallon, Michael
Flight, Howard
Gale, Roger *(N Thanet)*
Garnier, Edward
Grayling, Chris
Heath, David
Hogg, rh Douglas
Lilley, rh Peter
Paterson, Owen
Steen, Anthony
Swayne, Desmond
Syms, Robert

**Tellers for the Noes:**
**Mr. Eric Forth and**
**Ann Winterton**

*Question accordingly agreed to.*

## CAR MILEAGE ALLOWANCE

*Motion made, and Question put forthwith, pursuant to Order [24 January].*

That, in the opinion of this House, the reduction in the rates at which the car mileage allowance is payable till they are the same as the car mileage rates approved by the Inland Revenue, which was agreed by the House on 3rd November 2004, should be phased in between 1st April 2005 and 1st April 2009, or the day after the general election after next, whichever is the later; and the rates to be in effect for each year should be determined by the Members Estimate Committee; and the higher rate of the allowance should continue to be payable up to a total of 20,000 miles and the lower rate thereafter.—*[Mr. Hain.]*

*The House divided:* Ayes 111, Noes 249.

**Division No. 50]** **[5.23 pm**

**AYES**

Adams, Irene *(Paisley N)*
Allen, Graham
Amess, David
Anderson, Janet *(Rossendale & Darwen)*
Atherton, Ms Candy
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Beggs, Roy *(E Antrim)*
Betts, Clive
Blackman, Liz
Burnside, David
Butterfill, Sir John
Cable, Dr. Vincent
Campbell, Gregory *(E Lond'y)*
Chapman, Ben *(Wirral S)*
Clarke, rh Kenneth *(Rushcliffe)*
Clelland, David
Cohen, Harry
Cormack, Sir Patrick
Crausby, David
Cummings, John
Curry, rh David
Davidson, Ian
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M
Donohoe, Brian H
Dowd, Jim *(Lewisham W)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Fitzsimons, Mrs Lorna
Foster, rh Derek
Gale, Roger *(N Thanet)*
Gapes, Mike *(Ilford S)*
Garnier, Edward
Godsiff, Roger
Greenway, John
Hain, rh Peter
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Heald, Oliver
Hendrick, Mark
Hermon, Lady
Hood, Jimmy *(Clydesdale)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Iddon, Dr. Brian
Illsley, Eric
Jack, rh Michael
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Keetch, Paul
Kidney, David
Kirkwood, Sir Archy
Laxton, Bob *(Derby N)*
Liddell-Grainger, Ian
Linton, Martin
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
McDonnell, John
MacDougall, John
McKechin, Ann
McKenna, Rosemary
McWilliam, John
Mahon, Mrs Alice
Mawhinney, rh Sir Brian
Mitchell, Austin *(Gt Grimsby)*
Mudie, George
Naysmith, Dr. Doug
Oaten, Mark *(Winchester)*
O'Neill, Martin
Opik, Lembit
Pickthall, Colin
Pike, Peter *(Burnley)*
Pound, Stephen
Prosser, Gwyn
Robertson, John *(Glasgow Anniesland)*
Robinson, Peter *(Belfast E)*
Ross, Ernie *(Dundee W)*
Sarwar, Mohammad
Sheerman, Barry
Singh, Marsha
Smyth, Rev. Martin *(Belfast S)*

Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Steinberg, Gerry
Tapsell, Sir Peter
Thurso, John
Tipping, Paddy
Tredinnick, David
Trimble, rh David
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Wareing, Robert N.
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Woodward, Shaun
Woolas, Phil
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Mike Hall and**
**Mr. Ken Purchase**

**NOES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Ainsworth, Peter *(E Surrey)*
Alexander, Douglas
Allan, Richard
Ancram, rh Michael
Arbuthnot, rh James
Armstrong, rh Ms Hilary
Atkins, Charlotte
Baker, Norman
Barker, Gregory
Barnes, Harry
Beith, rh A. J.
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Blears, Ms Hazel
Boateng, rh Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brennan, Kevin
Brooke, Mrs Annette L.
Brown, rh Gordon *(Dunfermline E)*
Browne, Desmond
Bryant, Chris
Burden, Richard
Burgon, Colin
Burnett, John
Burnham, Andy
Burstow, Paul
Burt, Alistair
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Casale, Roger
Cawsey, Ian *(Brigg)*
Challen, Colin
Chaytor, David
Chidgey, David
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Coaker, Vernon
Coffey, Ms Ann
Conway, Derek
Cooper, Yvette
Cotter, Brian
Cousins, Jim
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Edward *(Kingston)*
David, Wayne
Davis, rh David *(Haltemprice & Howden)*
Dismore, Andrew
Djanogly, Jonathan
Doughty, Sue
Drew, David *(Stroud)*
Drown, Ms Julia
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Efford, Clive
Ellman, Mrs Louise
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Farrelly, Paul
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Fitzpatrick, Jim
Follett, Barbara
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francois, Mark
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gilroy, Linda
Goggins, Paul
Goodman, Paul
Grieve, Dominic
Griffiths, Nigel *(Edinburgh S)*
Hague, rh William
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Healey, John
Heath, David
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hope, Phil *(Corby)*
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Hurst, Alan *(Braintree)*
Ingram, rh Adam
Jamieson, David
Jenkin, Bernard
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Jowell, rh Tessa
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Khabra, Piara S.
Ladyman, Dr. Stephen
Lansley, Andrew
Laws, David *(Yeovil)*
Leslie, Christopher
Letwin, rh Oliver
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Dr. Julian *(New Forest E)*
Liddell, rh Mrs Helen
Lilley, rh Peter
Lloyd, Tony *(Manchester C)*
McAvoy, rh Thomas
McCabe, Stephen
McDonnell, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
Mackinlay, Andrew
Maclean, rh David
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
Mahmood, Khalid
Mallaber, Judy
Martlew, Eric
Maude, rh Francis
May, rh Mrs Theresa
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miller, Andrew
Mitchell, Andrew *(Sutton Coldfield)*
Mole, Chris
Moran, Margaret
Morley, Elliot
Morris, rh Estelle
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Murrison, Dr. Andrew
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, George *(Tatton)*
Osborne, Sandra *(Ayr)*
Pearson, Ian
Pickles, Eric
Plaskitt, James
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Primarolo, rh Dawn
Purnell, James
Quinn, Lawrie
Raynsford, rh Nick
Redwood, rh John
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Roche, Mrs Barbara
Rooney, Terry
Ruane, Chris
Russell, Bob *(Colchester)*
Ryan, Joan *(Enfield N)*
Sanders, Adrian
Savidge, Malcolm
Sawford, Phil
Selous, Andrew
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Spicer, Sir Michael
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stunell, Andrew
Sutcliffe, Gerry
Swayne, Desmond
Syms, Robert
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Simon *(Ceredigion)*
Timms, Stephen
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Andrew *(Isle of Wight)*
Turner, Dennis *(Wolverh'ton SE)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyrie, Andrew
Viggers, Peter
Ward, Claire
Watson, Tom
Watts, David
Weir, Michael
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Winterton, Ms Rosie *(Doncaster C)*
Wishart, Pete
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Young, rh Sir George

**Tellers for the Noes:**
**Mr. Nick Ainger and**
**Ms Bridget Prentice**

*Question accordingly negatived.*

## COMMISSIONERS FOR REVENUE AND CUSTOMS BILL (PROGRAMME) (NO. 3)

*Motion made, and Question put forthwith, pursuant to Standing Order No. 83A(9) (Programming of Bills),*

That the Order of 8th December 2004, as varied on 10th January 2005, in relation to the Commissioners for Revenue and Customs Bill be further varied by the substitution for paragraphs 4 and 5 of the following:

1. Proceedings on consideration shall (so far as not previously concluded) be brought to a conclusion two hours after the commencement of proceedings on the Motion for this Order at this day's sitting.

2. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion three hours after the commencement of proceedings on the Motion for this Order at this day's sitting.—*[Dawn Primarolo.]*

*Question agreed to.*

# Orders of the Day

## Commissioners for Revenue and Customs Bill

*As amended in the Committee, considered.*

### New Clause 3

DECLARATION OF CONFIDENTIALITY

'(1) Each person who is appointed under this Act as a Commissioner or officer of Revenue and Customs shall make a declaration acknowledging his obligation of confidentiality under section 17.

(2) A declaration under subsection (1) shall be made —

(a) as soon as is reasonably practicable following the person's appointment, and

(b) in such form, and before such a person, as the Commissioners may direct.

(3) For the purposes of this section, the renewal of a fixed term appointment shall not be treated as an appointment.'. *[Dawn Primarolo.]*

*Brought up, and read the First time.*

5.35 pm

**Dawn Primarolo:** I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker (Sir Alan Haselhurst):** With this it will be convenient to consider new clause 4.—*FREEDOM OF INFORMATION.*

**Dawn Primarolo:** On Second Reading and in Committee, I made it clear that the new department, Her Majesty's Revenue and Customs, would take taxpayer confidentiality every bit as seriously as its predecessors. The new clauses underline our commitment to taxpayer confidentiality, and I hope that as such they will be uncontroversial.

Let me remind Members briefly of our high standards of confidentiality. The issue is taken seriously by everyone: staff, Members in all parts of the House and, indeed, taxpayers. The Bill contains provisions for safeguarding taxpayer confidentiality that strengthen those previously available. That includes, in clause 17, a civil sanction for unauthorised disclosure of any information held by Her Majesty's Revenue and Customs which is binding on appointment, and in clause 18, in relation to customer confidential information, the additional safeguard of a criminal sanction. That too applies to all functions of Her Majesty's Revenue and Customs.

Let me deal first with new clause 3. On Second Reading and in particular in Committee, Members—particularly the hon. Members for Chichester (Mr. Tyrie) and for Sevenoaks (Mr. Fallon)—expressed concern that the Inland Revenue oath was being superseded. They said they accepted that the Bill provided for enhanced enforcement of taxpayer confidentiality, but considered the oath not only symbolic but important to remind members of the new department of their obligations.

Both my hon. Friend the Economic Secretary and I consider it a great honour to be Ministers in charge of both the current department and the new one. We know that the staff, operating to the very highest standards,

*[Dawn Primarolo]*

accept the concerns as well, and we have every confidence in them; but, having considered carefully, my hon. Friend and I still believe that the statutory duty in the Bill as it stands strengthens the provisions safeguarding taxpayer confidentiality. The duty included in the Bill is immediately binding on staff on appointment and covers all functions of the department. All members of staff currently employed in the department adhere to that, and understand their obligations.

My hon. Friend the Economic Secretary and I felt that the House should have an opportunity to convey a united view, from all parties, of the great importance that we attach to taxpayer confidentiality.

Therefore, while appreciating that the staff already employed by the departments understand that, the new clause requires new staff joining the department once the Bill has received Royal Assent to sign a declaration. That is recognised as bringing a ceremonial quality to the equivalent of the oath. We would not want to give the appearance of diminishing the high and excellent standards that those fine departments have adhered to for taxpayers' confidentiality. I hope that the House will take the view from all the parties represented here that we are sending a clear message. Although I am satisfied with the safeguards on taxpayer confidentiality, the new clause will require new staff to acknowledge the duty of confidentiality under the Act, before a witness.

New clause 4 similarly deals with taxpayer confidentiality and how the Bill relates to the Freedom of Information Act 2000. It is a technical clarification that aims to make it clear how the Bill will interact with that Act. Compliance with the Act is, of course, Government policy.

Taxpayer confidentiality remains of paramount importance in the new department. As I have said, for that reason, the Bill ensures that information connected with a taxpayer is not discloseable under the Freedom of Information Act. That was always the intention, but the new clause puts that beyond doubt—that information will not be discloseable under that Act. However, much of the information that Her Majesty's Revenue and Customs will hold is not taxpayer confidential—for example, information about the department's internal processes. The new clause clarifies that such information will be subject to the Freedom of Information Act. Therefore, if a person requests information that is not taxpayer confidential, that request will be considered under the Act.

I hope that the House will feel confident in these two new clauses and confident in the management and staff of the new department, who will be committed to the principles of taxpayer confidentiality. There will be no reduction in the exceptionally high standards that they have always followed. I hope that, in agreeing these new clauses, all hon. Members will not only acknowledge the professionalism and dedication of the staff, but agree that we have a role in supporting them in the discharge of the duty on taxpayers' confidentiality and that that is well served by the new clauses.

**Mr. Andrew Tyrie** (Chichester) (Con): It is nice to be able to come to the Dispatch Box and, for once, agree almost entirely with what a Minister has just said. I have had only a brief chance to examine new clause 4; I discussed it with a lawyer this morning. As far as I can tell, although I have not had much time to look at it, it does what the Paymaster General says it does and certainly what she has described as her intention. On that basis, we support it.

I am particularly pleased that the Government have had a change of heart over the retention of the oath—the declaration as it is more properly called. As the Paymaster General knows, we were concerned about that. We came to see her before Christmas, when she first raised it with us, although there were rumours some time before that there might be changes. I expressed much stronger concern at the Dispatch Box on Second Reading, and in Committee. I am pleased that she has listened carefully to the debate in Committee and come back to us with a new clause that I think does what we require. The Paymaster General is right to say that there should be all-party support for the retention of confidentiality. I back her in that, as it is at the heart of safeguarding the Revenue and crucial to safeguarding people's right to privacy and, therefore, to their trust in the Revenue service.

5.45 pm

I am particularly pleased that we were able to make progress on this in light of the support that I have had from a number of colleagues, particularly my hon. Friend the Member for Sevenoaks (Mr. Fallon) who spared me the trouble of tabling an amendment by tabling his own, which I felt able to support. He brings great expertise to the subject as deputy Chairman of the Treasury Committee. He has thought about the issue a great deal and the scrutiny of that Committee has been of use to us in the Standing Committee.

None the less, I have several questions for the Paymaster General. The new clause on the oath, as drafted, leaves some discretion to the commissioners to decide how exactly the oath will be performed. I shall not read the passage out, to save the House time, but will she confirm that that discretion will be exercised to ensure that the oath will be performed as it is now in the Inland Revenue? Will she make sure that before there is any change in the way it is done, she or her successor will be consulted? Will she commit the Government to come to the House with an oral statement if, subsequently, the commissioners decide to vary the way in which that duty of confidentiality is dealt with?

**Mr. John Burnett** (Torridge and West Devon) (LD): In Committee we had lengthy debates on this subject and the Paymaster General has honoured the commitments she gave us then. She couched her commitment with one or two safeguards, but we now have a provision that has met the expectations of Members on this side of the House.

I hope that the right hon. Lady will be able to give a further commitment today that all individuals with access to taxpayer-sensitive information as a result of this Bill or any other enactment will have to abide by the oath. I mean by that members of the Independent Police Complaints Commission, as well as anyone else.

That is important because the successful collection of tax depends on many factors, not least the perception of fairness and confidence by the public that their affairs

will be kept confidential. It is vital that taxpayers are assured of the Inland Revenue's ability to keep their affairs secret, which is the principal way in which the tax base is preserved.

Members on both sides believe that we have an Inland Revenue that compares favourably with any similar organisation anywhere else in the world. It has an excellent reputation. We all concede that Customs and Excise has more of a policing role. Nevertheless, we agree that we should not accept any dilution in the standards of the Inland Revenue and Customs in dealing with legitimate individual or corporate taxpayers' affairs. We welcome the new clause. We did so in Committee, where we also welcomed the Minister's commitment. I have discussed the matter with members of the Inland Revenue. They believe that the oath is of considerable significance to them. It is not in a clause in a 22-page employment document, but brings home forcefully to members of the Inland Revenue their particular duty of confidentiality.

We agree with the new clauses, but we would be grateful if the Paymaster General would confirm that everyone who will have access to sensitive and confidential taxpayer documents or files will be obliged to take the oath and will be bound by similar criminal and employment contract constraints to those that we discussed in Committee.

**Mr. Michael Fallon** (Sevenoaks) (Con): I join in the general welcome for the new clauses and we do not need to make a huge meal of them. It is refreshing to see an amendment tabled in Committee and then put in the Bill by the Minister only 10 days later. I congratulate her on that. She was right to strengthen the confidentiality provisions in the Bill, and clause 17 will be of enormous assistance. It was also right to go further than simply the standard employment contract.

I only wish that in introducing the new clause today, the Paymaster General had not used the word "ceremonial". An oath is not just ceremonial: it was the solemnity and seriousness of the oath that convinced members of the Select Committee that we should not modernise too far. I thank the Paymaster General for listening and for restoring the oath and I hope that we can now accept the new clause without much further ado.

**Dawn Primarolo:** I was asked two brief questions. The first was about the nature of the declaration or oath, and why the precise wording has been left to the commissioners. The declaration will be a formal acknowledgement, made in front of a witness, of the duty of confidentiality under the legislation. The details of the text are best left to be developed in conjunction with the contract of employment, so the wording does not need to be included in the Bill. It is a matter for the Department to decide the exact wording, but it must be in the form of a full acknowledgement of the confidentiality obligations. I see no reason why a copy of the wording should not be placed in the Library, so that Members can see how it reinforces the duty.

I take the point that the hon. Member for Sevenoaks (Mr. Fallon) made about the choice of wording. We are all seeking to ensure that new members of the Department—current members of the Inland Revenue have already taken the oath—should experience no diminution of its clear intent. I will make sure that that is the case and that, when completed, a copy is placed in the Library. I will also let hon. Members know that it has been placed there.

The hon. Member for Torridge and West Devon (Mr. Burnett) asked about the IPCC. The Bill provides safeguards to control the way in which the prosecutors and the scrutiny bodies throughout the UK can use and disclose information received from Her Majesty's Revenue and Customs. That includes the criminal sanction for unlawful disclosure. However, it would not be appropriate to ask staff to sign the oath for Her Majesty's Revenue and Customs. The new body's prosecution office and its equivalents in the devolved Administrations should be seen to be independent. The jurisdictions of the devolved Administrations go beyond the functions of Her Majesty's Revenue and Customs, and they have procedures for reinforcing staff understanding of the obligations in respect of confidentiality and the criminal sanctions for unlawful disclosures.

We have made the Administrations independent for very good reasons, and it would be inappropriate to ask their staff to sign up to an oath for her Majesty's Revenue and Customs. However, I assure the hon. Member for Torridge and West Devon that those organisations have their own procedures for ensuring that all staff understand their clear duty, and the criminal sanction for unlawful disclosure.

*Question put and agreed to.*

*Clause read a Second time, and added to the Bill.*

**New Clause 4**

FREEDOM OF INFORMATION

'(1) Revenue and customs information relating to a person, the disclosure of which is prohibited by section 17(1), is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (c. 36) (prohibitions on disclosure) if its disclosure—

(a) would specify the identity of the person to whom the information relates, or

(b) would enable the identity of such a person to be deduced.

(2) Except as specified in subsection (1), information the disclosure of which is prohibited by section 17(1) is not exempt information for the purposes of section 44(1)(a) of the Freedom of Information Act 2000.

(3) In subsection (1) "revenue and customs information relating to a person" has the same meaning as in section 18.'.—*[Dawn Primarolo.]*

*Brought up, read the First and Second time, and added to the Bill.*

**New Clause 1**

REPORT ON ESTABLISHMENT OF COMMISSIONERS

'(1) On the second anniversary of the coming into force of this Act in accordance with section 51(1) the Chancellor of the Exchequer shall establish a working group under an independent chairman which shall report on the operation of Her Majesty's Revenue and Customs.

(2) The Chairman of the working group established under subsection (1) shall not be a Commissioner for Her Majesty's Revenue and Customs or an officer of Revenue and Customs or of Her Majesty's Treasury.

(3) A report under subsection (1) shall include assessments of—

(a) the performance of Her Majesty's Revenue and Customs since its establishment,

(b) the direct costs of effecting the merger,

(c) the direct cost savings achieved by the merger,

(d) whether efficiency gains have been achieved as a result of the establishment of the single revenue authority including, but not restricted to, the effects of the merger on the tax yield,

(e) the overall compliance burden, including the impact on day-to-day customer service and the experience of taxpayers in dealing with the single revenue authority,

(f) the performance of Her Majesty's Revenue and Customs in the area of information technology and data systems,

(g) the working relationship between Her Majesty's Revenue and Customs and Her Majesty's Treasury including, but not restricted to, the adequacy of arrangements for accountability,

(h) the performance of the Revenue and Customs Prosecutions Office including, but not limited to, a cost-benefit analysis,

(i) the work undertaken preparatory to the merger, and

(j) any other area that the chairman of the working group deems appropriate.

(4) But a report under subsection (1) shall not be expected to include any assessment of—

(a) the annual performance of the Commissioners for Revenue and Customs in discharging their responsibilities as tax administrators and collectors, except in so far as these have been affected by the merger, or

(b) any matter (whether relating to value for money or otherwise) that would fall to be considered by the Comptroller and Auditor General in the course of annual audit.

(5) A report under subsection (1) shall be completed within twelve months and shall be laid before the House of Commons and published.

(6) In this section "the merger" means the merger between the Commissioners of Inland Revenue and the Commissioners of Customs and Excise.'.

*Brought up, and read the First time.*

**Mr. Tyrie:** I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker:** With this, it will be convenient to take the following: Amendment (a), in line 26, after 'merger,', insert—

'(ia) the effectiveness of the overall staffing levels in relation to the provision of service.'

Amendment (b), in line 26, at end insert—

'(ib) the extent to which improvements in customer service, quality and consistency have been made; the extent to which increased revenue from tax, customs duties and VAT income has been realised; and what measures have been taken to improve the deterrence and detection of crime arising from illegal imports and tax fraud.'.

New clause 2—*Transfer of property: management of assets*

"(1)The Treasury shall make a scheme identifying any rights and liabilities in property and information technology systems owned and operated by the old commissioners which shall by virtue of sections 46 and 47 rest in the new Commission.

(2) The scheme shall include provision that any such assets identified therein shall be managed in accordance with best value and in the interests of both the customers and the staff of Revenue and Customs.

(3) The scheme may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.'.

Amendment No. 4, in page 2, line 30 [Clause 4], leave out subsection (1).

Amendment No. 5, in page 2, line 40 [Clause 4], leave out

'also have all the other'

and insert 'have all the'.

**Mr. Tyrie:** I shall be as brief as possible. The new clause could allow us to have another canter around the territory that we covered in Committee, but I do not intend to do that today.

The new clause goes to the heart of the Bill. It ensures that after two years the Government would be required to undertake a comprehensive review of the merger. We need to know whether the department is working as it should, and whether the planning needed to make the merger a success was undertaken.

I said on Second Reading that we did not oppose the merger in principle. On the contrary—the Opposition believe that with careful management and planning it might be possible to secure some modest savings and extract more value for taxpayers' money. However, have the Government done what is needed to secure those savings? If not, we may discover that the merger was not worth the candle.

We are talking about the merger of two huge departments—two leviathans that have been around a long time. Their cultures differ markedly, they have been governed by different statutes and the revenues that they try to collect are very different. This is a big undertaking. There is a world of difference between trying to secure an up-to-date income tax return from a self-employed physiotherapist in Dulwich and trying to secure revenue on tobacco at the ports to try and stop smuggling, but we are trying to bring the two cultures together.

On Second Reading, I expressed regret at the poor quality of the regulatory impact assessment and the paucity of information about the savings that the merger would secure. To clarify the issue, I set out four criteria to judge the performance of the new Revenue department. First, would its creation increase the yield or, to put that another way, would it reduce the tax gap? Secondly, what will happen to the compliance burden—that is, the hassle that millions of people could face if the merger goes wrong? Thirdly, how big are the transitional costs of the merger? Fourthly, what will happen to the quality of the department in the long run—to its morale and the standards that it sets itself?

6 pm

We pressed those points in different ways not only on Second Reading but throughout our deliberations in Committee, and to be frank, we have had very little but general assurances from the Government on any of them. That will not do, and we need to be clear what is at stake.

The worst-case scenario is very bad. If the Government have not done enough of the necessary preparatory work, the merger could be a disaster—for the Exchequer and the taxpayer. Even if there is an adverse effect on the tax yield of, for example, only 0.1 per cent.—the hon. Member for Yeovil (Mr. Laws) made this point on Second Reading—hundreds of millions of pounds would be at risk, thereby adding to the black hole in the Chancellor's accounts. And even if the compliance burden increases by only a tiny amount, billions of pounds in extra costs could be imposed on businesses and the self-employed.

I should point out in passing that I think that I can support the amendments to my new clause standing in the name of the hon. Member for Hayes and Harlington (John McDonnell), who draws particular attention to the likely effect on the yield of changes in staffing levels. As I have said, with careful planning it should be possible to find substantial staff savings. To put it another way, as a result of the merger it should be possible to increase the productivity of both Revenue officers and customs officers. We succeeded in increasing productivity in the 1980s, but it was not an easy job, and it required a lot of care and thought; what worries me is that there is little evidence of that from the Government.

A lot is being spent on new IT systems, but I am afraid that that does not inspire me with much confidence. I shall not go through, as I did on Second Reading, the Government's sorry track record in that regard, but it is not a happy story. Nor does the Government's confusion on Second Reading as to the savings that they hope to make from, and the costs associated with, the merger fill me with confidence. At the beginning of that debate, the Paymaster General said that the merger would result in efficiency savings of £500 million, but in his winding-up speech, the Economic Secretary said that such savings would amount to only £100 million. I would have expected the Government to have a clearer view of the merger's costs and benefits, and this is why the Bill should contain a commitment to a review. We need to ensure that we have got this process right. We need the pressure of an impending review to bear down on those implementing these changes, to ensure that they do their utmost to deliver what we need.

**Mr. Kelvin Hopkins** (Luton, North) (Lab): The hon. Gentleman is making an interesting speech and I, too, am among those who have some doubts about the merger. Is he suggesting that if the review concludes that the merger has proved very bad, a de-merger should take place, or is he merely arguing for an ongoing inspection of the new service?

**Mr. Tyrie:** By the time, after two years, that we have been through the merger and the review, we will need a de-merger like a hole in the head—but I note what the hon. Gentleman says. We will need to ensure that this thing works, and I would not be surprised to find that, despite the opinion polls, it is we Conservatives who will have to do so. We will try to find a way to ensure that the tax yield is not being imperilled and that the compliance burden is not rising inexorably as a consequence. But it is not an easy job.

The Government have had years in which to plan for this merger. We must bear it in mind that not long ago, the Paymaster General was saying that a merger was not worth the candle. She told the House in 2000 that the Government had looked carefully at and thought about a merger, but had decided that they could get all the benefits of the synergy of the two departments without a full merger. Now, we are told that those benefits can be achieved only through such a merger. That does not fill me with confidence, either—but I am repeating a point that I made on Second Reading, which I do not want to do this evening.

If the Government have done the careful planning about which I have been talking, I do not understand how a review such as that proposed in new clause 1 could worry them. On the contrary, it could provide a written testimonial to justify an award to the Paymaster General for getting things right. However, if she does not agree to new clause 1, thousands of professionals who deal daily with the Revenue and Customs and millions of taxpayers will have the right to ask why she will not permit a review of her own handiwork. If the Government do not like new clause 1, what are they afraid of? The measure is central to finding out whether the merger works. If the Government's response does not show that they will be flexible, we shall press the new clause to a Division.

**John McDonnell** (Hayes and Harlington) (Lab): I speak as the chair of the Public and Commercial Services Union parliamentary group, which has members from both sides of the House. We meet representatives of the PCS regularly, which enables us to draw on the experiences of staff who operate such services. It has been invaluable and enlightening for us to draw on that depth of professionalism. I associate myself with the Paymaster General's comments about the excellence of the service and the professional commitment of the staff.

The running theme of new clause 1, amendments (a) and (b) to it, which I tabled, and new clauses 2, 4 and 5 is an attempt to ensure that there is openness and transparency in the process and that there is adequate scrutiny and accountability, especially to the House. Let me be clear. The PCS and a large majority of hon. Members from all parties now support the merger of the departments and want it to work effectively. We take our lead from the Treasury Committee report that was published in 2000, and many of us are pleased that the Government took that on board, were flexible and returned with a commitment that the merger would go ahead. That demonstrates that the Government were listening to Parliament on that occasion and subsequently, as a result of various reviews.

We would all welcome assurances from the Minister that the process of the merger will be subject to close monitoring and that regular reports will be made to Parliament to identify, using clear criteria, whether the merger is proceeding successfully. If there were problems, corrective action could thus be taken following the scrutiny of Parliament. Additionally, hon. Members could be engaged in discussions about not only how the performance should be monitored, but how solutions could be found and implemented.

New clause 1 is a straightforward measure that details the review process and the elements that we would like the Government to include in such a review. I am not fixated on a two-year period or a formal review, but

*[John McDonnell]*

I want assurances that the Government will look at the agenda, that the process will go forward and that there will be adequate reporting to Parliament.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): Does my hon. Friend agree that a key performance indicator of the newly merged department will be the extent to which it is able to bridge the tax gap, which is currently estimated to be about £30 billion a year? We should examine the shadow economy, law enforcement and the various forms of evasion that are too common in our economy at present.

**John McDonnell:** That is exactly one of the points that the amendments try to address. Amendment (b) sets explicitly and straightforwardly as part of the review process an examination of the extent to which customer service improves and the quality and consistency of practices. It also provides that it should be determined whether targets for increased revenue are being met so that we can tackle that tax gap.

**Mr. Hopkins:** On Second Reading, mention was made of the possibility of exposing the tax gap by increasing the number of VAT inspectors and Inland Revenue inspectors because they can generate many times their own salary. This would be beneficial. Is my hon. Friend implying that that will be taken into account?

**John McDonnell:** That links amendment (b) to amendment (a). In amendment (b), the purpose is to try to identify the specific targeted role that the merger can undertake in increasing revenue and tackling the tax gap. In addition to that, there are the issues of fraud detection and, as a result of that, deterrence. That can be achieved only if there is adequate staffing. That is why I tabled amendment (a). We need to have a continuous review of overall staffing levels in relation to the level of service that we are demanding from professional staff.

I reiterate my continuing anxiety, which I expressed on Second Reading, as did other Members on both sides of the House, that in the midst of the Gershon review proposals, which will hit the Department with a reduction of posts that has increased to 16,500, specific to the merger will be the reduction of 3,200 posts. We now have clarity about savings. Overall savings on staffing will be £500 million and the rationalisation process will result in savings of £100 million. My anxiety is that for a saving of £100 million we may be losing the professional staff that are required to recoup so much more tax, to detect crime and to deter tax avoidance. That loss of staff could undermine the savings figures.

We need to ensure that my right hon. Friend the Minister has a process that will enable staffing levels to be reviewed from the very start of the merger programme and throughout the settling down of the new department. There are real anxieties among the professionals on the front line. They fear that going for such a level of staff cuts will have a dire impact on service delivery. In that event, not only will customers complain but the Treasury will miss out on tackling the budget gap, which in past debates we have identified as between £30 million and £40 million.

The second element of my amendments goes to the discussion that took place in Committee about the transfer of rights and liabilities. There was an extensive debate and I do not wish again to go through the history of the Mapeley STEPS contract. That matter was adequately exhibited in Committee. However, there is still a lack of confidence in the ability to ensure the proper management of these schemes and contracts, both in terms of property and of new technology. That is why there is an explicit reference in new clause 2, which was similarly debated in Committee, to best value.

The debate is taking place on a day when yet again we have had another report on the failure of a computer contract in government. The Child Support Agency report is a dire warning, again, of what can go wrong in information technology contracts that are not properly specified and monitored, and are not produced in a way that allows for parliamentary scrutiny.

The reason for introducing new clause 2 is explicitly to say that we need a scheme that embodies best value in the transfer of rights and liabilities. In Committee, my right hon. Friend the Minister said that that is integral to the overall processes of Government, and I accept that. However, given the concerns that we have had as a result of the Mapeley STEPS arrangement, the EDS performance within the Department and the revelations today regarding the CSA contracts, I think that there is a need to restore confidence by having a specific statement about the importance of best value within the development of these transfers.

**Mr. Hopkins:** Does my hon. Friend recall a point that I made on Second Reading, when I suggested that more extensive in-house IT capacity could overcome some of the problems inherent in contracting out?

6.15 pm

**John McDonnell:** The new clause demonstrates that if we had a thorough commitment to best value we would enable in-house bids to be made, as is the case with best value in local government and other services. There would not be prejudice against the public sector, as has sometimes been the case in the past in the awarding of central Governments contracts. There is a need to reassure the general public and the House with an explicit statement in legislation that best value will apply to the merger of the departments, and that there will be adequate scrutiny of the best value scheme that is introduced. Only when the House is confident that there is thorough parliamentary scrutiny will we restore confidence in the ability of the new department and other Government Departments to manage their own affairs with regard to new technology and property schemes.

Amendments Nos. 4 and 5 deal with the process of parliamentary scrutiny. There was some debate in Committee about the definition of the commissioners' functions. To put it bluntly, the amendments would require them to retain existing functions. If new functions are transferred to them, or if there is a transfer of functions away from the department, there should be parliamentary scrutiny and an explicit parliamentary decision by the affirmative procedure, rather than by the negative procedure envisaged in the Bill. That would restore confidence in the process of the merger and the future operation of the new department.

In Committee, the Paymaster General said that the transfer of functions in the Bill would take place using the process that pertains to other Departments, and would be achieved either by Order in Council or negative resolution. That was a revelation to me, and I would prefer all transfers of departmental functions to be brought before the House so that it can make a decision using the affirmative procedure. That would facilitate proper scrutiny of such transfers and delegations of powers between departments. It is even more important, when establishing a new department, that we are clear about its functions, so the House should engage with the process of the construction, allocation and, at times, the transfer of those functions. We should participate in the bedding down of the new department and increase the confidence of the general public and the House in its operation.

I would welcome assurances from the Minister about the process of continuous monitoring. Will the agenda set out in new clause 1 and the amendments be followed in that process, and will there be adequate opportunities to report to the House? There should be opportunities for debate and participation by all hon. Members in the critical path taken by the merger, which we all support and believe is overdue.

**Mr. David Laws** (Yeovil) (LD): We, too, support new clause 1 and amendments (a) and (b), which go to the heart of what the Bill is designed to achieve. Like the hon. Member for Chichester (Mr. Tyrie), I do not wish to revisit all the discussions that took place on Second Reading on 8 December, but some of us were left with the feeling that there was a lack of ministerial clarity about the cost benefits of the merger and the wider objectives that it is designed to achieve. New clause 1 and the associated amendments focus on setting up a monitoring regime to demonstrate whether those objectives have been achieved, and also establish precisely what they are. To that extent, they are very helpful.

The context in which the Government initially announced the planned merger of Customs and Excise and the Inland Revenue was the political battle among all the main parties to demonstrate that they could achieve better value for money from existing public expenditure. It was in those terms that the Chancellor announced the merger in the 2004 Budget statement, when he said that it was designed to secure value for money. When the measure was announced in the Gracious Speech on 23 November last year, it was also put in the context of reducing bureaucracy and the costs to Government. There was nothing in either statement that implied that the major objective of the policy was to close the tax gap. There was nothing about the compliance burden on business or about improving customer service in the ways suggested in the amendments tabled by the hon. Member for Hayes and Harlington (John McDonnell), yet all those are important objectives in merging two such organisations.

As a member of the Treasury Committee, the hon. Member for Bexleyheath and Crayford (Mr. Beard), said on 8 December, that some of the individuals who were consulted after the O'Donnell report made it clear that the cost savings and benefits from the Bill may be quite small in the context of the other objectives, particularly that of reducing the tax gap, which Gus O'Donnell had estimated at £30 billion or £40 billion per year.

As the hon. Member for Chichester mentioned, new clause 1 deals with two big issues—first, the lack of clarity about the costs and benefits of the Bill in purely economic terms and how much it will save the Exchequer in the short term, and secondly, the Government's lack of clarity about whether there are bigger objectives for the merger of the two organisations.

The hon. Member for Chichester noted that when we debated the issue on 8 December there was some uncertainty on the Government Benches about how much the merger would save. It was initially suggested that savings would be £500 million per year. Later in the debate, it was made clear that that related to the total savings coming out of the Gershon review, of which the merger savings and staff reductions were just a small part—3,200 job reductions from the merger, set against about 16,000 job reductions gross from the entire process, including the Gershon review.

**David Taylor:** Does the hon. Gentleman accept that it is extraordinarily difficult to calculate savings in such a Department? If initiatives such as spend to save and spend to raise are put on hold, it is impossible to define the loss of revenue associated with ill-judged cuts or changes that are not justified. A calculation of savings is impossible to achieve, is it not?

**Mr. Laws:** The hon. Gentleman is right that taking into account factors such as the tax gap, it is particularly difficult to do a sensible cost-benefit analysis. However, the Government could make some reasonable assessment of the likely savings in terms of staff numbers or the additional costs in the short term arising from investment in capital equipment. That would provide at least a simplistic analysis of the costs and benefits over the short term, yet we are uncertain what that calculation is.

On Second Reading, we were unable to get the Paymaster General or the Economic Secretary to say whether there would be any net savings, however limited, in the first five years of the merger. The Conservative party and others are making claims about cutting waste and bureaucracy in Government. We can see in relation to the Bill how difficult it is in practice to turn grand aspirations to save money through reducing waste into specific figures. One potential achievement of new clause 1 is that it would allow us to see, even in the narrowest economic terms, whether there was any economic benefit from the merger.

Many of us doubted whether clear economic benefits would result and those doubts were reinforced by the statements of the Paymaster General and the Economic Secretary in the debate on 8 December on cost savings from reduced staffing. We assumed that the reduction of 3,200 staff consequent on the merger was the result of a rational calculation, but the Paymaster General stated that it was only a working assumption based on savings in other departments where similar major changes have occurred.

The Economic Secretary admitted that the reduction was not based on a rational calculation and that it is a target—he also said that it is a realistic target, but we

*[Mr. Laws]*

have only his word for that. One benefit of new clause 1 is that it would allow a much clearer assessment of the short-term benefits or costs of the merger, which is something that the Government have been unable to provide.

**Mr. Jim Cousins** (Newcastle upon Tyne, Central) (Lab): From his study of the possibilities offered by the merger, does the hon. Gentleman believe that the target could be greater than 3,200 net job losses?

**Mr. Laws:** It is impossible to say, because the Government have not given us any information about the assessment of 3,200 job cuts. The only conclusion that we can draw is that the figure was picked out of the air and based on the percentage reduction in jobs when other bodies have merged. It is impossible to tell whether the figure is too high or too low without knowing whether it is based on a serious assessment and I hope that the Paymaster General will clarify that matter when she responds on new clause 1.

New clause 1 and its associated amendments (a) and (b) would also deal with the point that the merger concerns not only the economic issue of saving on the costs of Government bureaucracy, but much bigger prizes, not least the closing of the tax gap, which the hon. Member for Hayes and Harlington has already mentioned. A year or so ago, Martin Taylor made this submission to Gus O'Donnell's report, saying:

"the reduction of the tax gap is far the bigger prize, and should be the priority rather than costs . . . this should be made clear to the new management, who should not be judged primarily on the attainment of secondary objectives."

David Varney also made that point in his contribution to the O'Donnell report. People outside the Treasury are clear that bigger prizes are at stake than the reduction of job numbers in the new merged department, but we have no way in which to assess what the Government hope to achieve on reducing the tax gap, which should be the priority.

Finally, no clear assessment has been made of the reduction in the compliance burden or, as the amendments tabled by the hon. Member for Hayes and Harlington indicate, what effect the merger will have on the service and performance that the merged department will provide for our many constituents who rely on those services. Earlier today, he referred to the problems in the Child Support Agency, which the media have discussed today. As he and many other Labour Members know, however, many hon. Members receive even more complaints about the operation of the tax credit system than the operation of the CSA.

**John McDonnell:** The hon. Gentleman knows that one of today's report's recommendations, which arose out of the monitoring process, urges the Government not to go ahead with staff cuts in the CSA until those matters are resolved.

**Mr. Laws:** The hon. Gentleman is right. Even the Government appear to acknowledge that, because of the customer service problems at the CSA—if I can put it like that—the planned staff cuts may have to be deferred to make sure that the service can be improved. One wonders whether the same is true of the tax credits department of the Inland Revenue, which is struggling to process tax credits and so causing a great deal of difficulty for many of our lowest-income constituents.

**Dawn Primarolo** *indicated dissent.*

**Mr. Laws:** The Paymaster General shakes her head, but I think that she is out of touch with what is going on throughout the country in relation to tax credits. As a constituency MP, I can tell her, as I have many times before, that I am inundated with constituents on very low incomes, who are exactly the people whom the Government set out to help by introducing tax credits, and whose income position is being even more disturbed by the way in which the tax credits system is operating.

6.30 pm

**Dawn Primarolo:** I want to put this on the record: thousands and thousands of families in the hon. Gentleman's constituency are benefiting from tax credits. I have repeatedly told him that I know that there are problems going back to the introduction of the system when the computer system did not work. If he sends me details of the cases, I will ensure that they are looked at, but I cannot believe that he has thousands and thousands of them.

**Mr. Laws:** The Paymaster General knows that I am taking this matter seriously because she has in her diary an appointment for me to come and discuss it, which I welcome. If the Treasury was being a little more open in the parliamentary answers that it is giving to hon. Members on both sides of the House, we would have a better understanding of the chaos in the tax credits department and the problems that that is causing to many constituents.

New clause 1 and the associated amendments would allow us to return to the merger in the future and consider it in terms not of the smaller issues that we have rightly debated over the past few weeks, but of the big picture of the problems that it is supposed to address. We would be able to establish the net situation in relation to costs and benefits, the effect on the tax gap and the effects on customer service standards and the compliance burden.

To echo the hon. Member for Chichester, I hope that the Paymaster General, who has already been generous in some of the amendments that she has accepted, will surprise us by indicating that she is willing to follow this route or some variant of it.

**Mr. John Gummer** (Suffolk, Coastal) (Con): First, I wonder whether any large company contemplating the amalgamation of two very large departments and making significant redundancies as a result would think it right to look back in two years' time to ensure that it had done it properly. If the Government decide not to do that, or something like it, I suspect that they will find themselves out of line with what any other large organisation would do.

Secondly, the Government have everything to gain by doing that because, although there are many examples of the hopeless introduction of new technology, the best successful examples come from the Inland Revenue.

Perhaps it would have been a good thing had there been such an arrangement after the introduction of the new technology for self-assessment, because had lessons been learned from that, the Government would perhaps find themselves with less egg on their face. It is important to do this because it may point not only to failures but to successes, and the Government are very much in need of administrative successes. Indeed, any Government who would inherit the effects of the new clause should think the same.

Thirdly, I want to echo a point that was made by the hon. Member for Hayes and Harlington (John McDonnell). There is a genuine feeling among those who work for Customs and Excise and for the Inland Revenue that there is some incomprehension in the Government about the way in which the system works, what will happen and whether there is an opportunity for the sort of cuts that have been recommended. On balance, I believe that there is probably much opportunity for saving. However, it is essential to maintain and improve the morale of those who work for us in those departments. It is necessary for them to believe that what happens now has been considered in detail.

I fear that I can guess what advice civil servants have given the Paymaster General. I am sure that they have advised her to express general agreement with the new clause, to give significant encouragement to people who want the investigation by saying that they will get what they want but not quite in the way that the new clause proposes and to suggest that there is no need for the detail of the new clause because the Government will ensure that, in principle and in general, its demands are fulfilled, but that they would prefer not to have the new clause.

I hope that the Paymaster General will have the courage of her convictions and refuse go along with what the civil servants suggest. Of course they do not want a detailed arrangement. Of course it is easier to have a general acceptance that we will reconsider the matter carefully in two years. They do not want to be asked to be precise about what has happened so that we can use the example for better governance in other spheres. I hope that she will accept the new clause in its entirety, perhaps with the amendments that the hon. Member for Hayes and Harlington tabled, so that we know now what will be done then, and so that it is done properly and not in a way that is convenient to cover up things that have gone wrong. That has happened not only under this Government but Governments for a long time.

**Mr. Michael Fallon** (Sevenoaks) (Con): Mr. Speaker's selection means that we have a wide range of amendments to consider and I want to speak briefly about only those to which I have put my name and those that I support.

Amendments Nos. 4 and 5, which the hon. Member for Hayes and Harlington (John McDonnell) tabled, are important. I fully understand that, as was explained in Committee, the power to transfer functions under the Ministers of the Crown Act 1964 has existed for a long time and been exercised. However, it is important to maximise parliamentary scrutiny, as he argues, over any transfer of functions in the instance that we are considering because the powers of the Revenue and of Customs and Excise, together with the prosecuting powers, are formidable. It is important that there should be maximum parliamentary scrutiny of any further change. I therefore support amendments Nos. 4 and 5.

I also support the hon. Gentleman on new clause 2. Indeed, I hope that he is encouraged by the fact that it has a great deal of all-party support. It is important that we include a specific duty on the commissioners to secure best value for property and IT systems. Pace the remarks of my right hon. Friend the Member for Suffolk, Coastal (Mr. Gummer), the record of the Revenue with IT is not wholly unblemished. There have been instances of technology being introduced too quickly or ministerial demands being made on it too late or revised too late in the day. Our constituents have consequently suffered.

Such criticism certainly applies to property. I do not want to rehearse the Mapeley STEPS—strategic transfer of the estate to the private sector—fiasco, when the Revenue's entire property estate was transferred overseas, apparently without any Minister knowing that that had occurred. We do not want to debate all that tonight but the new clause would at least secure a duty to seek best value. Before the Paymaster General rises to point out that the Mapeley contract still represents best value, it is important to remember that the property estates of the two combined departments is a formidable Government property estate. It constitutes hundreds of tax and customs offices throughout the country. It is therefore all the more important that the duty of best value is attached to the new commissioners who will run the combined department. After all, if the two departments are to be merged successfully, we would expect some rationalisation of the estate. However, we ought to consider the fact that, sadly, it is the experience of business that we never quite get the full savings that we envisaged when we planned these things on the back of the envelope in the first place. It is therefore all the more important, not only because of the Mapeley STEPS fiasco but because the estate will presumably be rationalised, that a specific duty to provide best value should be placed on the commissioners in respect of both property and information technology systems. New clause 2 would achieve that. It would also usefully bolt on a piece of additional parliamentary scrutiny.

It is all very well for the Public Accounts Committee or my own Treasury Sub-Committee to pick up these scandals and ask all the questions afterwards. How much better it would be if, when a major change such is this is proposed, it were subject to proper parliamentary scrutiny at the time, before it could go wrong. Had the Mapeley STEPS arrangement been put to the House, and had we been told—even Ministers do not appear to have been told—that all our tax offices were to be transferred overseas, which hardly encourages the rest of us to pay our taxes here, I am sure that the proposal would not have gained parliamentary approval, either on this side of the House or the other. New clause 2 is therefore to be commended.

Let me return to new clause 1, which was moved by my hon. Friend the Member for Chichester (Mr. Tyrie) and which I have also signed. It is an important and comprehensive new clause. When the Sub-Committee reported on the proposed merger, having studied the O'Donnell review and taken evidence on it—including evidence from the permanent secretary himself—the

*[Mr. Michael Fallon]*

biggest single risk that we identified in the process was that the collection of revenue might be put at risk by the disruption caused by the merger. We urged Ministers to focus on that and, to their credit, I think that they have recognised the danger.

This is a truism, but when mergers in business are contemplated and followed through, the management often end up being distracted from the core task of running the business by running around making sure that the merger is being carried through successfully. Mergers can distract senior management from the running of the business, and if such distraction were to put the collection of revenue at risk in this case, it would be very serious indeed.

The second argument for new clause 1 is that it asks for the review to include a proper cost-benefit analysis of the merger. I would prefer such an analysis to have been carried out right at the beginning. It is an extraordinary lacuna in the O'Donnell review that he was not able to say—and Ministers have not subsequently been able to confirm—exactly what the savings would be. No business would proceed on that basis. Business A would not merge with business B without being able to tell its board of directors exactly what the cost savings were likely to be. It might not achieve its target, but there would certainly be one. To merge these two very large organisations without even an idea of the likely cost savings, and without carrying out even the most perfunctory cost-benefit analysis, still strikes me as extraordinary.

I would have preferred such a review to take place before the merger proceeded. However, it is now going to proceed, so it is a good idea for us to be able to come back in two years' time to find out what the costs and benefits are. I certainly support new clause 1 and I think that my hon. Friend the Member for Chichester has attracted more and more support for it as the debate has unfolded. I hope that he will feel encouraged to push it even further.

**Mr. David Heathcoat-Amory** (Wells) (Con): This merger is fine in principle, and I support it. That is not enough, however. What concerns me is that we have to make a success of it in practice. I very much agree with the remarks made by my hon. Friend the Member for Sevenoaks (Mr. Fallon) on the lack of a detailed plan for, or even an assessment of, the savings envisaged. Hope is travelling faster than experience here. I have been involved in mergers in the private sector that have been uncomfortable experiences for staff and for customers. I hope that this will not be another.

6.45 pm

The problem of bringing these departments together is immense. They employ about 100,000 people between them and have different structures, assets, histories and traditions. I have detailed experience of only one of the existing Revenue departments, Customs and Excise. I have always been impressed by that department and the quality of the people whom it attracts. Indeed, it has a proud historical tradition in attracting able people.

It might be appropriate, on the day after Burns night, to recall that Robert Burns himself worked for the Excise. Some years ago, I visited a small museum at Greenock and saw opposite his name a copperplate entry, "The poet does well." That was an early staff assessment of one of its employees, who obviously managed to make a living as a poet as well as serving in the Excise.

I do not know what Burns would have made of the proposed merger. I hope he would have been enthusiastic, because in many ways he was a modernist. I certainly believe that a modern state needs a modern tax-gathering department and the overseas experience is that bringing such departments together in a single entity is probably wise.

However, government as an activity, as well as being the largest service industry in the world, is usually among the least efficient. Therefore, it is very important that Parliament lay down requirements and disciplines to make these things work. That is why I support new clause 1, which was moved by my hon. Friend the Member for Chichester (Mr. Tyrie), as a discipline on the Government to ensure that they turn the hope of greater efficiencies and well-being for staff employed into a practical reality.

I also want to comment on new clause 2, to which I have put my name, because there is, I am afraid, a poorer record in recent history in managing some existing assets of the two departments. My hon. Friend the Member for Sevenoaks mentioned the Mapeley STEPS contract, which is still relevant because it will run for some 20 years. It therefore straddles the transition between Inland Revenue and Customs and Excise and the new merged department.

We know now that that contract was something of a fiasco. It was signed without any clear understanding of what the deal entailed. It was undertaken partly for tax avoidance purposes, in contradiction of the Government's other expressed intentions. That is history, but because the contract is so long, it will affect the new department. Again, I therefore think it right that we should lay down a discipline on the Government in respect of reporting on these matters, drawing up a scheme for managing the property assets and achieving the best-value obligation, which is written into the new clause.

The new clause also covers IT systems. Here again, I have some quite severe misgivings. We know that there are more than 250 major IT systems in the two existing departments, together with two very large IT contracts that have been signed by each department. I am afraid that the chairman designate of the department, in evidence to the Treasury Committee, was not very clear about how they will be managed. So, we need a plan and a best-value obligation, which is provided for in the new clause.

Finally, I want to mention amendments Nos. 4 and 5, which are related to the functions of the new department. I agree with many of the remarks of the hon. Member for Hayes and Harlington (John McDonnell), who also spoke about that. It is not right that functions of such departments should be able to be transferred without primary legislation, unless the functions are wholly trivial. Such matters are very sensitive: taxation goes to the heart of what a Parliament is about, and we delegate the task of tax raising and enforcement to agencies and commissioners on our behalf. We need to be sure that those functions are not

then passed on or back to day-to-day politicians in charge of Government Departments. The whole point of having Revenue Commissioners is that it removes such tasks some way from day-to-day politics and from Secretaries of State. That structure has evolved over many years, and it goes to the heart of the relationship between such Revenue departments and the Treasury. That would be undermined if important tax-associated functions were to be transferred to Secretaries of State in Government Departments.

My alarm has been somewhat increased by the Treasury's provision, which is helpful, of the functions that could be transferred by secondary legislation. It is true that those are not mainstream, core tax-raising functions, but they are: the regulation of charities; child benefit; child trust funds; oil and gas royalties, in so far as they are still collected; the regulation of certain pension schemes; rating lists; valuation of property; and valuation lists in relation to council tax. Those are not trivial functions, and under this legislation, such matters could be transferred out of this Revenue department to other Departments. That undermines the certainty that we seek in primary legislation. It is also unfair on existing staff who are planning careers in those departments, and who hope to do so in the new department, because they will not have the certainty of knowing that their department will be administering such functions, at least for the foreseeable future.

I know that the Government have no present intention of transferring those matters, but they retain the ability to do so by secondary legislation, which we will have no opportunity to amend or perhaps even debate. For those reasons, I commend to the House this collection of amendments and new clauses.

**Dawn Primarolo:** Let me respond to this wide-ranging and important debate.

First, perhaps the right hon. Member for Wells (Mr. Heathcoat-Amory), who was rightly concerned about the security of staff and their future, should take a closer look at his party's proposal to cut 28,000 from the Revenue and Customs without any details on how to achieve it. He will understand if I put aside for now his conversion on that point.

I recognise, of course, that Members of the House are interested in the ongoing process and success of the integration of the two departments. That interest will be shared by not only Parliament but other groups, particularly taxpayers, claimants who deal with the Revenue and Customs, and the staff of both organisations. Such interest is right and proper, and I share many of the concerns about monitoring that Members have expressed, as do my right hon. Friend the Chancellor of the Exchequer and my hon. Friend the Economic Secretary. So do David Varney, chairman-designate of the new department, the senior management teams in the two departments, and the Treasury itself.

Members have observed that integrating two departments of this size—they represent a fifth of the civil service—is a massive undertaking. Such an undertaking requires careful planning, assessment of risk, internal monitoring and the appropriate level of external assurance. For example, all major IT and data system programmes undertaken by Her Majesty's Revenue and Customs will be subjected to a formal assurance process by the Office of Government Commerce. It is right that, at key stages, we should assess progress and take any necessary steps to stay on track. We should also realise as many of the potential benefits as possible.

Let us be clear about the case for a merger. The O'Donnell review outlined the kind of benefits that could be expected. It spoke of the potential involved in closer working, the additional moneys that could be expected in the first two years of the large business joint team trials, and potential benefits that are clear from international examples of increased yield from compliance work. It cited the Australian example. It discussed the adoption of merged compliance strategies for small businesses, the administration costs of integration and the savings in the Canadian revenue agencies. All that was in the O'Donnell review, and subsequently in the regulatory impact assessment.

The process of regular and continuing assessment is built into planning for what is a significant programme of change. As the right hon. Member for Suffolk, Coastal (Mr. Gummer) pointed out, that has to be expected. Project plans are in place. The costs of integration will be monitored, and the arrangements will reassure us that the programme is on track to deliver the anticipated benefits. The new clause, however, attempts to draw a distinction that does not exist between the activity and results of integration and the activity and results of the new Revenue and Customs department.

It is no coincidence that the key areas from which we have said we expect benefits following integration are compliance, service to the taxpayer and efficiency. Those are precisely the areas targeted in the public service agreements that will apply to the new department. They will be monitored and subject to parliamentary scrutiny, according to the usual rigorous process. To measure progress against all those targets is to measure the success of the new department and hence the integration.

Many of the benefits will accrue over time, and stem directly from decisions that will need to be made over the next few years. For example, some changes may be piloted in the first instance, and the pilots will be evaluated before a decision is made on any wider roll-out across the United Kingdom. Of necessity, key pieces of evaluation lie ahead of us. As we make progress, the integration of the two departments will be a gradual and continuing process, and will become increasingly indivisible from the ongoing planning and running of the business of Her Majesty's Revenue and Customs.

However, as I said in earlier debates and as the O'Donnell report makes clear, there is a compelling case for integration now. The report also set out at some length the evidence that had been considered and analysed. There was recognition of the difficulties faced, both in the UK and in other countries that had undertaken such exercises. The likely costs and benefits were also quantified at the outset. That was made clear in that report.

Reporting to Parliament is key, and it is right and proper. As well as Parliament, others will be kept fully informed of the progress that the department is making, of any significant changes or initiatives that are

*[Dawn Primarolo]*

planned and of the results of such changes. Therefore, I anticipate a full programme of reporting to Parliament and the wider public over the next few years and beyond.

Let us look at the mechanisms. The annual reports and accounts, submitted by Her Majesty's Revenue and Customs to Parliament and published, will provide extensive information on the costs that it has incurred and other financial aspects of both the integration and the department's day-to-day business, including, as I have said, progress against the department's public service agreements and efficiency targets.

7 pm

Under corporate governance arrangements, the commissioners audit committee, chaired by a non-executive, will scrutinise the new department's risk management arrangements, and managing the intégration will be a prominent element of that. The department's work and that of others will be reported in the annual accounts in the statement of internal control chapter. Those accounts will be subject to scrutiny in the usual way by both the National Audit Office and the Public Accounts Committee, both in general and in the statement of internal control in particular.

Moreover, the PAC can request the Comptroller and Auditor General to examine and report on progress and on the benefits of delivering an integrated department. It can also call commissioners before it to account for matters reported to it by the NAO. The NAO and the OGC are working with the department to provide external assurance of the arrangements for monitoring costs and for securing improvements from the merger.

The Treasury Committee has already indicated that it will take a keen interest in events. I fully expect that it will question my right hon. Friend the Chancellor, me, should I be the relevant Minister, the Economic Secretary and senior officials regularly over the next few years. Finally, Members of Parliament themselves can seek further information. That is a scrutiny process.

Taken together, all that represents an extensive and thorough programme of reporting to Parliament, including the assessments of independent parties, and provides more than adequate opportunity for hon. Members and the wider public to monitor and scrutinise the process and progress of integration. Therefore, the proposal in the new clause for an additional and parallel system of reporting simply duplicates what is in place and planned, and I do not think that the proposals would add anything. I shall ask my hon. Friends to oppose the new clause.

I turn to the amendments tabled by my hon. Friend the Member for Hayes and Harlington (John McDonnell). I recognise the specific issues that he has raised. They are issues of genuine concern among Inland Revenue and Customs staff generally, and among the Public and Commercial Services Union and other trade unions that represent many of the staff. Let me say straight away that, as I hope he knows, regular meetings are taking place with the trade unions about the creation of Her Majesty's Revenue and Customs in terms of both the overall picture and the individual changes to employment and human resources policies. That ongoing dialogue is an important part of planning for the integration of the two departments and delivering its benefits.

The amendments cover two areas: amendment (a) adds to the list of items to be reported the issue of staffing levels and the provision of service; and amendment (b) additionally covers a variety of compliance and tax yield issues. Both are concerned with the need to maintain and to improve the levels of service, as my hon. Friend said, and the tax yield, while delivering planned efficiencies.

On staffing levels and service provision, both Customs and the Revenue have been developing modernisation programmes that are already starting to have an impact on their business through increased e-filing. As these programmes and other major initiatives start to deliver a more streamlined service, they will allow scope for efficiencies in line with the announced plans, while maintaining and improving service. These plans include redeploying 3,500 staff into front-line areas of work, in support of compliance activity and services provided to taxpayers.

My hon. Friend the Member for Hayes and Harlington raised natural concerns about the security and location of the jobs of existing staff in the two departments. I want to be clear with my hon. Friend—he is keen to pursue his responsibilities in this House—and to convey to others outside the Government's intention. The greater part of the efficiencies will be achieved through natural wastage, but a number of actions are being taken to generate maximum flexibility, such as restricting the current recruitment of staff and managing vacancies across the two departments. We are also looking to offer redeployment with appropriate training where necessary. I am sure that all of us would want to see any form of compulsory redundancies avoided at all costs and considered only as a last resort. We have established a constructive relationship with the trade union side about the creation of the new department. Regular meetings are being held and arrangements have been agreed for discussing the new work force plans, including any reductions and skilling requirements. Talks on the detailed plans themselves are not yet under way because detailed plans have not been prepared. But I can absolutely assure my hon. Friend that there will be full consultation on these plans when they are available and in the preparation process.

**Mr. Cousins:** I am following my right hon. Friend's remarks on the subject with interest. She has said that she regards all the matters covered by new clause 1 as proper matters for parliamentary and Select Committee scrutiny. Does her assurance on that point also cover the full extent of the issues referred to in amendments (a) and (b) and new clause 2? That would be helpful to the House.

**Dawn Primarolo:** I am sure that my hon. Friends will pursue all of those matters through the routes that I have indicated to the House. We are making information available in the discussions with the trade unions and the representatives of those who work in the department.

In terms of compliance activity and tax yields, we expect integration to help the department to reduce the tax gap by enabling it to develop a strategic approach

that will focus on the most serious threats across the whole department, which can be seen in the commitments that the department has already made with regard to reducing underpayment of direct tax and national insurance; reducing the scale of VAT losses; reducing the illicit market share for cigarettes and spirits; and holding the illicit market share of oils in England, Scotland and Wales at no more than 2 per cent. Those are all a matter of public record.

As with the items listed in new clause 1, the information covered in the proposed amendments is well catered for in the existing plans and reporting arrangements. I hope that reassures my hon. Friends.

New clause 2 goes over much of the ground that we fully discussed in Committee. The issue of property was examined at length by the Treasury Committee and the Public Accounts Committee. I can assure the House that both departments have always sought to obtain best value in their procurement exercises and in the use of their assets.

Much has been said today about information technology, and I recognise hon. Members' concern at the scale of the IT contracts and the importance of achieving best value. I assure the House that those concerns are recognised and shared, and are already reflected in the overarching contracts that both departments have with their external IT suppliers.

My hon. Friend the Member for Hayes and Harlington also raised concern on behalf of the PCS union that the assets should be managed in the interests of customers and staff, and he spoke more generally about staffing levels. We have discussed that point at length.

I turn to amendments Nos. 4 and 5. The Bill provides for the transfer of functions into and out of HMRC by an Order in Council under the Ministers of the Crown Act 1975. Under the Bill as drafted, there can be no transfer out or in of the commissioners' revenue and tax credit functions. I wish to make that point clear to the right hon. Member for Wells. However, clause 7 provides for the transfer in and out of other functions in the new department. Such transfer is not new. The Bill aligns the new department with all other departments: it does not and should not introduce entirely new procedures for transferring functions. The existing arrangements, as set out in the 1975 Act, are longstanding and have worked effectively. The arrangements for parliamentary scrutiny affect any future transfer of the non-Revenue functions and are exactly the same as those for all other departments. The Government have no current plans to transfer functions in or out of HMRC, but it is sensible to take this opportunity to legislate to provide the flexibility to transfer functions, should it be necessary in the future.

We have had a thorough and worthwhile debate, both today and in earlier sessions, about genuine concerns that hon. Members have raised about the integration of the two departments. I hope that I have reassured them that the detailed planning and other work is under way and that there will be plenty of opportunity for scrutiny of the progress we are making in delivering the benefits of integration in future years. I hope that I have reassured my hon. Friend the Member for Hayes and Harlington that the additional issues that he specifically raised are ones on which we shall keep a very close eye. We can expect detailed discussions between the department and the trade unions. For those reasons, I ask that the new clauses and amendments be withdrawn. If they are not, I recommend to my hon. Friends that the House resist them.

**Mr. Tyrie:** What we have heard is a speech that was clearly written by officials and read out by the Paymaster General, with the traditional list of methods of parliamentary scrutiny, the shortcomings of which she knows well. No arguments were advanced against new clause 1 or the amendments tabled by the hon. Member for Hayes and Harlington (John McDonnell). No explanation was given for the complete absence of a cost-benefit analysis before this measure was brought before the House. No apology was made for the very thin regulatory impact assessment, which has only 15 lines on the risks attached to the merger, when we know that huge risks are attached to it. The economic costs are scarcely analysed at all. They are confined to two paragraphs—12 lines—in the regulatory impact assessment.

We still have little evidence that Ministers have even asked the right questions of officials, still less that they have obtained the right answers. The Paymaster General is not able to tell us by how much she thinks the tax gap might be closed. She is not able to tell us by how much the compliance burden might be reduced. We need new clause 1. It is essential, not only for us, but for millions of taxpayers who could find themselves on the wrong end of this measure. For that reason, I wish to press the new clause to a Division.

*Question put*, That the clause be read a Second time:—

*The House divided:* Ayes 128, Noes 246.

**Division No. 51]** **[7.14 pm**

**AYES**

Allan, Richard
Amess, David
Baker, Norman
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brazier, Julian
Brooke, Mrs Annette L.
Browning, Mrs Angela
Burnett, John
Burnside, David
Burstow, Paul
Burt, Alistair
Cable, Dr. Vincent
Carmichael, Alistair
Cash, William
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Curry, rh David
Davey, Edward *(Kingston)*
Davies, rh Denzil *(Llanelli)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fallon, Michael
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Grieve, Dominic
Gummer, rh John
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Nigel *(Cheltenham)*
Kirkwood, Sir Archy

Laing, Mrs Eleanor
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Letwin, rh Oliver
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Luff, Peter *(M-Worcs)*
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maude, rh Francis
Mawhinney, rh Sir Brian
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Price, Adam *(E Carmarthen & Dinefwr)*
Pugh, Dr. John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Russell, Bob *(Colchester)*
Sanders, Adrian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Trimble, rh David
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Whittingdale, John
Wiggin, Bill
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Mark Prisk and**
**Mr. Peter Atkinson**

**NOES**

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Boateng, rh Paul
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Browne, Desmond
Bryant, Chris
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caton, Martin
Challen, Colin
Chaytor, David
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Cohen, Harry
Colman, Tony
Connarty, Michael
Cooper, Yvette
Corston, rh Jean
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Dawson, Hilton
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Marsden, Gordon *(Blackpool S)*
Meacher, rh Michael
Michael, rh Alun
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard

Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Truswell, Paul
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vaz, Keith *(Leicester E)*
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Gillian Merron and**
**Mr. Tom Watson**

*Question accordingly negatived.*

## Clause 17

### CONFIDENTIALITY

**The Economic Secretary to the Treasury (John Healey):** I beg to move amendment No. 19, in page 8, line 19, leave out 'or the Scottish' and insert

', the Scottish inspectors or the Northern Ireland'.

**Mr. Deputy Speaker (Sir Michael Lord):** With this it will be convenient to discuss Government amendments Nos. 20 to 27, 33, 28, 34, 29 to 32, 12 and 13.

**John Healey:** I hope that I can reassure the House that the amendments are just what they seem. They cover matters that were debated and scrutinised fully in principle during earlier stages of the Bill's passage, or represent only minor technical changes.

Amendments Nos. 19 to 32 relate to clauses 17, 25 and 27. The clauses provide for how Her Majesty's inspectors of constabulary for England and Wales will scrutinise how Her Majesty's Revenue and Customs complies with the laws, rules and procedures of the criminal justice system. Amendments that were made in Committee allowed the remit of HMIC to be extended to cover HMRC activity in Scotland and to allow joint inspections between HMIC for England and Wales and HMIC for Scotland. Amendments Nos. 19 to 32 will allow the remit of HMIC to be extended to cover HMRC activity in Northern Ireland. In other words, the arrangements are identical to those that we debated in Committee for England and Wales.

**Mr. Tyrie:** In giving way, the Minister will spare me having to make a more substantive reply. Will he explain why it is that these clauses were not ready earlier? Why is it that Northern Ireland has been left until last and we have been dumped with a dozen or so amendments on Northern Ireland without an opportunity to scrutinise them properly?

7.30 pm

**John Healey:** The current arrangements in Northern Ireland for external scrutiny of police functions are more complex than in Scotland or in England and Wales. We therefore wanted time to get things right. The greater complexity in Northern Ireland, which I am sure that the hon. Gentleman will appreciate, meant that it was important that we had fully discussed the proposals with those bodies in Northern Ireland before we framed the regulation. I do not accept that in tabling these amendments the House has not been allowed properly to scrutinise the arrangements, having previously had a substantial debate on the arrangements in principle.

Amendments Nos. 33 and 34 will allow the Independent Police Complaints Commission and the Parliamentary Commissioner for Administration to co-operate effectively in carrying out investigations into complaints about HMRC. I hope that they clarify aspects of the arrangements that the hon. Member for Torridge and West Devon (Mr. Burnett) raised in Committee. Amendments Nos. 12 and 13 are technical amendments to clause 31. They combine the different subsections dealing with police powers of arrest in Scotland and Northern Ireland. There is no impact on the powers conferred by the clause upon the police either in Scotland or in Northern Ireland.

**Mr. Burnett:** I shall make a few important points on this group of amendments that set out arrangements for inspection, complaints of misconduct and confidentiality. They also set out the duties, or embellish the duties, of HM Inspectorate of Constabulary and the Independent Police Complaints Commission.

Earlier this week the draft Revenue and Customs (Complaints and Misconduct) Regulations 2005 were published, setting out the powers to be given to the IPPC. The Inland Revenue's serious complaints against staff were handled by an organisation that I believe was known as the board's investigation office. The similar function at Customs and Excise was carried out by its internal investigation division. I understand that the two organisations will merge. I believe that the merged organisation will be called HM Revenue and Customs internal investigation division.

In Committee, I expressed my concerns about possible confusion and duplication, or even triplication, in the functions of the IPPC, the ombudsman and the Revenue adjudicator. Will the Economic Secretary explain the extent of the separate functions of the new internal investigation division and the IPPC? Will the new IID deal with just trivial misconduct, leaving all the more serious cases of misconduct to be dealt with by the IPCC?

It is important that we avoid confusion. There should be clear-cut rules that set out which organisation is to investigate what. I hope that the Minister will be able to spell out for the House the functions of each organisation. When he has explained those separate functions, will he set out the Inland Revenue and the Customs and Excise referral obligations? For example, who should refer if a junior member of HMRC notices corrupt behaviour by a fellow official or officials? Does that employee have a statutory duty and a means directly to refer the matter to the IPCC without breaching the terms of his or her contract of employment? What are the statutory obligations on members of the merged organisation and the internal investigation division to refer misconduct to the IPCC? Will voluntary referral and disclosure of non-specified offences be permitted, as happens in the arrangement between the police and the IPCC?

*It being two hours after the commencement of proceedings on the programme motion,* MADAM DEPUTY SPEAKER *proceeded to put forthwith the Question already proposed from the Chair pursuant to Order [this day].*

*Amendment agreed to.*

MADAM DEPUTY SPEAKER *then proceeded to put the Questions necessary for the disposal of business to be concluded at that hour.*

*Remaining Government amendments agreed to.*

*Order for Third Reading read.*

7.35 pm

**Dawn Primarolo:** I beg to move, That the Bill be now read the Third time.

This Bill is the start of a major change in the way that taxes and revenues are administered in this country. The O'Donnell review envisaged significant changes to the way in which the new department of Her Majesty's Revenue and Customs will conduct business, resulting from an ability to look across the affairs of all taxpayers. The integration of Inland Revenue and Customs and Excise is a huge job, and it will take time to complete. The Bill does not deliver a fully integrated department from day one, but it is a first, important step in the process of integration, as it enables new working practices from which integration can develop. Where that integration requires substantive policy or legislative change, it will be subject to consultation in the usual way.

Clear benefits will be realised from the merger. Her Majesty's Revenue and Customs will, over time, be able to provide a truly integrated service to taxpayers, which will result in a more consistent and coherent approach to their affairs. It will be able to improve the quality of taxpayer contact with the organisation by taking a look right across their tax affairs and tailoring its response accordingly. Such developments will also help to realise efficiency benefits by improving the effectiveness of revenue administration and helping to reduce the tax gap. The ability to look across a taxpayer's affairs will allow the department to target its resources more effectively on areas of risk.

The integration of two of the oldest departments in Whitehall is an historic occasion. The Inland Revenue can trace its history back more than 300 years, while a nationally organised customs system dates from the 13th century. The legislation will complete the process of amalgamating the major revenue-collecting arms of the state, which began as long ago as 1834 with the amalgamation of the Boards of Stamps and of Taxes. The staff in both Customs and Excise and the Inland Revenue have consistently delivered the highest level of service, and their professionalism is beyond question. The formation of Her Majesty's Revenue and Customs will build on the proven track record of staff in both departments to deliver a world-class organisation that is truly fit for the 21st century. My right hon. Friend the Chancellor, the Economic Secretary and I have the greatest confidence in the work of the Inland Revenue and Customs and Excise, and the Economic Secretary and I are proud to have served as departmental Ministers. We look forward to the creation of Her Majesty's Revenue and Customs, and I commend the Bill to the House.

7.39 pm

**Mr. Tyrie:** I agree with quite a bit of what the Paymaster General has said, but not all of it. When we first had a meeting about the Bill in December in the Treasury, she said that she intended to introduce a minimalist Bill and she saw it mainly as a consolidating measure. In the main, she has stuck to her promise to us that day. However, there have been 120 Government amendments and five new clauses. Even on Report, 29 amendments were tabled. Given that the measure has been thought about for so long, and considered over the past four years, first with a view to not having it and then with a view to having it, there seems to have been a lack of discipline on the drafting side.

None the less, we had a constructive debate on the Bill in Committee. I gave the Minister advance warning of every aspect I wanted to examine and told her which clauses I intended to consider, and she responded positively, on the whole by trying to answer the points that I made, rather than retreating to the kind of fob-offs that Ministers often give spokesmen in Committee. I thank her for that, and for the warm spirit with which she approached a number of the amendments that we tabled, particularly on the oath, which she has now broadly accepted.

The Economic Secretary also accepted an amendment that I tabled, or at least the spirit of it, on performance targets and statistics for the Revenue and Customs Prosecutions Office.The Paymaster General agreed in Committee to re-examine the powers of the new department and to look at the way in which the Keith committee went about its work as a possible template for the way in which that might be accomplished. That was widely welcomed outside and is a great step forward, so we have made significant progress. We have a better Bill now than at the start of the process, and one cannot always say that about legislation.

We did not get satisfactory answers on a number of points, but I will not go through them all. One of them has been mentioned by my right hon. Friend the Member for Wells (Mr. Heathcoat-Amory), who is not now in his place—limits on the powers to transfer functions to other Departments. It is a major concern and we have still not received satisfactory assurances. Neither have we received from the Government assurances on the removal of Treasury scrutiny of payments to informers under clause 22. Payments to informants by the Revenue and by Customs used to be subject to consultation with the Treasury, but that is no longer the case. It used to be written into legislation that that was required, but it is not there now. Again, that is a cause for some concern. There are a number of other loose ends, which those who follow these matters will have noted from the Committee stage.

We are left with one big issue, to which we alluded on new clause 1. I shall not rehearse the arguments. Anybody who has followed the debate and the course of the Bill through all its stages will be left with the nagging suspicion that the Government may not have thought the Bill through carefully enough. Nothing that has been published shows that the Government have thought it through. Even though we were not opposing her on it, the Minister never gave a satisfactory explanation for her complete U-turn from the position that she held in 2000, when she opposed a merger, on the grounds that the benefits could be obtained without

one. No explanation has been given for the wholly inadequate regulatory impact assessment or the perfunctory cost-benefit analysis presented to us.

I hope very much that the Bill turns into an Act that will work well for the Revenue and Customs. I share the thoughts with which the Paymaster General ended, about the dedication and loyalty of so many of the staff in those Departments. Indeed, that was the very first remark that I made in my Second Reading speech. I am, however, left with this lingering doubt: the Paymaster General has mentioned several times this evening that the merger will help to reduce the tax gap, but she has not indicated the extent to which she hopes it will be shrunk, nor even if an estimate has not been made, explained exactly how that might be accomplished.

The private sector is littered with stories of mergers that have gone ahead in the hope that huge synergies would be available, but which resulted in the disappointing discovery a few years later that most or all of those synergies did not exist. I worry that we may experience something similar with this Bill. We will watch carefully to see how the measure develops—in a few months' time, perhaps I will be watching from the Government Benches, in which case the Bill would be of particular concern to me.

I regret that new clause 1 was not added to the Bill, because it would have given us a clear yardstick by which to judge whether the merger is sensible, but we will just have to wait and see. I hope that the Government are right, but I fear that there might be a mess.

7.45 pm

**Mr. Laws:** The Liberal Democrats wish Mr. Varney and his colleagues all the best in managing the new merged organisation, once the House gives its final approval. It will be quite a job to put together two large organisations of that kind, which, as the Paymaster General indicated earlier, account for about one in five of all civil servants. When we first discussed the matter before Christmas, the Paymaster General and the Economic Secretary acknowledged that the way in which the two organisations are put together raises major issues, which future legislation must address. Perhaps some of those issues will be more controversial than the issues addressed by the Bill.

Like the hon. Member for Chichester (Mr. Tyrie), the Liberal Democrats thank the Paymaster General and the Economic Secretary for the constructive way in which they have dealt with the Bill and responded to concerns on issues such as the oath, which was raised by a number of hon. Members, including my hon. Friend the Member for Torridge and West Devon (Mr. Burnett).

Some big concerns remain about whether the Bill's strategic objectives are likely to be delivered and whether adequate processes are in place to monitor progress. The Paymaster General has indicated that one of the Bill's objectives is to close the tax gap to reduce compliance costs and the costs of running the merged organisation. No doubt the Treasury Committee and other organisations will do their best to monitor the Government's performance in the future. I look forward to reading the exchanges between members of the Treasury Committee and the Chancellor of the Exchequer, which are sometimes, although not always, insightful. I shall see whether the current members of the Treasury Committee can do a better job of extracting information from the Chancellor than I managed during my time as a member.

Martin Taylor's submission to the O'Donnell report included several well made points. On Report, I referred to his point about the need to focus on closing the tax gap as the major strategic objective, and he also made this powerful statement:

"integration of tax administration would be more likely to succeed if backed by a Government commitment to simplification as part of the enterprise agenda".

The big strategic aims such as closing the tax gap, which will be a priority for any Government in the next Parliament, reducing compliance costs, improving customer service and lowering the cost of running the organisation are achievable only through a simplification agenda.

Many hon. Members have followed the current Chancellor of the Exchequer's Budgets over the past seven years, and the simplification of the tax system has never been an obvious theme. We are yet to find out how many more Budgets this particular Chancellor will make over the next few years and whether he, too, will experience a realignment of job opportunities. We hope that whether the current Chancellor of the Exchequer continues in his post or there is a new Chancellor from another party or another part of this Government, they will put the simplification of the tax system centre stage, because without that the Government's great ambitions for the new merged department will surely not be realised.

7.49 pm

**Mr. Fallon:** I, too, wish the Bill well. It is bigger than the one that we started with. I suppose that it would be unkind to say that it seems to grow every time we see it as the draftsmen remember that they have failed to include Scotland—or Northern Ireland, or police provisions. The real question is whether it is a better Bill. In that respect, I am disappointed that some of our amendments, with exception of that on restoring the oath, were not accepted.

As my right hon. Friend the Member for Wells (Mr. Heathcoat-Amory) said, these two organisations are both large but very different. There are no inherent reasons why they cannot be merged; that is why the Treasury Committee originally recommended it. Such mergers have happened in many other modern countries that now have unified tax authorities.

However, I, like my hon. Friend the Member for Chichester (Mr. Tyrie), counsel against too much hyperbole. The Paymaster General spoke of world-class organisations and said that she had the greatest confidence in them. I am not so sure. I prefer the scepticism of my hon. Friend the Member for Chichester to the optimism of the Paymaster General. As I have argued throughout the passage of the Bill, we still have not been given any clear cost-benefit analysis of the merger. The Revenue has not been sitting still for years—it is already undergoing the convulsive change of the Treasury turning it from a department that simply and patiently used to collect tax into one that

*[Mr. Fallon]*

administers benefits—not without the odd hiccup. I am not wholly convinced that it is ready for the scale of the change that is to come.

In the world of business, mergers do not always proceed according to plan in terms of delivering deep and rapid synergies. I am always a little sceptical about a merger that is planned for strategic reasons rather than on the basis of a clear-cut benefit analysis. That is why new clause 1, in particular, would have been a safeguard allowing the House to return to the matter in two years' time. However, the Select Committee will take up the challenge issued by the Paymaster General. I hope that we will subject David Varney and his colleagues, whom we wish well, to regular scrutiny.

I hope that I am wrong about this, and I want to be very clear that I wish the staff and leadership of the new merged organisation all the best for the future.

*Question put and agreed to.*

*Bill accordingly read the Third time, and passed.*

## DELEGATED LEGISLATION

*Ordered,*

That the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (S.I., 2004, No. 3244), dated 9th December 2004, be referred to a Standing Committee on Delegated Legislation.—*[Mr. Heppell.]*

## Tuition Fees

*Motion made, and Question proposed,* That this House do now adjourn.—*[Mr. Heppell.]*

7.53 pm

**Mr. Parmjit Singh Gill** (Leicester, South) (LD): Thank you, Madam Deputy Speaker, for allowing me to speak on the very important issue of university top-up and tuition fees, which affects hundreds of thousands of young people around the country and, in many cases, their parents. It is of particular concern in my home city of Leicester. Its educational strength is a major attraction, and there are approximately 40,000 students at its two universities, Leicester and De Montfort, making up about 14 per cent. of the city's population. Since both universities are in my constituency, I have a large proportion of resident students, many of whom regularly share their concerns and, in many cases, their anger at the prospect of paying fees. I want to raise several of those concerns with the Minister.

The debate is on the eve of the first anniversary of the vote to secure Second Reading of the Higher Education Act 2004, which was passed by only five votes. That Act represented a major U-turn for the Government. Three years earlier, the then Secretary of State for Education and Employment, the right hon. Member for Sheffield, Brightside (Mr. Blunkett) had given assurances in the House that top-up fees would not be introduced. He said:

"I have made my position clear in the past two years: I am against the levying of top-up fees. I can now make the Government's position clear. If we win the next general election, there will no levying of top-up fees in the next Parliament."—[*Official Report*, 8 February 2001; Vol. 362, c. 1061.]

Indeed, the Labour party manifesto in 2001 pledged:

"We will not introduce 'top-up fees' and have legislated to prevent that."

That promise was made in response to concerns expressed that tuition fees were the start of a slippery slope, which would lead to top-up fees. My constituents' subsequent experience confirms that it was a well-founded fear.

I recently spoke to youngsters outside Crown Hills college, a local school in my constituency, about their aspirations. I was alarmed to hear that some of them would have gone on to study but for the debts that they would incur. Perhaps the Minister will respond by saying that students can repay their loans after completing their studies, but the fear of debt can be as dangerous as debt itself. Many potential students in Leicester are deterred from even applying to study further. That was confirmed by the presidents of the student unions at Leicester university and De Montfort university, Richard Treffler and Chris Higham.

Surely the Minister recognises the deterrent effect, as the Minister for the Arts, who was formerly Secretary of State for Education and Skills, rightly recognised in 2001. She said:

"I recognise that for many low income families the fear of debt is a real worry and could act as a bar to higher education. I want to make sure that our future reform tackles this problem."

Yet I can assure hon. Members that the Government have failed to tackle the fear of debt acting as a bar to higher education. At the universities of Leicester, the students are increasingly concerned that, with one

promise abandoned by the Government, there is a strong likelihood that, in a few years, the current cap of £3,000 will be lifted and the door will open to a deregulated fees market. Will the Minister assure the House and the young people whom I represent that that will not happen?

Early last month, I talked to some teenagers on the Eyres Monsell housing estate in my constituency, where a low proportion of youngsters go on to study in higher education. They had a negative view of studying further. Again, reference was made to student fees. That position is reflected in research that the Higher Education Funding Council for England published this month on participation levels in higher education from 1994 to 2000. The report examined closely the participation in higher education of youngsters aged 18 and 19 from both advantaged and disadvantaged areas. It is worrying that the report found substantial regional differences in that participation, with young people in some regions being 50 per cent. more likely to enter higher education than their peers in others.

Analysis of constituencies revealed further worrying trends. In some constituencies, fewer than one in 10 young people enter higher education whereas in others, more than half do so. Those analyses consistently showed a deep division in the chances of young people's going to university, based on where they live. Poverty undoubtedly plays an important part in those regional differences and the prospect of student fee debt does not help to encourage young people into further education. Whatever financial help the Government may be assuring students that they will receive, the problem is one of deterrence.

Is the Minister aware that some disadvantaged constituencies in Scotland, where students are not subjected to tuition fees, have young participation rates nearly twice as high as the very low rates found in similarly disadvantaged constituencies in England? Furthermore, figures released recently show that, while applications to Scottish universities are increasing, that is not the case in England. Will the Minister come back to this issue in his response?

The Minister will be aware of the research published last year by my hon. Friend the Member for Newbury (Mr. Rendel), which contradicted the statement made in Parliament on 14 July 2004 by the Minister responsible for higher education. The Minister cited the latest Universities and Colleges Admissions Service figures in support of his contention that tuition fees and top-up fees did not deter potential students from participation in higher education. The figures in my hon. Friend's research demonstrated that the proportion of school leavers opting for university was on the decline, not increasing as the Government claimed.

My hon. Friend stated that the proportion of young people in England applying for higher education was failing to keep pace with demographic trends. According to the UCAS figures highlighted by the Minister, the number of 18 to 20-year-olds applying to go to university had increased by 2.8 per cent. in 2004, compared with 2002. However, the population in that age group in the United Kingdom increased by 6.1 per cent. in the same period. Those figures were taken from the Government's own actuarial department. If the number of applicants had kept pace with the increase in population in that age group, there should have been an additional 8,190 young people opting to go to university in 2004. When my hon. Friend added that figure to the fall of 4,060 in the number of expected applications in the previous year, he concluded that a total of 12,250 young people had dropped out of the process over the two-year period. The Prime Minister failed to give an explanation for the decline in the proportion of English school leavers applying to university when my hon. Friend put those findings to him at the time.

It is unfortunate that an increasing number of undergraduate students are having to take on employment to help to finance their studies. One student who visited my surgery recently on a different issue told me that he was working late nights and often could not get up in the morning to attend his lectures. He was only in his second year, but he was already £7,000 in debt. How can that be good for his education or, indeed, his whole experience of university life, which should include a healthy mix of extra-curricular activities?

Research commissioned by the Minister's own Department highlighted some worrying findings on that same issue. I refer to the 2002–03 student income and expenditure survey conducted by Professor Claire Callender of South Bank university in London. That provided a survey comparative with the one conducted in 1998–99. The survey found that more students worked over the academic year, and worked longer hours, than in 1998–99. In 2002–03, 58 per cent. of students worked during term time, up from 47 per cent. in 1998–99.

Most worrying of all was the finding that the anticipated average debt on graduation had increased by two and a half times since 1998–99 to £8,666. This was largely explained by the complete replacement of mandatory grants by student loans. These statistics do not take into account the introduction of top-up fees, which means that debt on graduation will now be significantly higher. These figures might not frighten the Minister, who earns a substantial salary and no doubt benefited from a free university education, but for an 18-year-old, they can be a deeply distressing matter of concern.

One of my constituents, Mr. Geoffrey Lewis, is the British Medical Association's representative in Leicester. He has told me of the BMA's deep concerns in relation to top-up fees deterring students from wider social backgrounds from participating in higher education. He expressed his concern that the BMA already knows that fear of debt is a major disincentive for younger people with no family history of university attendance, in particular young Afro-Caribbean people.

Returning to figures published by UCAS, Mr. Lewis highlighted to me the very worrying trend that two thirds of medical students are from managerial or professional white-collar backgrounds, compared with only 10 per cent. from skilled trade, semi-skilled or unskilled occupational backgrounds. Top-up fees, in addition to the extra costs inherent in studying medicine, will surely move things away from, not towards, the policy of the Government and of universities of widening access to higher education.

There is also an impact of debt on students' mental health. In 2001, the report from Higher Education and

*[Mr. Parmjit Singh Gill]*

Research Opportunities in the United Kingdom on the cost of borrowing highlighted the impact of student debt on health. It concluded:

"Rising levels of debt have a serious impact on student well-being."

That highlights the fact that those with excessive debts

"are more likely to suffer anxiety (74 per cent.) and depression (32 per cent.) compared with other students (45 and 8 per cent. respectively."

It also highlights the fact that any further increases in fees will make those problems significantly worse.

Little wonder that voter apathy levels are so high among young people. We encourage them to work hard at school and college, but then—under this Government—tax them at university. Everyone in society benefits from well-qualified, highly educated people living and working here. We see the benefits through economic prosperity and the UK being at the cutting edge of scientific and technological developments. We also see the benefits through having highly skilled public servants such as doctors, nurses and teachers.

I still feel great privilege and honour in serving the people of Leicester in the House, but if I were a Labour MP I would feel ashamed—

**David Taylor** (North-West Leicestershire) (Lab/Co-op): Will the hon. Gentleman give way?

**Mr. Gill:** I would feel ashamed that my Government had introduced top-up fees, which they promised the people of Leicester and the country that they had legislated to prevent.

**David Taylor:** Will the hon. Gentleman give way?

**Madam Deputy Speaker (Sylvia Heal):** Order. Clearly, the hon. Gentleman is not giving way.

**Mr. Gill:** Today, prospective students embark on an educational journey starting with a deterrent of debt. If they go on to study, they experience the stress of debt and of work while they are studying. Finally, when they graduate, they face the reality of debt.

On behalf of many thousands of students at De Montfort and Leicester universities, I ask the Minister to explain why his Government went back on their word and, in the light of the increasing debt crisis in my constituency, I respectfully request the opportunity to bring a small number of students—students who start with a passion for knowledge and end up with a massive debt—to meet him to discuss their problems.

8.8 pm

**The Parliamentary Under-Secretary of State for Education and Skills (Derek Twigg):** I congratulate the hon. Member for Leicester, South (Mr. Gill) on securing the debate. I am pleased to see my hon. Friend the Member for Leicester, East (Keith Vaz) also in the Chamber. He is a true champion for Leicester and he does tremendous work in that area.

I am delighted that we have this opportunity to debate higher education again. It is an important topic and key to our country's success. Everyone in the House now agrees that higher education needs additional funding. The question is how we achieve it and who pays. The Government's position is clear, and we spent much of last year debating it. The hon. Member for Leicester, South has made some proposals, but they are not viable. I shall return to them shortly.

The Government have three main priorities in their higher education reform programme. First, we want to expand and widen participation. The needs of the country, now and in the future, depend on the knowledge and skills of our people. All the evidence says that the need for graduate-level skills will increase. We are wasting too much talent, and too many of those born into less advantaged families still feel that university is not for them. Secondly, we want to give universities the freedom and resources to compete successfully in the international market. We need to give institutions the financial security and stability that will allow them to back our world-class researchers, invest in infrastructure, and provide first-class teaching and services to their students. Thirdly, we want to make financial support for students fairer, abolishing the requirement to pay fees upfront, providing for fair and affordable repayments for graduates, and helping students from poorer backgrounds with additional grants.

The recent Higher Education Funding Council report illustrates starkly that where one is born is the biggest single factor in deciding one's education life chances. The introduction of tuition fees and replacement of grants by loans, however, have not affected the choices of young people from disadvantaged groups.

We are working in schools to raise attainment levels and the aspiration to enter higher education of young people in disadvantaged areas. That has helped to increase applications to universities from such areas. Our goal is to provide access to world-class higher education for all those with the potential to benefit. We are determined to widen participation so that everyone with potential has the opportunity to go to university, irrespective of background.

I want briefly to deal with Conservative policy, which suffers from some serious drawbacks. The principal problems relate to where the money comes from and whether the sums add up. First, where does the money come from? The Conservatives have said that there will be more money for universities. Ultimately, the only sources are the taxpayer or the students. They have made it clear that the taxpayer will not pay any more, so students will pay more through higher interest payments once they have graduated. But which students? That is where it goes wrong for them. With income-contingent repayments, how much one pays, and how long it takes one to repay, depend on how much one earns. The burden of higher interest rates therefore falls unfairly on those on the lowest earnings. If one earns a lot, one repays quickly, so one does not pay much interest. If one earns less, however, one pays slowly, so one ends up paying much more in interest. If someone takes a career break, or perhaps starts a family, the interest really mounts up. Two years ago, we exemplified some case studies for the Select Committee that demonstrated that clearly.

Secondly, on whether the sums add up, we identified at least three serious holes in the arithmetic, and overall, the Conservatives' sums are out by £1 billion a year. The policy is grossly unfair, and as I said, the sums just do not add up.

So what are the Liberal Democrats' policies?

**David Taylor:** Is not it revealing that the importance of this debate to the Liberal Democrat parliamentary party is such that the number of Labour MPs present is almost quadruple the number of Liberals? Does not that show that they are not serious?

**Derek Twigg:** There is no doubt about the importance that my hon. Friends put on this subject.

The Liberal Democrats would fund higher education entirely from the taxpayer through a new super tax. They have said how much super-tax they would spend on higher education, but have not made it clear how much higher education needed to expand or how future expansion would be funded. There could be no guarantee that the funding would be forthcoming or would be maintained over time as other priorities emerge.

There is a real question as to whether higher education would get the money. That is the nub of the problem. Being centrally dependent on the state means that higher education must take its chances with other competing priorities in public spending decisions. The record shows that, over the long term, that does not work well. During the 1990s, there was a large reduction in the unit of funding for higher education—a fall of 36 per cent. in real terms between 1989 and 1997.

We should remember two things. First, not everyone goes into higher education—currently, 44 per cent. of 18 to 30-year-olds go into higher education. Secondly, higher education confers substantial benefits, both social and financial. In particular, the rate of return to having a degree is substantial.

It is therefore fair to ask those who benefit from higher education to make a contribution to the cost of higher education. It is important to stress that it is a contribution—the Government still make substantial funding available to universities, and will continue to do so. Our point is that it is not fair to the taxpayer for graduates not to be asked to contribute. The advantage of Government policy—fees supported by income-contingent loans—is that the graduate still pays, and through the tax system, but universities are much more masters of their own destiny, with an independent source of revenue.

Every Member knows of, and values, the contribution made to national life by Lord Dearing. He has done great work in education for this Administration and the last one, and we have valued his independent approach. His national committee of inquiry into higher education in 1996 and 1997 espoused the principle that students should make a contribution to the cost of higher education. That led to the introduction of fees in the first place. The logic is as strong today, if not stronger. Students should make a contribution, but it is better for them to do so when they are graduates. Our fee-deferral arrangement allows that.

Government is about tough choices. The future economic success of the country depends on our getting our higher education policy right. There could be no more important topic than this. It simply is not realistic to think that we can fund higher education now, when 44 per cent. of people aged between 18 and 30 are going into it, in the same way as we did in the mid-1960s, when only 8 per cent. did so. We accept that going for tuition fees is not an easy option, but it is the right one, and the only realistic way forward.

**Dan Norris** (Wansdyke) (Lab): The Minister mentioned the Liberal Democrats. They have spoken of a 50 per cent. higher rate of income tax. If the sums are done correctly, is it not nearer 83 per cent.?

**Derek Twigg:** Their sums have never been all that good.

Let us consider the international competition. The United States, Canada, Australia, New Zealand and Japan all have fees. In mainland Europe, more and more voices are joining the chorus in favour of fees. Universities in Germany are pressing the federal government to change the constitution to allow fees, and the Netherlands is proceeding with tuition fee pilots. Even in Sweden, which has traditionally espoused high public spending financed by high taxation, voices from the higher education sector are beginning to be heard arguing for fees. The Organisation for Economic Co-operation and Development's 2004 UK economic survey praised the Government's approach to higher education, saying that it could be a role model for other European countries.

The message is very clear: if our economy is to remain competitive, our higher education must remain competitive, which means fees. Either we face up to that, or we face long-term decline as a nation. Put that way, it is not such a tough choice. It is what we have to do—and our Higher Education Act offers a coherent strategy for reform, unlike the proposals of Opposition Members.

I did not go to university. I come from a background where it was not the thing that people did. We were never encouraged to do it. I support this policy so strongly because more and more disadvantaged young people from backgrounds similar to mine will, with the backing of the £2,700 grant and the bursaries from universities, have an opportunity to go to university and make a great start to their lives.

*Question put and agreed to.*

*Adjourned accordingly at eighteen minutes past Eight o'clock.*

# House of Commons

*Thursday 27 January 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## TRADE AND INDUSTRY

*The Secretary of State was asked—*

### Iraq

1. **Mr. Tam Dalyell** (Linlithgow) (Lab): What action her Department is taking to support British firms in bids for reconstruction projects in Iraq. [211107]

**The Secretary of State for Trade and Industry (Ms Patricia Hewitt):** Through UK Trade and Investment, we provide a range of advice and support to British firms that are interested in helping with reconstruction work in Iraq. That advice takes full account of the security situation in Iraq and the terms of Foreign and Commonwealth Office travel advice.

**Mr. Dalyell:** Realistically, as long as we are seen as an occupying army, and especially in light of those appalling pictures, which have had a dreadful effect in the Arab world, is there any possibility of proper reconstruction until the forces have been withdrawn and Iraq has a Government of its own?

**Ms Hewitt:** I share the condemnation by my hon. Friend and many others of any abuse of prisoners that has taken place. Of course, the security situation is difficult, but the reality in Iraq is that its economy is growing and its water and sanitation services are significantly better than they were under Saddam Hussein. We have got thousands of schools and hospitals working, and we have got more Iraqis in jobs. I am proud of the fact that many British companies are bringing their expertise to help with that reconstruction.

**Richard Ottaway** (Croydon, South) (Con): If I can take the opposite view to the hon. Member for Linlithgow (Mr. Dalyell), such is the state of Iraq's infrastructure that it can be remedied only by private investment. Private investors will invest only if the situation is militarily secure and remains so. Does the right hon. Lady agree that the armed forces will have to stay there for a considerable period while the infrastructure is repaired?

**Ms Hewitt:** My right hon. Friend the Prime Minister has made it clear that we will continue to support the Iraqi people in moving towards self-government. The elections that will take place this weekend are another step in that direction and, of course, we will continue to support the Iraqi people and the new Iraqi Government. They will have to make the judgment about how long they want coalition forces to support them but, for the moment, we will continue to provide that support both directly and by training Iraq's own police and security forces.

**Liz Blackman** (Erewash) (Lab): TQ Education and Training Ltd in Long Eaton in my constituency has just been awarded a $10 million contract to provide training for the Ministry of Electricity in Iraq. It was extremely pleased with the support that UK Trade and Investment gave it by providing information on logistics and the trading environment and putting it in touch with the appropriate contacts in the Iraqi Government. Is that not an excellent example of the DTI supporting British firms so that they can play their part in much-needed reconstruction in Iraq?

**Ms Hewitt:** Indeed it is. May I, through my hon. Friend, congratulate TQ Education and Training, which will be doing enormously important work with the Ministry of Electricity, just as other firms will help staff in the Ministry of Oil to gain the expertise that they need? That has been possible only because of the superb work of UK Trade and Investment and I am sure that she agrees that it would be disastrous if the Opposition had their way and effectively abolished it.

**Malcolm Bruce** (Gordon) (LD): Does the Secretary of State acknowledge that, while the Export Credits Guarantee Department has announced $100 million of additional short-term cover for Iraq contracts, £1 billion, with interest, of historic debts have had to be written off in Iraq and £3.1 billion of outstanding ECGD debts are deemed irrecoverable? Can she tell us how much British taxpayers may have to put at risk and, more particularly, will she undertake to report to the House the extent of any future write-offs? This is not a blank cheque for British companies, and it may not be secure because of the security situation.

**Ms Hewitt:** I hope that the hon. Gentleman welcomes the fact that the Paris Club recently agreed to forgive 80 per cent. of Iraq's outstanding debts, as that is important in enabling reconstruction to take place. In the long term, with the enormous resources that Iraq has, there is no reason at all why it should not be able to repay debts. The ECGD, within a stringent risk and commercial framework, makes careful judgments on every country where it is asked to provide cover and, of course, on companies' individual applications.

**Mr. David Clelland** (Tyne Bridge) (Lab): My right hon. Friend rightly acknowledged the contribution that British businesses make to construction and reconstruction in Iraq. PB Power in my constituency has received a grant from the Department, and the company is now using its considerable skills to create a national

electricity generation and distribution system in Iraq to power hospitals, workplaces, homes and schools for the ordinary citizens of Iraq.

**Ms Hewitt:** I congratulate PB Power, which is doing immensely important work, along with many other companies. I hope that the whole House will join me in paying tribute to the British firms and British workers who are working alongside the Iraqi people and helping to rebuild that country in difficult and often dangerous circumstances.

## News Industry Supply Chain

2. **Angela Watkinson** (Upminster) (Con): What plans she has to reform the news industry supply chain. [211108]

**The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe):** In August last year, the Secretary of State for Trade and Industry approved recommendations from the Office of Fair Trading to revise the newspaper wholesalers code of practice so as to remove current restrictions on retailers selling on newspaper titles to other retailers within the same wholesaler territory. We hope that removal of those restrictions will help promote the practice of selling on and give retailers increased choice and flexibility of supplier.

**Angela Watkinson:** Mr. Ashia, Mr. Patel and Mr. O'Connor, three independent newsagents in my constituency, have expressed concern about the wholesale monopoly that gives them no choice of supplier. They are backed up by the National Federation of Retail Newsagents, which says that publishers and wholesalers suggest

"that thousands of small newsagents could be threatened, if current agreements are not given a Block Exemption from scrutiny under the Competition Act 1998"

whereas, in reality,

"this is no more than a ruse to allow publishers and wholesalers to maintain their stranglehold over the news industry."

What would the Minister say to the three newsagents who contacted me?

**Mr. Sutcliffe:** The hon. Lady and other hon. Members have been approached by a large number of organisations including the National Federation of Retail Newsagents, the Newspaper Society and wholesalers. The issue is complicated but we want to preserve maximum choice for retailers, particularly local newsagents. In the repeal of vertical exclusions, we undertook to ask the Office of Fair Trading to discuss the matter with the various sectors involved and to report back to us. We are expecting that report in the very near future and we hope that it will address many of these issues.

**Mr. Peter Pike** (Burnley) (Lab): My hon. Friend will recognise that local newsagents are an important community service. They are increasingly squeezed by superstores selling newspapers and they are not getting a fair deal from the wholesalers. It is important that we get the report as soon as possible so that they get a fair deal, stay in business and continue to provide a local community service.

**Mr. Sutcliffe:** My hon. Friend has championed that cause at Question Time and in debates in the House about the balance between wholesalers and small newsagents. It is important that small newsagents are protected, because of the service that they offer to our communities. We must wait for the OFT report, which I expect to be available soon because the extension of the repeal ends on 1 May. I acknowledge the point that is being made and hope that we will reach the right decisions quickly.

**Mr. Henry Bellingham** (North-West Norfolk) (Con): I am grateful for what the Minister has said so far, but is he aware that, over the past decade, the combined effect of margin squeezes, spiralling carriage costs and poor wholesaler service has forced thousands of small newsagents into bankruptcy and closure? The result is that there are already 1,000 postcode sectors in the UK serving more than 4 million people that have no access to a newsagent. Does the Minister agree that, along with the closure of sub-post offices and small garages, that is bad news for the small firms sector and for communities, which is why it is so important that he acts?

**Mr. Sutcliffe:** I acknowledge the points that the hon. Gentleman raised. He will be aware of the process that we have to undertake under the competition regime. We also have to ensure maximum consumer choice, so that people can buy a paper or magazine from a local newsagent, supermarket, garage or wherever. I recognise the significant role that local newsagents play in our communities and their wider social role. I hope that the OFT recommendations will give us an opportunity to make sure that local newsagents are protected, but we must wait for the process to take its course.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): May I declare an interest to the extent that generations of my family ran village post offices and newsagents? Does the Minister agree that it is important that the views of independent newsagents are not misrepresented? There appears to be a risk of that today. They have said that the solution to the supply and distribution problems faced by the industry will not be found by simply enacting a wide-ranging UK block exemption that prevents scrutiny of a market that is already highly concentrated and restricted, so they are in favour of reform of the kind that is anticipated. That is the case, is it not?

**Mr. Sutcliffe:** My hon. Friend takes a great interest in newspapers. I enjoy our early morning Tea Room meetings reading them. He is right that, when the Secretary of State took the decision last year, 12 months were given before implementation to allow the industry an opportunity to come together and work out a good relationship. That is why the Office of Fair Trading was involved. I am aware that some people feel that the block exemption needs to be continued, but I know that the OFT is taking all these matters into consideration, and when it produces its report, we will make a judgment on it.

**Business Support (Overseas Exhibitions)**

3. **Mr. Nigel Evans** (Ribble Valley) (Con): What the total budget available to support businesses exhibiting overseas was in each year since 1997. [211109]

**The Secretary of State for Trade and Industry (Ms Patricia Hewitt):** The total annual budget to support exhibitions and seminars abroad, including overseas missions, has been between £16 million and £21.6 million for each year since 1997. The budget for 2004-05 is £20 million.

**Mr. Evans:** Does the Secretary of State agree that we need to support British exporters and that overseas exhibitions are a tremendous showcase for them to display their goods and an opportunity for networking? If the budget is cut, it will disincentivise businesses in respect of exhibiting overseas. If we do not support our exporters, we can be certain that the Germans, French and Italians, and our other competitors around the world, will support their businesses. Can we have a fresh commitment from the Government that they will not slash that budget?

**Ms Hewitt:** I entirely agree with the hon. Gentleman about the need to maintain our support for British exporters and our support for inward investors alongside that. I invite him to cross the Floor and to join my hon. Friends on the Labour Benches and to join me in opposing the disastrous plans of the Opposition virtually to abolish UK Trade and Investment, and with it, support for more than 30,000 British firms with their exports.

**Mr. Martin O'Neill** (Ochil) (Lab): Does my right hon. Friend recognise that the improvement in the organisation and accountability of much of the outward trade mission organisation is welcome? Indeed, the back-up that it has received over recent years from embassy staff has been of the highest order. There is an anxiety, however, that the electoral irrelevance of the Opposition means that it is down to us to reassure people that we will continue to give them the backing and support that they currently enjoy, and that the worries of organisations such as regional development agencies and the Scottish Council for Development and Industry about a reduction in even a Labour Government's budget are unfounded. She should be able to reassure such organisations that the passport to export is going to be facilitated and supported as well as it has been in the recent past.

**Ms Hewitt:** My hon. Friend is absolutely right. Although we are certainly seeking to run this superb service even more efficiently in future than we have done in the past and to ensure that we get support for inward investors alongside exporters, I am happy to give him and our business customers that reassurance. Unlike the Opposition, we will not abolish passport to export, which is an enormous success, and unlike them, we will not abolish research and development grants or regional selective assistance. We will continue to support British firms and workers.

**Mr. Julian Brazier** (Canterbury) (Con): The Secretary of State knows perfectly well that we are committed to maintaining R and D budgets.

When will the Secretary of State recognise that the best way to tackle the crisis in the balance of payments—it is a crisis because the deficit is very close to an all-time high—lies not with a string of different organisations having a finger in the pie, including all the regional development agencies throughout the country, UKTI and other bodies, but in having a single export promotion agency led by people with real experience from industry?

**Ms Hewitt:** If the hon. Gentleman would care to look at his own James report, he would see that he and his party propose to sack 700 United Kingdom Trade and Investment staff and secondees—most of whom have private-sector experience—and put in 50 from the private sector. The business community has been the first to say that that simply would not work. In the James report, the Conservative party proposals for cutting £500 million—

**Mr. Speaker:** Order. Propaganda is for the manifesto, not the Floor of the House.

**Richard Burden** (Birmingham, Northfield) (Lab): Does my right hon. Friend agree that one of the best ways of exhibiting British business and showcasing British talents is to ensure that British products are in use in overseas markets? That being the case, will she join me in welcoming the negotiations on a possible joint venture between MG Rover Group and Shanghai Automotive? It offers the prospect not only of selling those products in Chinese markets, but of investment here in the United Kingdom. While recent press reports have been wide of the mark, will she assure the House that the Government are doing all that they can to bring those negotiations to a successful conclusion?

**Ms Hewitt:** As my hon. Friend knows, we are absolutely solid in our support for the UK motor manufacturing industry and for its increasingly successful exports. As he said, we certainly cannot believe everything that has been in the press recently on this subject. I take every opportunity to stress to Chinese Ministers and business colleagues in particular the enormous merits of the United Kingdom as a place for inward investment. I am doing everything possible within my power to help ensure that those negotiations on a joint venture are successfully concluded.

**Cinema Industry**

4. **Mr. David Rendel** (Newbury) (LD): What plans she has to review fair trading regulations with respect to the cinema industry. [211112]

**The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe):** My Department has consulted publicly on recommendations from the chairman of the Office of Fair Trading that the Films (Exclusivity Agreements) Order 1989 made under the Fair Trading Act 1973 be revoked and the Secretary of State will take a decision on this order in the light of the chairman's advice due to be received shortly.

**Mr. Rendel:** I am delighted to hear that, but I will press the Minister further. He will know that, by 2003,

71 per cent. of all cinemas were in multiplexes and that 75 per cent. of those were owned by just five companies, so choice has been dramatically restricted. Will he consider negotiating with his colleagues in other Departments on two measures that I suggested in my ten-minute Bill last year and that have now been supported by *Time Out*? The first is to change planning laws so that there will be a separate use class for cinemas and the second is to introduce the possibility of rate relief for small rural cinemas.

**Mr. Sutcliffe:** In a sense, as with my earlier answer, we have to wait for decisions to be taken before we move on to what recommendations to make in the light of those decisions. That is under the 1973 Act. The hon. Gentleman will know that the Enterprise Act 2002 took away powers from the Secretary of State and will give them to the Competition Commission. This is being looked at under the 1973 Act and the Secretary of State has to consult and consider the chairman's recommendations. When that has taken place, issues such as the changing nature of the industry will be considered. I am sure that decisions such as the one that the hon. Gentleman raised can be taken then, or certainly there can be consultation and discussion on those issues.

**Chris Bryant** (Rhondda) (Lab): With the degree of vertical integration in the industry and with so many of the distributing companies and the people who own the cinemas themselves owned by the same people, unless we tackle the anti-competitive practices that may exist in the industry, is there not a real danger that independent producers who make small films will find it difficult to get those films into cinemas? Is it not also difficult for independent cinemas to get access to some of the big blockbuster movies that could make more money for them?

**Mr. Sutcliffe:** I recognise my hon. Friend's involvement in and commitment to making sure that creative industries, particularly the film industry, are successful. He will know that, since 1997, there have been tremendous tax advantages for small budget films of around £15 million. There has been a greater incentive to support the British film industry. It is difficult to make any comment at this stage until we have an OFT recommendation and the Secretary of State makes a decision.

## Regulation

5. **Mrs. Jacqui Lait** (Beckenham) (Con): How many regulations affecting business her Department introduced in the past year. [211113]

**The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths):** In 2004, 130 regulations were passed under seven items of primary legislation, as compared with 1994, when the previous Administration passed 148 regulations. The hon. Lady will join me in welcoming that reduction.

**Mrs. Lait:** It is no cause for congratulation that industry is increasingly regulated, which is why it believes that the Government do not care for industry. In the light of the cost to British industry of increased regulation and the findings of the British Chambers of Commerce that the Government did not use sunset clauses in 2002–03, will the Minister heed the Cabinet Office, which has urged the use of sunset clauses, or does he still believe that sunset clauses are a quack cure?

**Nigel Griffiths:** I believe that we must bear down on regulations, some of the worst of which have been effectively tackled by our unit. It is important to examine all the options, but if the hon. Member and her party believe that sunset clauses are the universal solution to the problem, why did they not introduce them during their 18 years in government?

**Mr. Liam Byrne** (Birmingham, Hodge Hill) (Lab): This month, Barclays bank has published new data showing that the business start-up rate in Birmingham is set to rise by 17 per cent. Regulations aside, does my hon. Friend agree that there has never been a better time to start a business in this country?

**Nigel Griffiths:** My hon. Friend is right. That point was reinforced last week by Global Entrepreneurship Monitor, which said that this country is more entrepreneurial than all our major European competitors and Japan, too. The Barclays survey shows that more companies started up last year than at any time since the survey began in 1988. More people are in work than at any time in our history and economic growth has occurred for 50 consecutive quarters. My hon. Friend's constituents are working hard and growing their businesses and their experience is reflected up and down the country.

**Mr. Andrew Hunter** (Basingstoke) (DUP): Many people in industry believe that the Government are oblivious to the damaging downward spiral of excessive regulation and increasing non-wage costs, which undermine competitiveness. Are the Government aware that the two factors are combining to make the UK a less attractive place to do business?

**Nigel Griffiths:** The representations that I have received as Minister for Small Business and Enterprise include a big thank you for abolishing automatic fines on VAT, which hit 200,000 businesses and cost them £99 million in fines in the final year of the last Conservative Administration. Businesses have thanked me for raising the audit threshold to help almost 300,000 companies avoid bureaucracy and for abolishing corporation tax for 150,000 small businesses. We have done a lot to ensure that businesses do not face bureaucracy and tax, but I am first to admit that more remains to be done, and we will do more in another term.

**Jim Sheridan** (West Renfrewshire) (Lab): Will my hon. Friend examine the regulations surrounding employment agencies? He may be aware of the recent investigation by the BBC Radio 4 "PM" programme into the exploitation of migrant workers by bogus employment agencies, which take money from migrant workers to provide jobs that do not exist. Will he examine the current regulations and, if necessary, block any loopholes to stop bogus employment agencies exploiting poor, vulnerable migrant workers?

**Nigel Griffiths:** My hon. Friend is right. I know that the House and the country will thank him for his Gangmasters (Licensing) Act 2004, which is designed to crack down on this. My hon. Friend the Minister for Employment Relations is determined to reinforce those efforts and to bear down on such disgraceful practices.

**Mr. Stephen O'Brien** (Eddisbury) (Con): For British business to reverse its declining competitiveness under this Government, it needs Government to get out of its way. Yesterday, the Institute for Fiscal Studies demonstrated that a Labour Government would have to raise taxes by £11 billion were they to stay in office. Labour offer no hope for business, in contrast to the Conservatives, who will reduce taxes.

The other crushing Labour tax on business by another name is the burden of over-regulation. Precisely by how much will compliance costs to business rise if, preserve us, Labour cling on to office for a third term?

**Nigel Griffiths:** Many measures are being taken to reduce compliance costs to business, so the hon. Member has clearly got the wrong end of the stick. Having read his report complaining about thousands of regulations being passed last year, I would be interested to know why the Conservatives prayed against only eight of them.

**Mr. O'Brien:** The Minister has failed to answer the question because he has absolutely no idea, and does not care, about how much compliance with regulations is costing British business and British competitiveness. Does he agree with the Prime Minister, who said that the problem with regulation is cultural, which is the case not least in his Department? The Minister and his Secretary of State are all talk. Will he tell the House how he intends to reverse the flow of regulations spewing out of his Department? What career incentives have he and the Secretary of State put in place for DTI civil servants to suggest specific repeals of regulations, as we have done, and not to propose yet more burdens on business?

**Nigel Griffiths:** It is wax out of the ears time. The hon. Member will have heard me say that 137 regulations were passed last year compared with 148 in the same period 10 years ago. We will take no lessons about that from him. We are the envy of the advanced industrial world in terms of the expansion of our economy as against the other G7 economies. He makes gibes against our Department, which he would abolish—a scheme that commands almost no support—but he should know that we are highly rated on our regulatory impact assessments and our regulatory reform orders. He should read the Whitehall memos with more care.

**Mrs. Anne Campbell** (Cambridge) (Lab): Will my hon. Friend find out whether there is anything that he can do by regulation to increase the number of women entrepreneurs in the UK? When my right hon. Friend the Minister for Industry and the Regions visited my constituency last week, she revealed that 101,000 women are running their own businesses in the east of England. That represents 27 per cent. of all self-employed people. Women in the east of England are clearly doing excellently in helping to promote business and prosperity in the region, but there is still a long way to go.

**Nigel Griffiths:** I agree. That is a key component of the Small Business Service and the whole thrust of the DTI. My right hon. Friends the Secretary of State and the Minister for Industry and the Regions take that seriously. My hon. Friend will be pleased to learn that the Global Entrepreneurship Monitor report that was published last week said that 177,000 women set up a business in Britain last year—a record number. She will know that if as many women as men had done so, we would have another 100,000 potentially thriving businesses. That is the task that my colleagues and I have set ourselves, and, if I may say so, my right hon. Friends have set about it with relish.

## Nuclear Power

6. **Mr. Michael Jack** (Fylde) (Con): If she will make a statement on the future of the UK nuclear power industry. [211114]

**The Minister for Energy and E-Commerce (Mr. Mike O'Brien):** Existing nuclear power stations are expected to continue in operation for some years, with Sizewell operating up to the 2030s. Our policy on possible new nuclear power stations was set out in the 2003 energy White Paper. There are no current plans for new build, but we do not rule out that option in the future.

**Mr. Jack:** Today, I had the pleasure of receiving a delegation from the Chinese environmental protection committee. Its members told me that China is about to double its commitment to nuclear power. A recent MORI poll confirms that the public now favour the generation of more nuclear power because they recognise its contribution to reducing $CO_2$ emissions. Given that the Minister confirms that the option will be kept open, will he ask the nuclear installations inspectorate to commence a design review of candidate designs to cut down the lead time if the industry can provide funding and investment to build a new generation to replace power stations that are being taken out of use?

**Mr. O'Brien:** The right hon. Gentleman takes a keen interest in those issues, given that Springfield is in his constituency. It does a good job and has an excellent safety record. However, the time scales for developing a nuclear power station are long. We are currently keeping open the options for possible nuclear development at some time in the future if the position changes, but it is currently economically unattractive. No private sector business organisations are making such propositions. We continue to watch the operation of the market but I repeat that the proposition is economically unattractive.

**Mr. Brian Jenkins** (Tamworth) (Lab): Will my hon. Friend please visit Culham and look at the next generation of nuclear energy producers? Will he acknowledge that, to have an option, we must have the ability to produce nuclear energy? Some in the industry

fear that, unless we stop the slide, the critical mass in the British nuclear sector will be unable to develop, design or build any future generation of nuclear power stations.

**Mr. O'Brien:** We are making efforts to ensure that we keep the skills that are needed if we decide to build in future. It is currently economically unattractive to do that: nobody is presenting propositions for building a nuclear power station. The decision does not need to be made immediately. If we reconsidered the matter, we would want to produce a White Paper and hold a broad-based consultation and discussion before making a decision. It is not a foregone conclusion that new build is necessary. Progress is being made on gas and renewables and energy efficiency, which are currently our priorities.

**Mr. Michael Weir** (Angus) (SNP): The Minister said that new nuclear power stations were currently uneconomic. Is he aware of the huge concern in Scotland that the crazy transmission price regime that the zealots of Ofgem pursue will undermine the economics of new renewable build in northern Scotland? Does the Government's support for that regime imply that they intend to support new nuclear power stations in future?

**Mr. O'Brien:** The hon. Gentleman stretches the question to try to include matters that are important in Scotland—matters that we are considering with a great deal of care. Ofgem is examining how connections between Scotland and the rest of the United Kingdom are developing. We believe that, in future, whatever the regime, Scotland will produce an enormous amount of energy for the whole UK. The link between Scotland and the rest of the UK is the key to Scotland's future prosperity.

**Mr. Bill Tynan** (Hamilton, South) (Lab): Keeping the nuclear option open is welcome but there is a problem with retaining skills and attracting graduates to the nuclear industry. That is worrying. Nuclear waste is also a major issue. Will my hon. Friend give a commitment today that, if the Committee on Radioactive Waste Management—CoRWM—seeks an extension of report-back time on the solutions for nuclear waste, he will resist it?

**Mr. O'Brien:** We set up CoRWM and are awaiting its report. We want to ensure that the report deals effectively with the issues that it is considering, and it is important to respond to any requests with the due consideration that it deserves. CoRWM has a complex and difficult task to undertake and we want it to be done fully and properly.

**Mr. Peter Atkinson** (Hexham) (Con): With respect to the Minister, his view that the Government are maintaining skills in nuclear engineering is not shared by engineering departments at universities, where they are running things down continually. There is no doubt in my mind or that of many others that we will need nuclear power stations one day and the skill to build them will not exist. We cannot continue to rely on wind power or our indigenous resources. For example, we cannot rely on coal—the last coal mine in Northumberland is going to be closed down.

**Mr. O'Brien:** We are making efforts to improve the skills base in the nuclear industry. We are working with the private sector as well as engaging with the trade unions to ensure that we preserve the skills that would be essential if we were to take the option of nuclear new build in the future. We will preserve those skills to ensure that the industry—which has quite a long life ahead of it, with Sizewell lasting until 2030—will be able to provide part of our diverse energy supplies. We are looking at the future, keeping the options open and trying to ensure that those skills will be there, should we need them.

## Trade Balance

7. **Sir Teddy Taylor** (Rochford and Southend, East) (Con): What estimate she has made of the balance of trade in the current financial year; and what estimate she has made of the balance of trade with the EU in the current financial year. [21117]

**The Minister for Trade and Investment (Mr. Douglas Alexander):** The Government do not produce forecasts on a geographical basis. However, figures published by the Treasury in the December 2004 pre-Budget report forecast a trade deficit as a percentage of gross domestic product of 3.7 per cent. in 2004, falling to 3.5 per cent. in 2007.

**Sir Teddy Taylor:** Does it not genuinely worry the Government that, whereas in 1970 we had a positive balance of trade in goods with the 15 members of the EU before we joined that organisation—allegedly to improve our trade—in the past 25 years we have seen horrendous and worsening deficits in our trade with Europe, culminating in a figure of £24 billion last year? Why has our trade with Europe gone so horribly wrong, and what can be done about it?

**Mr. Alexander:** That is an intriguing point for the hon. Gentleman to make, given his long-held views on this matter, not least because one of the contributory factors has been the outstandingly long and successful growth in the British economy over recent years. However, that should not mask the more general point that more than half our trade is with the European Union. Nearly 60 per cent. of our exports of goods are sent to European Union markets, accounting for 3 million jobs in what is still an extraordinarily strong British economy.

**Mr. John Battle** (Leeds, West) (Lab): Are not the Government's efforts to promote a better balance of trade, not only with the EU but internationally, greatly helped by British Trade International, a Government body that fuses the assistance of both the Foreign Office and the Department of Trade and Industry? When that body was set up, I seem to recall the Conservatives praising our efforts and welcoming the initiative as a positive step forward. What effect would the proposal in the James review to abort it have on our future balance of trade?

**Mr. Alexander:** I am well aware of my right hon. Friend's expertise in this area and of his immense contribution to the establishment of British Trade

International and its successor body, UK Trade and Investment. His expertise is evident from his question, and it explains his incredulity that, when BTI is doing such outstanding work for British exporters and in bringing inward investment into the United Kingdom, the Conservatives should choose this time to suggest that it should be abolished.

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): Does the Minister recognise that one issue affecting our balance of trade with Europe in relation to large manufacturers and energy users is the fact that energy prices in Europe are established by a different mechanism from that used in our liberalised market here? What action are the Government taking to ensure that the EU delivers a fully liberalised energy market on the mainland of Europe, and when does the Minister expect that to be achieved?

**Mr. Alexander:** I appreciate that this is an important issue. Tomorrow I am meeting in my constituency representatives of Ciba Speciality Chemicals, one of our main manufacturers, which has concerns about the operation of the energy market in Europe. I am working closely on this matter with my colleague, the Minister for Energy and E-Commerce, and I can assure the hon. Gentleman that we take it very seriously.

## Miners' Compensation

8. **Adam Price** (East Carmarthen and Dinefwr) (PC): If she will make a statement on progress in determining the position of former surface workers in relation to the miners' compensation scheme. [211118]

**The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths):** A total of 396,000 compensation payments have been made to sick miners, or their widows or relatives, for respiratory diseases and vibration white finger, totalling £2.3 billion. I outlined the latest position on surface workers in my letter of 13 January to the hon. Gentleman and others. Following a meeting with the Under-Secretary of State for Wales, I have given an undertaking to re-examine the position.

**Adam Price:** I thank the Minister for his reply. He will be aware of the enormous distress that this issue is causing to former surface workers. Will he tell us whether the Government are insisting on costs being awarded against litigants if they are unsuccessful in any test case? I understand that solicitors acting for the miners have offered to undertake this work at no cost. Could not Government counsel make a similar undertaking?

**Nigel Griffiths:** Solicitors acting for the miners have had £450 million in public money, so they are not short of such funds. Clearly, with legal aid and other avenues open to miners, those who suffer from disease and who are on low incomes or low pensions can have their legal costs covered through apportionment of costs, as the hon. Member will know. I hope that he will urge solicitors approaching him and his constituents to follow that route.

**Mr. Michael Clapham** (Barnsley, West and Penistone) (Lab): I pay tribute to the Government for what they have done with regard to the scheme for underground workers, but my hon. Friend will be aware that there is a question regarding surface workers. There were areas on the colliery surface that were extremely dusty, such as the coal prep plant, the screens and the coke batteries. Will he consider introducing a separate scheme from the current one, which need not involve solicitors and could be drawn up in a similar way to the pneumoconiosis scheme, which, by the way, covered surface workers?

**Nigel Griffiths:** I have been advised of the medical evidence in relation to surface-only workers. Unfortunately, the levels of respiratory disease and dust in their lungs do not appear to make them eligible, and would not appear to do so under the other scheme. I opened up our records to miners' solicitors, so that test cases could be brought forward. Towards the end of last year, 15 cases were identified, and I hope that solicitors can find a way of pursuing those cases, so that we can get to the facts. The medical evidence so far is that dust damage done to lungs on the surface is not comparable to that done to deep-mine workers in dusty pits. We are trying to explore that evidence with miners' representatives.

**Jeff Ennis** (Barnsley, East and Mexborough) (Lab): Will the Minister also accept my congratulations on the fact that underground workers in my constituency have received almost £79 million from the compensation scheme? Having said that, I am pleased that the Minister has announced that he is reviewing the Government's stance. Will he explain to me and my constituents who suffer from chronic bronchitis and emphysema, who worked for many years in the washeries and the screens on the surface, where they contracted their CBE if not at work?

**Nigel Griffiths:** There is nothing to stop a miner taking a civil case. Indeed, the whole scheme arose from a civil case about that. The medical evidence so far has not in any way been conclusive as to whether they have suffered because of other factors. The medical evidence has been presented, and we have worked with miners' representatives to ensure that they have the most open access and the best possible help in bringing a test case. As I have said, 15 miners have been identified, and I hope that one or more of those cases can be taken forward.

## Democratic Republic of the Congo

10. **Norman Lamb** (North Norfolk) (LD): If she will make a statement on the work of the national contact point in respect of allegations made by the UN panel of experts with regard to the Democratic Republic of the Congo. [211121]

**The Minister for Trade and Investment (Mr. Douglas Alexander):** The national contact point works to raise awareness of the Organisation for Economic Co-operation and Development guidelines for multinational enterprises and to promote their use by companies in developing their own codes of conduct. When specific instances regarding their implementation are raised, such as by the UN expert panel on the illegal exploitation of natural resources in the Democratic

Republic of the Congo, the national contact point contributes to the resolution of issues raised, for example, by offering a forum for discussion between interested parties.

**Norman Lamb:** The Minister will be aware that the UN panel concluded that the conflict in the Congo, which claimed the lives of up to 5 million people, was sustained as a result of what it described as the multi-billion dollar theft of the country's mineral assets by companies and other Governments, and yet the NCP process seems deeply flawed in investigating and considering those concerns. Avient Ltd has recently admitted to supplying services to the Zimbabwe defence force in the Congo, yet it seems to have had the mildest of tickings-off. Is he prepared to consider meeting me, other Members and non-governmental organisations to examine those grave concerns?

**Mr. Alexander:** It is worth reminding the House that the UN expert panel was originally established to consider allegations of sanctions busting involving the Democratic Republic of the Congo, but found them to be unsubstantiated. However, a number of lines continue to be investigated, and I would of course be willing to meet Members to discuss the matter.

### China (Cashmere Imports)

11. **Sir Archy Kirkwood** (Roxburgh and Berwickshire) (LD): What steps she plans to take to increase the level of monitoring of the importation of cashmere knitted garments from China. [211122]

**The Minister for Trade and Investment (Mr. Douglas Alexander):** Surveillance licensing of EU imports from China on a range of textiles and clothing products, including cashmere knitted garments, was introduced by the EU and implemented by the UK on 1 January 2005.

**Sir Archy Kirkwood:** Does the Minister acknowledge the importance of cashmere knitting to south-east Scotland, an area that he knows well? Does he also acknowledge that cashmere garments are unique in that the raw material is, by definition, sourced exclusively in China? China's admission to the World Trade Organisation rules makes it important for dumping regulations to be monitored carefully. Will the Minister give an undertaking that, during the EU presidency later this year, he will make it his task to assure the local industry in both the borders and the rest of the United Kingdom that that monitoring will be carried out diligently?

**Mr. Alexander:** Of course I am aware of the significance of the cashmere industry to the borders region of Scotland, and of the hon. Gentleman's long-standing interest in that industry. There are real opportunities for the industry, given the potential for exports to the expanding Chinese market with China's accession to the WTO. Specific steps have been taken—not just the surveillance licensing that I mentioned, but the continuation of the EU dumping regulations that he mentioned. I am sure that, not least on the basis of his interest in the matter, we will continue to give it consideration.

## MINISTER FOR WOMEN

*The Minister for Women was asked—*

### Social Care (Pay Rates)

16. **Angela Watkinson** (Upminster) (Con): If she will make a statement on pay rates for women employed in social care. [211129]

**The Deputy Minister for Women and Equality (Jacqui Smith):** The median female wage for health and social work is £8.72 per hour, which is above the £7.95 hourly wage for all women in employment. Registration of social care workers is being led by the Department of Health and it is hoped that that will help to raise the status of this important sector of the work force.

**Angela Watkinson:** The Minister will know that local social services departments have great difficulty in meeting the demand for social care workers, especially when a 24-hour care package can require six or more people to care for one client. The employees are almost exclusively women with complex domestic commitments, so the jobs involve flexible hours and are often local. The women are tied into the jobs and have no pay bargaining power because they are locked into the terms and conditions that go with the jobs. How can we raise the status of those women and set them on a career path, so that when their children are older they can move to other jobs where their skills are transferable?

**Jacqui Smith:** The hon. Lady is right about the vital contribution made by care workers in many communities throughout the country. She asks what we can do. First, we need to improve the training of those in social care. Secondly, we need to ensure that local authorities have the resources both to recruit and retain the workers on the pay that they deserve for their efforts. That is why the £150 million grant that authorities will receive in 2005-06 for recruitment, retention and training is so crucial, and that is why I am sure the hon. Lady will share my disappointment that it will presumably be subject to one of the cuts proposed by her party's Front Benchers.

**Sandra Gidley** (Romsey) (LD): I am worried by the Minister's figures. She said that the median female hourly wage was £8.72, but earlier this year the Equal Opportunities Commission said that 5 per cent. of the social care work force earned around £5 an hour. Home owners say that they cannot afford to pay more on the rates provided by social services departments. What does the Minister think the minimum wage for the job should be, and what action are the Government taking to ensure that social services pay enough for that minimum to be paid to these hard-working and much-needed employees?

**Jacqui Smith:** As I said in my earlier answer, if we are to ensure that the people carrying out this vital work can be paid a decent rate, we must make certain that our social services departments are funded properly. In particular, we need to make certain that the resources

are directed towards recruitment, retention and training. The £150 million grant—the level of grant has increased in the past few years—is crucial in that regard, but so is training itself and the status of these workers. In both those areas, the Department of Health has taken important action and the ongoing registration of social care workers will ensure that their status and pay reflect the contribution that they make to our communities.

**Sir Nicholas Winterton** (Macclesfield) (Con): The Minister has touched on the critical issue: the resources allocated to local government to enable it to pay for social care workers. I am frequently approached by representatives of residential care homes and nursing homes in my constituency, who say that they cannot find sufficient women to do the job because our area, fortunately, is economically vibrant and well-off and the demand for labour is tremendous. Will the Government not take account of this issue in allocating resources to local authorities and thereby enable them to provide the extra pay needed to employ these care workers, who play an essential role in looking after the many vulnerable people in our society?

**Jacqui Smith:** I agree with everything that the hon. Gentleman said. Of course it is crucial that we allocate to local authorities the resources necessary not only to train and recruit these workers, who are doing such an important job, but to retain them on decent rates of pay. Members are right to say that the majority of such workers are women, but it should be part of our task to attract more men into this sector, to increase the total number of workers available. Yes, we do need to ensure that local authorities have more resources and, through the training and recruitment grant, we are ensuring that they will get an extra £150 million next year. I am sorry to return to an earlier point, but if the Conservatives' sums are to add up, that grant must form part of their proposed cuts—should they ever get into power.

## Equal Pay

17. **David Taylor** (North-West Leicestershire) (Lab/Co-op): What recent assessment she has made of the rates of pay for men and women doing the same job. [211130]

**The Minister for Women and Equality (Ms Patricia Hewitt):** Although the gender pay gap is at an all-time low, at 14.4 per cent. it is still too high. That is why we promoted equal pay reviews, which have now been completed by all 88 Government Departments and agencies, and strengthened the law in this area.

**David Taylor:** It is as astonishing as it is unacceptable that, despite the growing number of women workers—indeed, they now outnumber men in half the local authority areas in Britain—they and we tolerate female rates of pay that are up to 25 per cent. lower than male ones. Does my right hon. Friend agree that, in addition to the legal and moral question, such inequality is now having an adverse economic impact? Women having less money to spend is unnecessarily restricting development of the service sector, as we see in many parts of the United Kingdom.

**Ms Hewitt:** Like my hon. Friend, I have always argued that unequal pay is both unfair to the individuals affected and damaging to business, employers and the economy. Local councils, like other public sector bodies, are absolutely committed to equal pay and I am glad to say that, in most cases, they have reviewed their pay structures to rectify the historical wrong that has been done to millions of women.

**Mrs. Eleanor Laing** (Epping Forest) (Con): Will the right hon. Lady acknowledge that the Opposition entirely agree with everything that she has just said, and that equal pay for men and women is an extremely important principle that we defend? However, principles are no good unless they can be enforced. Will she consider the Equal Opportunities Commission's proposal to make enforcement of equal pay rates easier, while not putting unnecessary burdens on businesses, particularly small businesses?

**Ms Hewitt:** We are of course looking carefully at the EOC's proposal. Indeed, we established the Women and Work Commission, which is chaired by Baroness Prosser, to examine the action that needs to be taken to deal with the fundamental causes of the gender pay gap. We have already strengthened the law in this area and are creating specialist equal pay tribunals. We will, of course, continue to look at proposals for further action, while recognising that we must balance the demands that we make on business with the proper standards that we set to protect individuals. I welcome the hon. Lady's commitment to that principle.

## Women and Work Commission

18. **Mr. Mohammad Sarwar** (Glasgow, Govan) (Lab): What steps are being taken to encourage submission of evidence and views to the Women and Work Commission. [211131]

**The Deputy Minister for Women and Equality (Jacqui Smith):** The Women and Work Commission's call for evidence was published in English and Welsh on the women and equality unit's website in November, with responses requested by 11 February 2005. It has been publicised to over 600 organisations across the UK. Fair Play Scotland has appointed a worker to co-ordinate Scottish views.

**Mr. Sarwar:** Will my right hon. Friend pay special attention to the progress being made in Glasgow, where more women are going back to work after having children, and advancing their careers in business and local government?

**Jacqui Smith:** I certainly give my hon. Friend that assurance. One of the jobs for the women and work commissioners will be to visit places like Glasgow to talk to women and their employers about what has helped

women to make choices about combining work and care, and to make sure that women in work get the fair deal that they deserve.

**Tim Loughton** (East Worthing and Shoreham) (Con): Oxfam has estimated that there are more than 1 million home workers in the UK. Of that total, 90 per cent. are women, 50 per cent. of whom come from ethnic minorities. Home workers' average pay is reported to be as low as £2.53 an hour. Two years ago, the Government consulted on home workers' employment status, and promised to publish a report in January this year. Where is it?

**Jacqui Smith:** I share the hon. Gentleman's concern about the position of homeworkers, and I shall write to him about the progress of the report to which he referred.

## Business of the House

12.31 pm

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Will the Leader of the House please give us the business for next week?

**The Leader of the House of Commons (Mr. Peter Hain):** The business for next week will be as follows:

MONDAY 31 JANUARY—Consideration in Committee of the Constitutional Reform Bill *[Lords]*.

TUESDAY 1 FEBRUARY—Continuation of consideration in Committee of the Constitutional Reform Bill *[Lords]*.

WEDNESDAY 2 FEBRUARY—Motion on the Police Grant Report (England and Wales) 2005–06, followed by motions on the Local Government Finance Report (England) 2005–06 and the Local Government Finance Report (England) 2003–04: Amending Report 2005.

THURSDAY 3 FEBRUARY—Remaining stages of the Child Benefit Bill.

FRIDAY 4 FEBRUARY—Private Members' Bills.

The provisional business for the following week will be:

MONDAY 7 FEBRUARY—Remaining stages of the Serious Organised Crime and Police Bill.

TUESDAY 8 FEBRUARY—Opposition Day [4th Allotted Day]. There will be a debate on a motion in the name of the Liberal Democrats. Subject to be announced.

WEDNESDAY 9 FEBRUARY—Second Reading of the European Union Bill.

THURSDAY 10 FEBRUARY—Remaining stages of the Identity Cards Bill.

FRIDAY 11 FEBRUARY—The House will not be sitting.

I should also like to inform the House that the business in Westminster Hall for February will be:

THURSDAY 3 FEBRUARY— A debate on rehabilitation and healthier workplaces.

THURSDAY 10 FEBRUARY—A debate on the report from the Health Committee on obesity.

THURSDAY 24 FEBRUARY—A debate on the report from the International Development Committee on migration and development.

The House will also wish to be reminded that, subject to the progress of business, we will rise for the half-term week on Thursday 10 February and return on Monday 21 February.

**Mr. Heald:** Will the Leader of the House join me in remembering the suffering of the victims of the holocaust on holocaust memorial day, 60 years after the first camp was liberated, and will he pay tribute to the survivors and their families? The Prime Minister and my right hon. Friend the Leader of the Opposition are, of course, attending today's remembrance service in Westminster Hall.

Following the publication of the European Union Bill, and the announcement of a Bill to impose house arrest on terrorists, will the leader of the House give us the full timetable for those Bills? Is it his intention that they will be debated on the Floor of the House?

The lottery distributor the Big Lottery Fund has closed funding after 31 May, because it is awaiting the National Lottery Bill. Will the right hon. Gentleman say when we can expect to debate it?

The Management of Offenders and Sentencing Bill seems to have become stalled in the other place, with the Government having postponed Second Reading twice now. Is there a problem, or can we expect to debate the Bill here soon, as thousands of prison and probation officers are waiting to know what will happen to their jobs?

May we have an urgent statement about programming of legislation, in the light of what has happened in the Committee considering the Identity Cards Bill? There has been no debate on five of its most important clauses because of the draconian guillotine, and half the Bill remains undiscussed despite an extra hour's consideration today. Only one sitting remains.

The Leader of the House will know that the Treasury Committee has said that two months' notice of the date of the Budget should be given. If he will not give us the date, can he at least explain why not? If we cannot have the date, may we at least have an urgent debate on the Committee's report, published today, and on the green budget from the Institute for Fiscal Studies, the highly regarded independent think-tank, which confirmed the existence of an £11million black hole in the Chancellor's sums and also confirms the practicality of Conservative plans to cut taxes. We all remember that the Chancellor's first act in his first Budget after the previous election was to raise taxes by hiking national insurance. Is it not the case that he would have to raise taxes by £11 billion if Labour scraped back into government? Can we not debate in Government time the stark choice for Britain—more taxes under Labour or tax cuts under the Conservatives?

**Mr. Hain:** I will deal with that nonsense in due course. First, I join the hon. Gentleman in acknowledging—as I know the whole House will wish to do—the importance of holocaust day. The message must be, "Never, ever again." I also hope that we will all work together to confront neo-Nazi forces still in British politics. We did that with the National Front, including through the campaigns of the Anti-Nazi League some years ago, and we must do the same with the British National party today. I also wish to thank Mr. Speaker for allowing the use of Westminster Hall for the special ceremony, attended by Her Majesty the Queen, the Prime Minister and the Leader of the Opposition, to commemorate holocaust day.

Discussions will be held through the usual channels on the European Union Bill, and we will table a programme motion in due course. However, it has been the case in the past that EU treaty amendment Bills were heard on the Floor of the House, and I see no reason to change that.

I cannot tell the hon. Gentleman when the National Lottery Bill will come to the House, nor can I give him information at this stage on the Management of Offenders and Sentencing Bill. However, his allegation about that Bill is wrong.

*[Mr. Hain]*

On the Identity Cards Bill, the truth is that the issues have been debated for many years. The draft Bill was subject to detailed scrutiny before being introduced—

**Sir Patrick Cormack** (South Staffordshire) (Con): No, it was not.

**Mr. Hain:** Yes, it was. It was subject to detailed scrutiny and my right hon. Friend the Home Secretary took that into account in drawing up the Bill that was eventually introduced. It is very interesting to note that an unusual amount of filibustering took place in Committee on this Bill. I do not know whether that was deliberate, to allow questions such as the hon. Gentleman has just put claiming that the Bill had insufficient time: I merely note what happened. The time that we have provided for the Identity Cards Bill is fully adequate for its remaining stages and we do not intend to make any changes.

I am not able to give the hon. Gentleman a date for the Budget and I do not think that he seriously expects me to do so. He mentioned a black hole, but the real black hole is in Tory finances. They propose £35 billion-worth of cuts, which is inconceivable and completely unrealistic, as my right hon. Friend the Prime Minister has repeatedly made clear. They also propose £4 billion in tax cuts, but nobody—except Conservative Front Benchers—believes that they could have tax cuts, massive savings and cuts in spending on that scale. They simply could not do everything at the same time.

It is very interesting to note that the Leader of the Opposition's own policy document on taxes says that the options discussed in that paper represent a menu from which a Conservative Government may draw when formulating their Budgets. It goes on to say that the presence of a particular option in that paper or in its successors in the consultation series does not constitute any guarantee or promise that the particular option in question will form part of any Conservative Budget. So, we cannot even believe the £4 billion tax cuts that they say they will introduce. The contrast is between a Labour Government, who have introduced economic stability of a kind that we have not known for generations—high employment, low mortgage rates, low interest rates, low inflation and economic growth year by year—and the mess and the black hole created by the last Conservative economic plan.

**Mr. Ronnie Campbell** (Blyth Valley) (Lab): My right hon. Friend will be aware that in south-east Northumberland we have had a black Wednesday, with the announcement that 500 jobs at a pharmaceutical factory are to go, and of course the loss of Ellington colliery, with 300-odd jobs—nearly 900 jobs altogether. Will my right hon. Friend arrange a debate, not on the narrow subject of south-east Northumberland but on the north-east as a whole, so that at least the Members for that region could point out the disadvantages that they are getting from the Government?

**Mr. Hain:** I know that, especially to my hon. Friend, the issue of collieries such as Ellington is very important, and I share and identify with him on that matter, representing as I do a similar constituency, where coal mining is an indelible part of its tradition—indeed, in its case, its present. Obviously we are very sad about the closure of Ellington colliery and we will fight to preserve all jobs wherever and whenever we can. However, a balance needs to be struck. The difference between the situation now and under the Conservatives, when mines and pits were closed by the hundred, is that then there was nowhere else for the miners to go. There were no alternative jobs. When my hon. Friend says that he and his constituency have been let down by this Government, the truth is that, as I believe he is on the record as saying, unemployment has been cut massively in his constituency. There are job prospects in the region because the north-east is doing better than it has done for generations. We must recognise that there will be a process of switch in jobs and a process of churning, but at least we are going to work with those involved to find them new job opportunities.

**Mr. Paul Tyler** (North Cornwall) (LD): May the Liberal Democrats entirely endorse what the Leader of the House has just said about holocaust memorial day? I am sure that colleagues in all parts of the House will do so.

I am sure we all hope that the elections in Iraq this weekend will produce the maximum turnout and suffer the minimum disruption from terrorists. When will the Prime Minister be in a position to make a statement on the outcome of those elections, and the implications for the presence of British forces in Iraq? In particular, when will there be a timetable for the reduction in those forces and their replacement by troops from Iraq or from other Islamic countries, as the security situation permits? This morning, No. 10 Downing street has indicated that that prospect is under review. When can we be given a firm exit strategy, and does the Leader of the House accept that the mere presence of British and American troops in Iraq may feed that insurgency and disruption?

On the European Union Bill, the Leader of the House was very coy last week when I asked him about the timetable. Bearing in mind the timetable not only in this House but in the other place, can he now give us a firm indication of whether he intends and hopes that Royal Assent will be achieved before the end of April?

Can the Leader of the House give an undertaking that the Home Secretary will be prepared to give us a statement on the important issue of deaths caused by police drivers? The Leader of the House may have seen an important analysis in the *Daily Express* today, which reveals that 55 crashes a day take place involving police vehicles, leading to 30 deaths every year. I have raised this subject on numerous occasions, not least because, as the Leader of the House may recall, I was a member of a police authority for many years. Successive Home Secretaries have said that the situation is improving, but it is clearly deteriorating; may we have a statement?

**Mr. Hain:** I am grateful for the hon. Gentleman's comments about holocaust day, which reflect a common position throughout the House. I will bear in mind what he said about Iraq. Sunday will be a historic day for Iraq, and the extent of Iraqi participation in the election is enormous, with 8,000 candidates, 150,000 officials and thousands of polling stations. Whatever we felt about the war—I respect the different view that he took

about military action—our common objective is for democracy to triumph over terrorism, bloodshed and attempts to bomb Iraq back into Islamic fundamentalism and tyranny of Saddam Hussein's kind. That must be the choice, so we all want the elections to succeed.

The hon. Gentleman asks when British forces might withdraw and mentions the exit strategy. I understand those points, but our motto is, "We're not quitters". We will not turn our back on the Iraqi people or the Iraqi Interim Government. We will ensure that we finish the job and support the transition of Iraq from tyranny into democracy because that is the clear strategy on which we have embarked. Of course we will want to withdraw British forces as soon as possible, but we will not do that except at the request of the Iraqi Government. If they want us to go, we will of course go, but meanwhile we are stabilising and reinforcing their security forces and providing those forces with the opportunity to take over.

I cannot provide the hon. Gentleman with a timetable for the European Union Bill at this stage. However, it might depend on Opposition co-operation. If the Conservatives, especially, want the Bill to go through quickly, they can provide us with a ready-made plan through the usual channels. It might, however, suit them for it not to go through quickly, so it is their choice.

We fully accept the seriousness of the issue of deaths on the road caused by police drivers. The Association of Chief Police Officers is well aware of the criticisms that have been levelled. It launched new guidance last year and there is considerable investment in driver training in the police service. Management controls are constantly reviewed to ensure that robust risk assessments are in place and that the maintenance of safety is the priority at all times. However, there is no question but that the numbers are too high.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): Is my right hon. Friend aware that two thirds of a massive problem in my constituency has been cracked: first, by the provision of £104 million by the Office of the Deputy Prime Minister to clear up Avenue cokeworks, and secondly with £4 million from the Department of Trade and Industry to clear the neighbouring Grassmoor lagoons? However, the third aspect of the problem is the health of the workers at the Avenue site and that of the surrounding community. Responses about the situation from the Department of Health have not been helpful. May we have a statement from a Health Minister to show that the Department is on to the issue and taking up information from the other two Departments about the serious contamination that occurred on the sites?

**Mr. Hain:** I am sure that the whole House will support me in paying tribute to my hon. Friend, who has been an assiduous and effective parliamentarian during his time here, and wishing him all the best for his future retirement.

**Mr. Barnes:** It could be another year yet.

**Mr. Hain:** I did say future retirement—this year or next year. The investment in my hon. Friend's constituency is enormous.

**Mr. Barnes:** Tremendous.

**Mr. Hain:** It is tremendous investment, as my hon. Friend says, and I pay tribute to him for campaigning tirelessly for it. If I may say so, the investment is typical of the Labour Government, who invest in local communities, unlike the situation under our predecessors when we experienced savage cuts. The health of the workers concerned is uppermost in our minds and I am sure that my hon. Friend will continue to be vigilant on the matter.

**Dr. Julian Lewis** (New Forest, East) (Con): May we have a statement from the Foreign Secretary, after he has had a chance to investigate the matter, on the information contained in early-day motion 591, which was tabled by my hon. Friend the Member for Romford (Mr. Rosindell)?

*[That this House notes with great concern the recent admission, following the discovery of documents in the Lithuanian Special Archive, that both the country's Foreign Minister, Antanas Valionis, and, even more importantly, the Director-General of the State Security Department, Arvydas Pocius, were Reserve Officers in the Soviet KGB; deplores the dismissal of the Director of the Lithuanian Special Archive; believes that there are implications for the security of NATO, notwithstanding the welcome improvement in relations between Russia and the West; and calls upon the Secretary of State for Foreign and Commonwealth Affairs to make a statement about these disturbing revelations.]*

The early-day motion relates to the recent admissions that not only the Foreign Minister of Lithuania, which is now a NATO country, but the head of Lithuania's principal intelligence service were reserve officers in the Soviet KGB. It also notes the worrying fact that it appears that the head of documentation archive in which the information was discovered has been sacked. This is a very disturbing matter. We are remembering the Nazi holocaust today, but there was a Soviet holocaust as well. In addition, there are implications for NATO security. I should be grateful if the Leader of the House conveyed to the Foreign Secretary the need to look into this serious matter.

**Mr. Hain:** I shall certainly convey the hon. Gentleman's request to the Foreign Secretary, because he is right about the seriousness of the matter. I understand that there is particular sensitivity in the international Jewish community about the implications of the discovery and that the Lithuanian Parliament has established a commission to investigate allegations of links between senior public figures of the KGB. It held its first meeting yesterday and I cannot prejudge its findings.

I am absolutely bowled over that the hon. Gentleman did not ask about the diary of the Chancellor of the Duchy of Lancaster. I can only assume that he is giving my right hon. Friend the day off because it is his birthday.

**Mr. Tom Clarke** (Coatbridge and Chryston) (Lab): In view of the ongoing human rights abuses, death and destruction in Darfur, does my right hon. Friend agree that it would be appropriate to have a debate on the Floor of the House so that we can consider, for example, the remarkable revelations in *The Independent* yesterday, the excellent job that the Department for

*[Mr. Tom Clarke]*

International Development is trying to do despite the obstruction, and, perhaps above all, the Government's view of the role of the United Nations Security Council in a humanitarian crisis made all the worse by the fact that it is man-made and continuing?

**Mr. Hain:** I completely agree that the crisis is a stain on Africa. Everybody, including leaders throughout the continent of Africa, is working with us to try to solve it. My right hon. Friend will have the opportunity to press the matter further at DFID questions next week. I acknowledge the way in which he has continually brought it to the attention of the House.

**Sir George Young** (North-West Hampshire) (Con): May we have an early debate on the Government's proposals for the House of Lords? Does the right hon. Gentleman recall that, at the Labour party conference, the Lord Chancellor said:

"We need between now and the preparation of our manifesto to identify a solution which makes for a representative chamber, and then commit ourselves to it, in the manifesto."?

Did the Leader of the House read *The Daily Telegraph* on Monday, which reports that when asked whether there would be proposals ready for the manifesto, the Leader of the House of Lords said no? May we have a debate, so that we can find out precisely what is going on?

**Mr. Hain:** I invite the right hon. Gentleman to read the interview that I gave to the *New Statesman* today. I thought that he was going to quote me—it would have added a bit of spice to his question. We are committed to reform of the House of Lords. The issue now is not only its composition and reaching a consensus on it, but the powers of the second Chamber—how to stop it vetoing House of Commons-initiated legislation and make it perform its proper function, which is scrutinising, revising and improving House of Commons-initiated legislation. That is where the debate lies and we intend to make progress on it.

**Mrs. Lorna Fitzsimons** (Rochdale) (Lab): Has my right hon. Friend had time to glance at *The Guardian* this morning? If he has, he has seen a story headed "Manchester may face congestion charging". Will he confirm that at Transport questions on 21 December, in response to a question asked by my hon. Friend the Member for Manchester, Blackley (Mr. Stringer), the Secretary of State for Transport stated categorically that, in its pursuit of light rail and an integrated transport system, Greater Manchester would not be forced to have a congestion charge?

**Mr. Hain:** I can confirm that my right hon. Friend made it perfectly clear that there would be no draconian pressure put on Manchester to introducing congestion charging. The matter is one for Manchester, in discussion with the Government, to decide. Progress on the tram system is a parallel, but entirely separate, matter.

**Mr. Peter Viggers** (Gosport) (Con): May we have an early debate on Government industrial policy, perhaps linked with the subject of the integrity of Government? I think that they should be linked because, earlier this month, I received information from a reliable source that tens of millions of pounds were to be given to Swan Hunter shipyard, but in response to questions I put to the Ministry of Defence and the Department for Trade and Industry, the MOD replied:

"The Ministry of Defence does not provide financial support to the defence industry

and the DTI replied that it

"has awarded just one grant of £1.2 million in September 2000". —[*Official Report*, 11 January 2005: Vol. 429, c. 381W, 148W.]

Yet in today's newspaper, I read that an agreement was reached on 10 December that the MOD would give £84 million to Swan Hunter. If the Government are giving a pre-election bung, we need to know why. Although, of course, Ministers never lie in reply to questions, is it not worth a debate if an answer is so inconsistent with the truth that it is impossible to reconcile the two?

**Mr. Hain:** I do not accept that there is inconsistency with the truth or that there has been any attempt to mislead the hon. Gentleman. The Secretaries of State concerned will note his points and will want to clarify the matter to his satisfaction.

**Mr. Dennis Skinner** (Bolsover) (Lab): Following the request made by my hon. Friend the Member for Blyth Valley (Mr. Campbell) regarding the north-east, but in relation to coal generally, will the Leader of the House arrange for a debate or a statement by the appropriate Minister on UK Coal's activities, which should be investigated? With 49,000 acres of land, some of which will be exploited after the closure of Ellington, UK Coal is more of a property company than a coal company. The Government intervened to replace some of the privatised rail companies that succeeded British Rail, and it is high time that we got rid of UK Coal, which is practising the art of shutting pits; otherwise, there will soon be no pits left. UK Coal is continuing the tradition of Thatcher and Heseltine because it wants to make a lot of money out of the land.

**Mr. Hain:** My hon. Friend is a powerful advocate for the miners and always has been, and I pay tribute to him for that. The Secretary of State for Trade and Industry will take heed of what he has said, particularly the charge that he has made.

I find the present situation puzzling. World demand for coal and therefore the price of coal are higher than they have been for a long time, and mine managers in my constituency say their collieries are now in a much better position now than they were years ago. It seems contradictory to be closing pits.

**David Burnside** (South Antrim) (UUP): Today—not next week—the Prime Minister is meeting the leader of Sinn Fein-IRA, Gerry Adams, at Chequers. It is the first meeting since the Chief Constable expressed his opinion that IRA was responsible for the biggest bank robbery in British history at the Northern bank. Will the Leader of the House ask his right hon. Friend to come to the House and make a statement to inform the House what sanctions will be imposed on Sinn Fein-IRA? It is not

operating as a normal democratic party and its members do not deserve the facilities for democrats who sit in this House.

**Mr. Hain:** I know that that is the hon. Gentleman's view: to his credit, he has expressed it consistently over a number of weeks. However, as I am sure all our constituents understand, it is the Prime Minister's responsibility to try to get the peace settlement and the devolution settlement in Northern Ireland back on track, reinforced and locked in. I know that the hon. Gentleman supports that objective and I am sure that he agrees that Sinn Fein is an important part of the democratically elected political landscape in Northern Ireland. The recent criminality involving the IRA is extremely serious; it is why the process has stalled after seeming to reach a promising point. My right hon. Friends the Prime Minister and the Secretary of State for Northern Ireland will note the hon. Gentleman's comments.

**Mr. George Mudie** (Leeds, East) (Lab): The Leader of the House must be aware of the deep concern and genuine unease of staff in the health service, local government and the civil service about Government-proposed policy changes to their pensions, which the House has not had a specific opportunity to discuss. Given that the consultation period ends in March, can my right hon. Friend confirm that the House will be able to discuss the policy changes before the Government take the final decisions?

**Mr. Hain:** Regulations have been laid, but they have not been debated yet, as my hon. Friend said. Of course, there will be an opportunity to scrutinise them. My hon. Friend will understand that there is a difficult choice of the kind that we have to make in government from time to time.

Everyone, including the trade unions and my hon. Friend, accepts that public sector pensions must be reformed to cope with the problem of an ageing society. Despite the high levels of employment, there are proportionately fewer people in employment to help to fund pensions. The public sector must be reformed, just as we reformed our own salaries. I rebut the charge that Members of Parliament have not reformed their own pensions. We have done so, and we are phasing out early retirement privileges in line with other parts of the public sector. The regulations were introduced to help to create greater funding stability in local government and keep the council tax down. That is one of the difficult balances that the Deputy Prime Minister had to strike.

**Sir Nicholas Winterton** (Macclesfield) (Con): Will the Leader of the House look again at the way in which programming operates? Could he look at some of the sound proposals which, sadly, he did not accept, made by the Procedure Committee, in light of the unfortunate situation concerning the Identity Cards Bill? It is very sad that such a critical Bill should leave Standing Committee with many provisions inadequately debated or not debated at all. I should be grateful if the right hon. Gentleman would give me such an assurance.

On a matter related to what the Prime Minister said in Davos about climate change, could we have a debate or statement on nuclear energy, one of the few clean sources of mass energy generation, in the near future? That is important, given that world temperatures could rise dramatically by 11 per cent. before the end of the century.

**Mr. Hain:** Climate change is, indeed, a threat to the very existence of the planet. The hon. Gentleman is right, and he shares a common agenda with the Government and the Prime Minister, which is why my right hon. Friend is taking a lead on the issue during our presidency of the G8 countries. Indeed, he promoted a much more effective and radical policy only last night. On the question of the nuclear industry, I do not agree that nuclear power is the only alternative. Renewable sources of energy offer a far more attractive future, both for this country and the world, than continuing to build expensive nuclear plants, which have huge waste legacies and huge liabilities for the Exchequer.

On the question of programming—of course we will keep it under review. The House made a decision on the matter only a few months ago, but I accept that the hon. Gentleman was robust in holding a different view. However, we will look at the issue. He will concede that whatever difficulties have arisen in relation to the Identity Cards Bill, programming works well and consensually in most cases. However, that appears not to be the case with that Bill.

**John Cryer** (Hornchurch) (Lab): This is not the question that I was originally going to ask, but following the questions from my hon. Friends the Members for Blyth Valley (Mr. Campbell) and for Bolsover (Mr. Skinner) about the UK coal industry, coal has become such a pressing national issue that it has to be examined. The deep-mine industry has fallen into the clutches of a bunch of asset-strippers who, even when offered money by the Government, have pressed ahead with pit closures, using Government money for redundancy payments. Given that background, there is only one answer—public intervention and public ownership. Otherwise, within a decade, we will not have any deep mines left in Britain, so we need a debate or at least a statement.

**Mr. Hain:** If my hon. Friend's pessimistic forecast—I am not suggesting that it is unrealistic in the circumstances—were true, the worldwide demand for clean coal, particularly from China and India, should mean that Britain is a position to contribute by exporting technology and expertise. The end of coal would therefore be a counter-productive strategy. Indeed, given the high demand for coal, it is difficult to envisage such a strategy being employed, but the Secretary of State for Trade and Industry is well aware of the difficulties, and will have noted his powerful point.

**Hywel Williams** (Caernarfon) (PC): Could we have a statement from the Home Secretary on standards for answering correspondence to the Home Office? I contacted the previous Home Secretary, the right hon. Member for Sheffield, Brightside (Mr. Blunkett), on 15 September about threats to some of my constituents and organised harassment of a local company. As I did not receive a reply, I wrote again on 2 November, and again on 15 November, marking my letter "urgent".

*[Hywel Williams]*

I accept that the right hon. Gentleman had other concerns at the time, but on 16 December, I wrote to the new Home Secretary congratulating him on his appointment and asking him for a reply. Here we are on 27 January, and I still have not heard anything. That is either gross discourtesy or gross incompetence, and I should like the Home Secretary to come to the House to answer for himself.

**Mr. Hain:** The hon. Gentleman makes a serious allegation. He is entitled to early replies on important constituency matters. There are Home Office questions on Monday, so he can remind the Home Secretary of that. I am sure, however, that my right hon. Friend will have noted the point that he made, and that the problem will be resolved.

**Mr. Deputy Speaker (Sir Michael Lord):** Order. I remind the House that hon. Members should ask one question, which should be brief and about next week's business.

**Mr. Wayne David** (Caerphilly) (Lab): Given that we now have a fair question before us on a forthcoming EU constitutional referendum, can we have a debate at the earliest opportunity on the importance of strong EU external border controls?

**Mr. Hain:** Indeed, I strongly agree with my hon. Friend. The Government are committed to strong EU border and immigration controls, and we are prepared to continue spending the money and investing it to ensure that our border controls and security are tightened up against illegal migration. By contrast, alternative proposals from the Conservatives would result in savage cuts in immigration and border control budgets, as well as the adoption of systems that are far too expensive. The Australian system, for example, would cost £50,000 per head, which does not square with existing spending patterns or fiscal probity.

**Mr. Andrew Mackay** (Bracknell) (Con): I hesitate to be harsh with the poor Leader of the House after his humiliation at the hands of the Government Whips yesterday, when all his motions were defeated on the Floor of the House. However, I take issue with his reply to my hon. Friend the Member for North-East Hertfordshire (Ms. Heald), and his suggestion that filibustering had taken place during the Committee stage of the Identity Cards Bill. That is a direct attack on the senior and distinguished Chairman of that Committee, my hon. Friend the Member for Old Bexley and Sidcup (Derek Conway). The Leader of the House will recall that the right hon. Member for Sheffield, Brightside (Mr. Blunkett) had to come to the House and apologised for making allegations of filibustering, which are an attack on the Chair. Would the Leader of the House like to apologise to my hon. Friend?

**Mr. Hain:** I am advised that the Chairman repeatedly intervened in Committee, and tried to call Conservative Back Benchers to order. The Conservative Front Bench is all over the place in its policy on identity cards, as there is complete disagreement between the Leader of the Opposition and the shadow Home Secretary. That may well be reflected in the chaos among Tory Back Benchers and the filibustering in Committee.

On the question of sitting hours, I am grateful that the right hon. Gentleman voted in the same Lobby as me. *[Interruption.]* No, it is not a question of humiliation. I put a motion before the House with a clear choice, and it was carried. I voted against the amendment and, like the right hon. Gentleman, I would have preferred to keep the 7 o'clock conclusion. My job as Leader of the House is to try to enable the House to come to consensus. We did so last night, as there was a clear decision, unlike the last time this was decided, and that is that.

**Mr. Richard Shepherd** (Aldridge-Brownhills) (Con): Now that the Home Secretary has announced his intention to seek urgently powers of house arrest over British citizens—and, incidentally, put us on a par with Burma and Zimbabwe—will the Leader of the House make sure that he makes a statement next week confirming that there will be no guillotines or timetables on such an important matter, and furthermore that the Joint Committee on Human Rights will have enough time between First and Second Reading to report to both Houses of Parliament, so that when the matter is discussed on the Floor of the House we are in a position to examine the matter in hand properly?

**Mr. Hain:** Of course that is an important matter. The exact handling of any legislation will be discussed and agreed through the usual channels. It is an agonisingly difficult choice for anyone involved in Government and for the whole House to strike a balance between what the Home Secretary is proposing and any better solution to the problem. It is important that those who have been involved in terrorist activity, or of whom we have intelligence that they are involved in terrorist activity and could, for all I know, be plotting to blow up the House of Commons, are dealt with properly, and at the same time that the rule of law applies and civil liberties are protected as far as possible.

The Home Secretary set out his proposals in a statement to the House, quite properly, and he was questioned about them, but he made it clear that those proposals were part of a debate in order to strike the right balance. I note that the Muslim Council of Britain, for example, has welcomed the proposals, pointing out that they end the discrimination between foreign and British citizens. The council wants to see a situation where civil liberties are protected but we are properly guarded against the threat of suicide bombers and the like. I am sure that is what everybody wants, including the hon. Gentleman.

**Mr. Martin Salter** (Reading, West) (Lab): Following the comments of my hon. Friend the Member for Leeds, East (Mr. Mudie), the Leader of the House will be aware of early-day motion 579.

*[That an humble Address be presented to Her Majesty, praying that the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004 (S.I., 2004, No. 3372), dated 17th December 2004, a copy of which was laid before this House on 22nd December, be annulled.]*

It seeks, in the form of a prayer, to annul statutory instrument 3372. That would have the effect of reducing the pension rights of hundreds of thousands of local government workers, and it was laid by the Government, rather disgracefully, on the last day before Christmas. How many signatures do we need to get on early-day motion 579 before the House is granted a debate and a vote on such a vital issue, which will affect the terms and conditions of many of our constituents?

**Mr. Hain:** I have dealt with the substance of the matter, but on my hon. Friend's question about how it will proceed, the Government are aware, as is the Deputy Prime Minister, of the strength of feeling reflected in the early-day motion, which my hon. Friend expressed, quite properly, and which was also expressed earlier. We will bear that in mind as we take the statutory instrument through and deal with it, as we must, before the House.

**Mr. Graham Stringer** (Manchester, Blackley) (Lab): I, together with other right hon. and hon. Members representing constituencies in north Manchester, received a very unwelcome fax this morning from Phil Davidson of BAE Systems. The fax announced the end of defence repairs and maintenance at the Chaderton factory. That will mean the complete end of manufacturing at that plant, which has manufactured aeroplanes for more than 70 years, and it will mean the loss of 335 jobs. Can my right hon. Friend arrange for a debate next week in order that we can discuss whether the Nimrod mark 4 programme can be restarted, as that is probably the only chance that workers at the plant will have of remaining in employment at another manufacturing base in south Manchester?

**Mr. Hain:** I will draw the attention of the Secretary of State for Defence and the Secretary of State for Trade and Industry to my hon. Friend's important question on behalf of his constituents. The plant was a flagship local company which, I think I am right in saying, built the Lancaster bomber. It is disappointing that the situation has arisen, although there are huge changes in defence procurement and priorities. I know my right hon. Friends will take careful note and look at the situation in the light of what he said and the campaign that he has led so ably to defend the future of the company.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): Can the Leader of the House provide an early debate on the selection of Committees—Select, Standing and other? That is particularly important as, after the election, we will be setting up Select Committees. Does he agree that it is undesirable that those on the Front Benches should have the influence that they now have on the selection of Committees? It would be better by far if membership of a Committee were decided by ballot, with the Selection Committee filling up only the residue.

**Mr. Hain:** I understand the point that the right hon. and learned Gentleman makes, but the House voted on the matter a couple of years ago and decided against the course that he advocates.

**Dr. Desmond Turner** (Brighton, Kemptown) (Lab): Climate change has reached the top of the political agenda. It is one of the two prime topics set out by the Prime Minister for our presidency of the G8 and of the European Union. Does my right hon. Friend agree, especially in the light of the fact that the Government are currently consulting on a review of climate change policy, that whether nuclear power, renewable energy, both or other measures are important, it is time—a very apposite time—to have a full debate on climate change policy on the Floor of the House?

**Mr. Hain:** I understand the impetus behind my hon. Friend's request. Climate change is one of the most critical issues facing the world and therefore the House. That is why the Prime Minister is leading the international drive towards effective global action to deal with climate change. When there are opportunities to debate it, we will take them.

**Mr. Alistair Carmichael** (Orkney and Shetland) (LD): Can a small amount of time be made available for the appropriate Minister from the Foreign and Commonwealth Office to explain to us what representations will be made with regard to the British citizen Kenny Richey, who has been on death row in Ohio for the past 18 years but who this week had his appeal upheld? The court there made an order for his release or retrial within 90 days. That takes this from being a matter relating to the judiciary to a matter that is political. For the Ohio authorities to retry after 18 years a man to whom they gave a plea bargain offering him a sentence of 11 years would be nothing short of outrageous.

**Mr. Hain:** I understand the point that the hon. Gentleman makes. As he knows, Her Majesty's consul general has lobbied persistently on the case and may well have had some influence on the outcome. We will monitor it carefully and continue to work on it to see that it is suitably progressed.

**Dan Norris** (Wansdyke) (Lab): The ill fated Bath spa project is four years overdue and still not open, with no opening date in sight. It is £20 million over budget and it is costing every one of my constituents—every man, woman and child—the equivalent of £116 each in waste. May we please have an urgent debate on local authority spending and some of the madcap councils—the one in question happens to be run by the Liberal Democrats and the Tories—so that we can address the waste? As a Government we provide millions to local authorities. The Opposition parties talk about getting rid of waste, but this example clearly shows that they are off-beam and out of touch.

**Mr. Hain:** My hon. Friend paints a horrifying picture of Conservative-Liberal Democrat incompetence and failure to take forward important projects, as the Bath spa project undoubtedly is, in an effective and cost-efficient manner. I hope that the voters of Bath and all the voters in the next general election will bear in mind the prospect of a Labour Government on the one hand, and on the other—who knows?—perhaps a

*[Mr. Hain]*

Conservative/Liberal Democrat-supported alternative, which would plunge the country into the boom and bust from which we recently escaped under Labour.

**Mrs. Jacqui Lait** (Beckenham) (Con): May I press the right hon. Gentleman on the issue of the National Lottery Bill? Many charities will have been devastated by the announcement from the Big Lottery Fund that it will not give grants after the end of May. If he cannot promise any early progress on the Bill so that we can see it through this Parliament before the end of May, will he please ask the Secretary of State for Culture, Media and Sport or the charities Minister to make a statement to the House about what the Government plan to do to help the charities that find themselves in such a terrible pickle?

**Mr. Hain:** DCMS and Home Office Ministers will want to pay careful attention to the point that the hon. Lady has made.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): Has the Leader of the House seen early-day motion 593, which was tabled by my hon. Friend the Member for Loughborough (Mr. Reed), myself and others?

*[That this House notes the decision of England World Cup winning captain Martin Johnson to announce his retirement from rugby at the end of this season; congratulates him on his outstanding contribution to Leicester Tigers, England and the British Lions over the last 15 years, culminating in England's Rugby World Cup victory in Sydney in November 2003, after success at club, international and Lions level; praises him for the respect in which he is held throughout the world of sport; and wishes him every success in his retirement.]*

The motion marks this week's announcement of the retirement of one of the towering figures of global rugby, Martin Johnson, whose 15 years in the game culminated in the English world cup victory in Sydney. My right hon. Friend will no doubt agree that those achievements are well worth the knighthood that has been accorded to leading figures in other sports, but can he find time in next week's programme for a debate on the importance of international sport in promoting both individual well-being and the international standing, and indeed the economy, of the United Kingdom?

**Mr. Hain:** I very much agree with my hon. Friend. As Secretary of State for Wales, may I say how much I praise Martin Johnson, particularly as he ferociously led the England pack against Wales on far too many occasions? I know that the England team's performance since the heroic victory that he led in the world cup in Sydney has not been as good without his leadership. From Wales's point of view, that is a very good thing, especially since Wales is going to hammer England on Saturday week in the Millennium stadium.

**Mr. David Cameron** (Witney) (Con): The Leader of the House can keep dreaming.

May we have an urgent debate on the implementation of the new railway timetable that was introduced in December? Now we have had the timetable for more than a month, it is quite clear in Oxfordshire that it is neither being delivered nor is it deliverable. Some services have almost never run on time. There is suspicion that the timetable benefits cities and harms rural areas, and genuine anger is building up. Can we have a debate early next week so that Ministers can hear in public just how bad things are on our rural railways?

**Mr. Hain:** It is always difficult to get a timetable that satisfies absolutely everybody, but I am sure that there was no intention—the Secretary of State for Transport would not have agreed to it either—that rural services would be discriminated against in favour of cities or towns. Equally, I am sure that the Secretary of State will want to respond to the point that the hon. Gentleman has made on behalf of his constituency.

**Mr. Michael Weir** (Angus) (SNP): Is the Leader of the House aware of the concerns in Scotland about the proposal concerning aggravated trespass on royal or Crown lands in the Serious Organised Crime and Police Bill? Can he confirm whether the UK Government will press ahead and legislate on this matter for Scotland even if the majority of Members of the Scottish Parliament decide that it is properly an issue for the Scottish Parliament and decide to uphold the legislative decisions that they made on this very issue just last year in their landmark Land Reform Act? If he cannot tell the House the position, can the Home Secretary come to the House, preferably today, to address the important question of who calls the shots in making law in a devolved area for Scotland?

**Mr. Hain:** I understand the point that the hon. Gentleman makes, but I point out that the Serious Organised Crime and Police Bill will have its remaining stages on Monday 7 February, as I announced just now. He will have an opportunity to put his point of view on that occasion. Meanwhile, I know that Home Office Ministers will have noted what he said.

**Hugh Robertson** (Faversham and Mid-Kent) (Con): The report of the Iraq survey group and the initial report of the Volker inquiry both highlighted the extent of corruption at the United Nations during the oil-for-food scandal. Given that we now know that Saddam Hussein and his personal entourage benefited to the tune of $10 billion from that corruption and that the Secretary of State for Defence in this House has made a link between that money and the funding of the insurgency that is currently threatening the lives of British troops and civilians in Iraq, may we have a debate in Government time on the oil-for-food scandal, particularly so that we can find out whether the Government believe that the fault lies inside the UN itself or with the Security Council, which was constantly warned but took no action?

**Mr. Hain:** As a Minister between 1999 and 2001, when the policy was enforced, I was concerned about the amount of oil being smuggled on Saddam's behalf and about the way in which the oil-for-food programme had been working. I am sure that there was no deliberate attempt on behalf of the Security Council or the United Nations Secretary-General or his officials to do that. The hon. Gentleman has made a very serious charge, and I know that the Foreign Secretary will want to consider it very carefully.

I make one other brief point: of course, what we knew was that Saddam was propping up his tyranny by the illegal raking off of oil-for-food money and oil revenues. That would still be going on if he were still in power. When we look at the balance on whether the military action was right or wrong, we have to decide whether, with all the difficulties that exist at the moment—I know that the hon. Gentleman agrees with me on this—an Iraq moving into democracy provides a better future for the Iraqi people than an Iraq trapped under Saddam's murderous and corrupt tyranny.

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): Earlier, in answer to questions on the scrutiny of the Identity Cards Bill, the Leader of the House said that there was division in the Conservative party on the Bill, and I think he will recognise that there is also division in his own party. Is it not precisely the time when Parliament should give maximum time to scrutiny of legislation when those on the Back Benches and Front Benches are not speaking with one voice? That is when Parliament can fulfil its greatest function in ensuring maximum scrutiny of legislation. Was it not only yesterday that, in speaking to his own report to the House, the Leader of the House recognised that there are currently at least two hours less time for debate on Thursdays than on any other day of business? Why has he scheduled this measure, which is controversial and divisive in the House, for debate on a day when there is less time for scrutiny, and when the Bill itself has not had proper scrutiny in its Standing Committee?

**Mr. Hain:** I simply do not accept the charge as made. I have dealt with the point already, but let me look at the progress of the Identity Cards Bill a few days ago on 25 January. At column 228 of the Committee proceedings, the Chairman said:

"I am sure that the hon. Member for Cotswold will not be tempted to debate how many people live in the United Kingdom of Great Britain and Northern Ireland, because that is not relevant to the amendment".

A few minutes later, he said:

"This is not a stand part debate",

and he went on to say:

"Order. I am sorry, but the intervention is long and it is not relevant to the amendment."—[*Official Report, Standing Committee B*, 25 January 2005, c. 228–29.]

I could go on and on for pages upon pages of the *Official Report*. The truth is that I can only assume that a deliberate attempt has been made by those who are opposed to the Bill—I do not really know whether the Conservatives are opposed to it, but the Liberal Democrats certainly are, and we will remind the electors of that at the next general election—to filibuster the Bill and then say that it has not been debated properly.

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): On a point of order, Mr. Deputy Speaker. The Leader of the House has shamefully described the proceedings in the Identity Cards Bill Committee as involving a filibuster. When the hon. Member for Reading, West (Mr. Salter) made that point to the Chairman of the Committee, however, he said:

"If the hon. Member for Woking",

who was speaking in this particular instance,

"had been filibustering, I would have called him to order by now."—[*Official Report, Standing Committee B*, 20 January 2005, c. 202.]

Although it is correct that, from the time to time, the Chairmen, as they always do, have made particular points, there has been no single occasion in the whole of the passage of the Bill on which anybody has been successfully accused of filibustering. In fact, no Chairman would allow it. In those circumstances, should not the Leader of the House withdraw, as the Home Secretary had to do in November 2003, and apologise to the House and to the Chair for the way in which he has gone on?

**Mr. Hain:** Further to that point of order, when one looks at just one sitting of the Committee, the fifth sitting on Tuesday morning, and sees the string of interventions from the Chair calling the Committee to order, one sees that it is way beyond the normal practice of chairing a Committee. If what happened was not filibustering in the precise meaning of the term, it was pretty close to it.

**Mr. Deputy Speaker:** Filibustering is a term that means different things to different people on different occasions. I am quite sure that the Chairman of the Committee would have called any Member to order if they were deliberately filibustering. I think that we ought now to leave the matter where it is.

# Orders of the Day

## Railways Bill

*As amended in the Committee, considered.*

### New Clause 1

PROVISION OF FIRST CLASS PASSENGER ACCOMMODATION

'Any proposal to withdraw first class passenger accommodation from an existing service shall be deemed to be a proposal to discontinue a service under Part 4 of this Act.'.—*[Mr. Chope]*

*Brought up, and read the First time.*

1.29 pm

**Mr. Christopher Chope** (Christchurch) (Con): I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker (Sir Michael Lord):** With this it will be convenient to consider the following amendments: No. 52, in clause 32, page 33, line 21, at end insert—

'(e) a report by the Rail Passengers' Council concerning the economic, social and environmental costs and benefits of the proposal.'.

No. 53, in clause 33, page 34, line 43, at end insert—

'(1A) A closure ratification notice applying specifically to passenger services shall not be construed as applying to freight services.'.

No 5, in page 41, line 38, leave out Clause 39.

No. 30, in clause 39, page 42, line 49, at end insert

'"railway" has its wider meaning for the purposes of the Railways Act 1993; and'.

Government amendments Nos. 9 to 11.

**Mr. Chope:** The new clause would require proper consultation and discussion in respect of any proposal to withdraw first class passenger accommodation from an existing railway service. Discontinuing a first-class service would be put on a par with discontinuing any other service and trigger the consultation arrangements under part IV of the Bill.

Why is the new clause necessary? We believe that the Government have a covert agenda to ameliorate overcrowding on the railways by converting first-class accommodation to second class, instead of by expanding capacity.

**John McDonnell** (Hayes and Harlington) (Lab): I hope that that is right.

**Mr. Chope:** Perhaps the hon. Gentleman thinks that the Heathrow Express is an example of a better form of practice. When faced with increasing demand it increased the number of carriages on each service from 8 am to 9 am. That, surely, is a better way of responding to increased demand than by eliminating first class.

**Mr. Brian H. Donohoe** (Cunninghame, South) (Lab): It may be of interest to the hon. Gentleman to know that the Heathrow Express is about to lose its first-class compartments.

**Mr. Chope:** If that is so, I am sure that the hon. Gentleman would agree that that should be the subject of consultation and discussion with people who use the airport and that service. If that is the proposal and it is coupled with the threat hanging over the Gatwick Express, it drives a coach and horses through the Government's lip service to integrated transport. We need to ensure that our main airport hubs are linked by good quality transport to the central conurbation. That includes ensuring that public transport is of sufficient quality to appeal to those who aspire to travelling first class, as I suspect most hon. Members do, certainly when they are on official parliamentary business.

First-class accommodation is used by a variety of people. Many of them are vulnerable, elderly, have disabilities or are expectant mothers

**John McDonnell:** Some of them are rich.

**Mr. Chope:** Perhaps some of them are rich. If the hon. Gentleman wishes to pursue his agenda for levelling down, let him join in the debate. Many people who use first-class accommodation are probably significantly less well off than he is, but choose to do so because they feel that if they were to travel standard class, as it is called, their health would be in jeopardy. A recent example was raised only yesterday in a debate in Westminster Hall of a pregnant lady who lost her child as a result of overcrowding on the train. We know that some of the more enlightened train operating companies, such as South West Trains, Thameslink and South Eastern Trains, offer complimentary first class upgrades to pregnant women holding season tickets when no seats are available in standard class. Obviously, they could not do that if there was no first-class accommodation.

Others using first-class accommodation have private or confidential work to do on the train, such as Government Ministers. Others choose to pay a premium—an unregulated fare—to provide more space and comfort and a better chance of obtaining a seat. That is particularly true of people joining busy commuter lines at intermediate stations. On the line that I use between Christchurch and Waterloo, it is possible for people joining the train at Christchurch or Hinton Admiral to get a seat, but for those who join at Winchester, for example, it is almost impossible. Many people are prepared to pay a premium fare so that they can have a seat in first class. A similar situation arises on many commuter lines into Paddington, including the Chippenham and Didcot lines.

First-class accommodation is also used in connection with high value added tourism services, which are particularly important for rural economies. The Great Western mainline route utilisation strategy, published by the Strategic Rail Authority in January, contained the expression,

"Alteration to the mix of first and standard class seating".

That was as a possible means of increasing capacity. *The Daily Telegraph* picked that up in a report on 13 January under the byline of the transport correspondent.

"A scheme to ease train overcrowding by reducing the number of first-class seats was put forward by Government rail advisers yesterday.

The Strategic Rail Authority said peak-time congestion on routes into London Paddington could be trimmed by converting premium accommodation to standard-class on turbo commuter trains and some high-speed services.

However, it also suggested that the gain in seats would be wiped out by the expected growth in passenger numbers within 12 months.

The SRA ruled out more ambitious plans for faster journeys and increased frequencies on grounds of cost, and warned there was little prospect of improving capacity or punctuality before 2011."

That is the sorry saga of this Bill and its background. It is a Bill to enable the Government to take control of a railway service which will be in decline in future because of a lack of investment. Because the Government have been embarrassed by the demand of the independent rail regulator, they have decided to circumvent the powers of that regulator and take more control of the service. That is why the Government are making themselves directly responsible for whether there will be first-class seats on mainline commuter services into London.

The story goes on. *The Daily Telegraph* correspondent went on to say:

"The SRA strategy was criticised by consumer groups. Mike Greedy, of the Western England regional passenger committee, said, 'If we want major improvement in rail services, there has to be substantial investment. Otherwise we stand no chance at all of encouraging people to switch to rail from the car.'"

It is the Government's agenda and is explicit in the Bill that people like Mr. Greedy, who serve diligently on the regional passenger committee, will be out of a job because the Government are abolishing regional passenger committees and centralising them. It is much more convenient for the Government if there are no people like Mr. Greedy to comment on their actions.

I raised those issues in Committee. The Minister described my questions as "idle fantasies and speculation". He then went on to describe them as "patent nonsense". I sought an assurance that the Government would not allow train operators to withdraw first-class accommodation on long distance commuter services to London, but I received no reply. I have asked about this on other occasions and the Minister has ducked and weaved and refused to confront this important issue.

The new clause gives the Government a chance to clarify their intentions in relation to the future of first-class rail travel. It ensures that if there are to be changes involving perhaps the withdrawal of first class, those changes should first be subject to proper consultation with the travelling public, as is required under part IV of the Bill.

**Mr. Graham Stringer** (Manchester, Blackley) (Lab): I rise to speak to amendment No. 30 to clause 39—the so called bustitution clause of the Bill. I also tabled amendment No. 29, which was not selected by Mr. Speaker.

I want to explore the scope and practical impact of clause 39. Where a train service is reduced or removed in a passenger transport authority area, clause 39 provides that that train service will be replaced by a bus service, so that the people who previously used the train have a bus service. It goes further than that, however, by allowing passenger transport authorities and passenger transport executives to impose a quality contract on bus operators in the area, which effectively means the regulation of those buses—even if train services are not being removed, it is good to re-regulate buses in metropolitan areas.

My questions concern the practicality and limits of clause 39. To explore those questions, one must realise that transport in metropolitan areas is not run by benign bus companies that deliver services efficiently, effectively and economically. In my part of Greater Manchester, the service is dominated by First group, which has an appalling record on punctuality and bus maintenance. In a recent inspection, the wheels were found to be falling off three of the buses, which is not unusual. In Yorkshire, an inspection of 96 vehicles found that more than half of them were not fit to be on the road.

The environment is not benign. I have met representatives from Arriva, First group and other bus companies, who do not like the idea of regulation. One of the reasons why they do not like it is simple: those bus companies make 14 per cent. profit in metropolitan areas outside London and 8 per cent. profit in Greater London, where the system is regulated. The regulated bus system in London works effectively and efficiently, unlike the system in other metropolitan areas in this country. The bus companies do not want to co-operate in providing a comprehensive integrated transport system. They provide services to give them the greatest possible bottom line, and they compete on the road in order to do so—sometimes they compete, but sometimes they form cartels and monopolies in order to make profits.

How does clause 39 overcome the problem of section 124 of the Transport Act 2000, which states how PTAs and PTEs can introduce quality contracts? The Government are reducing the timetable for consultation in section 124 to six months, which is welcome. However, section 124 also states that quality contracts may be introduced when they are the only practical way to provide bus services in an area. That is a high hurdle over which the PTAs and PTEs must jump. My reading of clause 39 is that section 124 of the 2000 Act remains, so that hurdle must still be overcome. Will the Minister explain how quality contracts can be implemented if bus companies are determined to change their services? Under the deregulated system, bus companies often provide services that they withdraw immediately after the consultation period. Clause 39 is defective and will not achieve its objective.

1.45 pm

Clause 39 is also ambiguous. In Committee, we had an interesting debate—I thought that it was interesting, although I do not know whether the Minister agrees—about how far a quality contract can be extended following the de minimis withdrawal of a train service. If one train were removed from one commuter line in south Yorkshire or Greater Manchester, would clause 39 allow the regulation of all buses in south Yorkshire or Greater Manchester? I hope that the Government intended to leave that wonderful loophole to improve the delivery of bus services in metropolitan areas, but I do not think that that was their intention.

The limits of the quality contracts are not clear. In Committee, the Minister gave the helpful reply that quality contracts do not mean a substitute bus running alongside a railway line to the same timetable, and that the replacement service will be integrated into the rest of the system, but he did not provide a clear answer on how far that contract can go. Amendment No. 29 is designed to explore those issues so that we do not implement

*[Mr. Graham Stringer]*

defective legislation that does not allow PTAs to introduce quality contracts when the conditions described in the Bill occur. The matter is important and we must get it right. As I said earlier, a regulated system would have merit without clause 39, but if clause 39 is included, I hope that it will be used to introduce a regulated bus service.

**Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): On new clause 1, although I appreciate that it is helpful to have first class and standard class on most lines, the hon. Member for Christchurch (Mr. Chope) over-egged his pudding. I often travel by first-class rail, but I also often travel standard class from north Wales to south Wales, and I am in reasonable health after doing so. To suggest that travelling by standard class is a health risk is beyond the bounds of credibility.

Amendment No. 52 seeks to introduce a further paragraph in clause 32(4), which concerns references to the Office of Rail Regulation. Railways are an integral part of the economy. They provide not only transport, but social, environmental and economic benefits. I hope that the Government will look favourably on amendment No. 52, which would complement clause 32(4) and round off the criteria for references to the Office of Rail Regulation. As it stands, clause 32(4) merely refers to "consultation" and does not refer either obliquely or plainly to the social, environmental and economic costs and benefits of the proposal being referred to the Office of Rail Regulation. I hope that the Minister can respond to that amendment, and possibly even accept it—I live in hope.

Amendment No. 53 is a probing amendment, which states:

"A closure ratification notice applying specifically to passenger services shall not be construed as applying to freight services."

If the Minister is prepared to tell me whether that is the case, the amendment will have been worth while. I hope that he can respond one way or t'other.

I will be brief because I know that Members wish to speak to other important amendments. I look forward to the Minister's response.

**John McDonnell:** I tabled amendment No. 5 simply to allow me to express concerns in the rail industry and elsewhere about the process of—I hate the word—bustitution. The post-Beeching experience shows us that where such substitution bus services were introduced they often did not survive for long. We therefore need to take great care as regards any legislation that enables passenger transport authorities to undertake them.

Members on both sides of the House support the concept of quality controls with regard to bus quality contracts. London's regulated bus service has proved a success. However, it is strange that the Bill introduces bus quality contracts solely in relation to rail substitution services. What will the Government do to ensure that bus regulation is promoted throughout the country using bus quality contracts? It is unusual and bizarre to link that solely to the removal of railway services. I am concerned that if we allow the clause to go forward without further refinement, bus substitution services that are provided after rail service cuts will ultimately be cut once again, as they were after the Beeching regime.

**Mr. Mark Field** (Cities of London and Westminster) (Con): I fear that it falls to Conservative Members to defend the interests of first-class rail passengers. Nevertheless, my hon. Friend the Member for Christchurch (Mr. Chope) made some serious points. If high-quality passenger accommodation is available on all our trains, more people will use public transport, including those who might have been dissuaded from doing so in the past. In Heathrow, for example, taxi traffic may have been reduced as a result of the Heathrow Express. That would have more effect in the constituency of the hon. Member for Hayes and Harlington (John McDonnell) than in other parts of London. Does the Minister have any evidence that high-quality new services such as the Heathrow Express and Gatwick Express, with first-class accommodation, make a contribution to getting traffic off the roads? If not, will he conduct such a survey?

The amendment tabled by the hon. Member for Manchester, Blackley (Mr. Stringer) is sensible, but it shows a certain of degree of wishful thinking on his part about what goes on in London. While I would not want to gainsay anything said by the hon. Member for Hayes and Harlington, there are problems with the highly-regulated bus transport market in a broader sense, as well as in relation to bustitution. A significant amount of work is taking place on the tube and rail networks in the capital, often at weekends. There are very effective bustitution arrangements to deal with that, and I must give credit to Transport for London for doing a good job in that regard. As I live and work in central London, I use the buses regularly. I would be the first to say that there have been improvements to that service over the past four years under Mayor Livingstone. However, I am afraid that they have come at a great cost, which I suspect that he rather hoped would be underwritten by the Treasury. That has not happened, with the result that TFL faces losses of up to £1 billion a year from its budget for 2007–08.

**Mr. Stringer:** Does the hon. Gentleman accept that the regulated system that existed in London before it had a Mayor worked better than in the other metropolitan areas? It lost virtually no passengers between 1985 and 1999, when other cities lost 30 to 40 per cent. of their passengers; and before Mayor Livingstone, there was no subsidy. It was not a perfect system, but it worked better than elsewhere in the country, and we should have the benefit of that kind of system.

**Mr. Field:** I accept that. The hon. Gentleman will be glad to know that I consider Manchester to be this country's second city, partly because my in-laws live in Wilmslow, about 12 miles away from it. That is probably also why I can pronounce the name of the hon. Gentleman's constituency better than most southerners. He makes an entirely fair point. London's bus system has been pretty sophisticated, and regulation has helped. Transport for London does a good job in that regard, but there is a cost to be paid.

In central London, in particular, we have the problem of an enormous number of services, particularly in places such as Oxford street and Trafalgar square,

where one sees bus after bus. That reminds me of what happened after the much-criticised deregulation of the market. In the mid-1980s, Oxford, where I was an undergraduate, had a massively deregulated market, and it was well-known that in Cornmarket one would see eight or nine buses from different companies all heading out towards London within five minutes of one another.

Here in London, things are not quite so simple. I hope that the Government will give serious consideration to what was said by Labour Members and by my hon. Friend the Member for Christchurch, who made a powerful case in relation not only to public safety but the broadening out of the use of our railways. That will be an important step forward if we are to get as much traffic off our roads as possible. The issue goes well beyond passenger traffic, as we also need to get as much freight as possible off our roads and on to rail.

Congestion is not only a problem for central London. Within the next few weeks, there will be a referendum on congestion charging zones in Edinburgh, and that may happen in other parts of the country. The railways must be part of the solution in the months, years and decades ahead.

**John Thurso** (Caithness, Sutherland and Easter Ross) (LD): The hon. Member for Christchurch mentioned the case of Mrs. Janice Norman, the lady who lost her baby after being poked in the stomach while travelling a few weeks previously. My hon. Friend the Member for Carshalton and Wallington (Tom Brake) has been pursuing the matter. When I raised it in Committee, I was reassured by what the Minister said and therefore withdrew my new clause on a campaign for considerate commuting. I do not necessarily accept that there is a link between that case and travelling first class.

I am attracted to the new clause not on health grounds but on the simple premise that where a service is introduced with certain criteria, and that service is to be withdrawn, it is right that the public should have an opportunity to be consulted.

Moreover, we know from the figures on traffic growth that it stems mostly from more affluent drivers, and if we are to persuade them to come off the road and get on to the train, it will often be necessary to provide a premium service.

I shall be interested to hear the Minister's response.

2 pm

**The Minister of State, Department for Transport (Mr. Tony McNulty):** I am grateful to the hon. Member for Christchurch (Mr. Chope) for explaining the point of new clause 1. However, I do not support his aim or the conspiratorial fantasies that lie behind it and I have grave reservations about the practical effect of the new clause.

The discontinuance provisions in part 4 are designed to deal with proposals to do away with a passenger service or close a station or part of the network. Those are specific matters. To protect passengers' interests, the procedures that have to be followed in those circumstances are set out in the Bill and are rightly rigorous. They rightly received a good deal of scrutiny in Committee. On the other hand, withdrawing first-class accommodation from a particular route or service might affect some passengers. However, there is a difference for a community between having a rail service that is more or less convenient than the existing one and having no service. The procedures in part 4 are designed to deal with only the latter.

I am also concerned about the practicalities. There is no incentive to take away first-class accommodation where it is well used and every incentive for the operator to get the balance right for the benefit of all customers. That makes sense if it is thought through. There is no sense in requiring operators to run trains with almost empty first-class seats when there is little demand and at times when standard-class passengers cannot get a seat. Perhaps the hon. Gentleman's concern has been prompted by First Great Western's route utilisation strategy, which includes proposals to alter the mix of first and standard-class seating on some routes. If that is implemented, it would be a further factor for consideration in addition to the train operating companies' commercial judgment.

However, the essential principle still applies: imposing a statutory procedure will seriously inhibit operators' flexibility to respond to changing demand and others' ability to propose to them that they might do so. Although the new clause might appear to defend the interests of specific sets of passengers, it does nothing for passengers as a whole—first-class, standard-class, steerage or whatever else exists—because it would restrict operators' flexibility to respond to the passengers about whom the hon. Gentleman seems to be concerned.

The proposal also appears to raise some complicated issues of definition, because it refers simply to first class. There is no industry-wide definition of first class. At least one operator has no first class as such, but offers a choice of standard and club. The new clause would not cover that. Others have intermediate categories such as silver standard. Again, the new clause does not reflect that. Each offers the passenger a slightly different package, and even when first-class accommodation is advertised as such, the precise service varies from operator to operator.

Those who want to travel first class do not do so in the hope that there will be three first-class carriages on a train: they simply want a seat in first-class accommodation. It does not matter to the business community, or whoever the hon. Gentleman meant, whether three carriages or one carriage separate them from the riff-raff—the clear implication of his remarks—so long as they get the service for which they paid. That only reinforces my view that we should avoid statutory constraints on operators' commercial freedom to offer different services and that any attempt to impose them would throw up serious problems of definition and practicality.

In short, the new clause is impracticable as well as undesirable, and I invite the hon. Gentleman to withdraw it.

Let me deal with the other amendments briefly. Amendment No. 52 would impose a new duty on the Rail Passengers Council to provide a report on the economic, environmental and social costs and benefits of a closure proposal as part of the material accompanying a reference to the Office of Rail Regulation in clause 32.

*[Mr. Tony McNulty]*

I take the points that the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) made, but I believe that the amendment is unnecessary because the initiator of the proposal would already have carried out such an assessment. That body, either an operator or railway funding authority, is under a duty to assess the effects of a closure proposal according to the closures guidance that the Secretary of State, Scottish Ministers and the National Assembly for Wales, as the case may be, have a duty to provide under clause 42.

Earlier this week, I sent the Chairman of Standing Committee A, which deliberated on the Bill, a note setting out current thoughts on the contents of the closures guidance. A copy is in the Library. The note states that any assessment of a closure proposal should cover the costs and benefits of environmental, economic, safety, accessibility and integration effects. Those of course include the effects on passengers, freight users and operators, as well as on the environment. Assuming that the Bill obtains Royal Assent, we shall consult on the draft closures guidance before the main network modification provisions are brought into force. The Office of Rail Regulation's role is to ensure that the assessment is carried out in accordance with the guidance and that it meets any criteria in it. That provides important independent input into the procedures.

Requiring the Rail Passengers Council to do a similar assessment could put considerable strain on its resources only to replicate work that has already been done. I therefore accept the thrust and import of the amendment but believe that, although the hon. Gentleman's points were well made, the headlines of the closures guidance that we have already issued cover them. I hope that he accepts that.

Amendment No. 53 appears to intend to exclude freight services from the network modification procedures in the Bill. Again, I respectfully suggest that that is unnecessary as the provisions in the Bill for discontinuing services apply only to passenger services, as do the current procedures—which we seek to replicate in the new settlement for the industry—in the Railways Act 1993.

However, that is most definitely not to say that freight operators or customers have no input into the network modification procedures. The note on closures guidance clearly states our intention that the final guidance will make it clear that, if freight services are affected by a closure proposal, the impact on freight users and operators must be assessed and taken into account when developing the proposals. Furthermore, if freight operators are affected by the proposal, schedule 7(3)(2)(k) provides for a statutory duty to consult them. I would also expect freight customers to be consulted under those circumstances. Although the network modification elements of the measure refer specifically to passenger services, other components protect the role of freight on rail lines and parts of the network.

Let me deal with the amendments to clause 39. We have a sort of dichotomy, because one amendment would remove it altogether and the other would extend it to light rail and other guided systems. I take the point made by my hon. Friend the Member for Manchester, Blackley (Mr. Stringer) that amendment No. 30 would make more sense had amendment No. 29 also been selected.

With regard to amendment No 5, which my hon. Friend the Member for Hayes and Harlington (John McDonnell) tabled, I accept the concerns, which are rooted in history, about all the promises that were made at the time of Beeching for a host of bus services to replace many of the rail lines that were to close. The substitution of buses was either not forthcoming or happened for only a short time.

As my hon. Friend the Member for Manchester, Blackley said, there is a regulatory framework in statute in the Transport Act 2000, suitably adjusted with regard to timing. We made it clear in the July White Paper on the role of transport in the broader sense, not the rail White Paper, that we are trying to encourage authorities, especially in urban areas, to devise far-sighted, radical and integrated transport packages for all modes of transport. In that context, we would be happy to make the bus service operators grant and other elements available to the authorities so that they had far more control over the buses and could replicate something similar to the semi-regulated position that pertains in London.

**Mr. Paul Truswell** (Pudsey) (Lab): I am pleased to hear what my hon. Friend has just said, but does he accept that the only practicable way of introducing quality contracts would involve a virtually insurmountable hurdle that would ultimately have to be tested in the courts? Will he reconsider whether that test could be reduced, so that there could be a better balance between the interests of passengers and the interests of the operators in making profits?

**Mr. McNulty:** In all candour, I have to say no, I do not accept that. As the Minister with responsibility for buses last year and this year, I have said that I do not believe that local authorities have pushed the regulatory framework in the Transport Act 2000 to its limits, with or without taking into account what we said in the July White Paper. They have not been dilatory, but they have been slow in coming forward with imaginative ways of moving towards a bus quality contract. There are many ways, under the 2000 Act and the proposals in the July White Paper, in which local authorities can move towards affording their communities the required regulatory framework and subsequent bus provision. We stand ready to work with any local authority to push things in that direction, not least in the context of what we said in July. So I do not accept the thrust of what my hon. Friend has just said, although he will know that his view is shared by many of our colleagues, and almost certainly by many people in the passenger transport executives.

**Mr. Stringer:** We are familiar with both sides of this argument. The implication of what my hon. Friend the Minister is saying is that the Secretary of State for Transport can take the decision to agree quality contracts. The strength of the argument put forward by my hon. Friend the Member for Pudsey (Mr. Truswell) and I is that, while section 124 of the 2000 Act remains, that decision is with the courts, not with the Secretary of

State. It is therefore very difficult for any local transport authority to show that its proposals are the only practical way available.

**Mr. McNulty:** There are certainly clear and exacting criteria in the Transport Act 2000. They need to be seen in the light of changes that we have made to the regulatory framework since then, and of the way in which we shall take forward the announcements that we made in July. We are starting to talk seriously with a range of authorities about how all these elements can be brought together, and I do not doubt that my hon. Friends the Members for Manchester, Blackley and for Pudsey and I will have further deliberations on it with a whole range of other colleagues as well. It is time to talk far more readily about how all the assorted modes can work together and, in that context, whether quality contracts have a role.

In terms of network modification, it is appropriate to have such measures in the Bill, although I accept the concerns that have been expressed about what prevailed post-Beeching. I do not accept that we are seeking to do something similar. This was debated at length in Committee. Where a local community's transport needs result in a requirement for a quality contract so that buses can replace lines and services that have been discontinued, it makes perfect sense to have one. We discussed the assorted elements involved, and we need to look at the issue in much more detail and do much more work on the substance of how the provisions will work. They could well form part of a broader quality contract that could be brought in for a particular area.

It is important that the provisions should be in the Bill, but not to facilitate closing another third of the rail network, as Beeching did, while promising to replace the services with buses and then not doing so, or doing so only for the short term. It makes sense that the provisions relating to facilities for bus substitution—I shall not use the horrendous word "bustitution"—be included in the Bill. In this context, it has already been pointed out that amendment No. 30 does not make a whole lot of sense without amendment No. 29, and I agree with that. On its own, amendment No. 30 does not fit with the rest of the Bill, although it would have gone alongside the other one. I understand the attraction for passenger transport authorities of including light rail in the provisions, but, given the way in which amendment No. 30 would sit with the rest of the Bill, we do not think that it is appropriate to pursue this matter.

2.15 pm

**Mr. David Clelland** (Tyne Bridge) (Lab): The Minister sounds as though he is saying that he would have some sympathy with amendment No. 30 if it were put in the right context. Would he be prepared to consider this issue again in another place?

**Mr. McNulty:** I am grateful to my hon. Friend for that intervention, because if that is the impression that I gave, it was entirely illusory. I was merely expressing sympathy with my hon. Friend the Member for Manchester, Blackley because amendments Nos. 29 and 30 sat together, and it was a shame that we could discuss only one and not the other. The two should have come as a package. I am grateful to my hon. Friend the Member for Tyne Bridge (Mr. Clelland) for allowing me the opportunity to clarify my position on that; I would not want to mislead him in any way.

Of the Government amendments at the end of this group, the main one is Government amendment No. 11, which is required to give Scottish Ministers certain powers in relation to rail services, networks and stations that are wholly in Scotland, as well as to certain cross-border services. As clause 44 is currently drafted, only the Secretary of State has those powers. The amendment adds the Scottish dimension in terms of giving the powers to Scottish Ministers. The other two Government amendments are consequential on the thrust of Government amendment No.11.

Much of our discussion has been on serious issues, and I would ask the House to reject the amendments, other than the Government amendments.

**Mr. Chope:** I am grateful to my hon. Friend the Member for Cities of London and Westminster (Mr. Field) and to the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) for their comments in support of new clause 1. I would simply say to the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) that the circumstances of the average railway passenger on a rural line in Wales are very different from the hustle and bustle involved in commuting into London. My hon. Friend the Member for Cities of London and Westminster and the hon. Member for Caithness, Sutherland and Easter Ross raised the kind of pertinent questions that would have to be answered if there were a proper consultation process on any proposal to remove a first-class service.

The Minister resorted to the last desperate line of defence when he said that the problem was that the new clause did not define first-class passenger accommodation. I do not think that there is anyone in the House who does not understand what we mean by that term. To suggest that the new clause is defective because the term is not defined is absurd. The Minister also tried to argue that the withdrawal of first-class accommodation would affect fewer people and be less significant than the closure of a rural station or the withdrawal of a rarely used rural service. Again, I disagree with him, because I believe that the withdrawal of first-class accommodation could, in certain circumstances, affect much larger numbers of people. That is why any such proposals should be subject to consultation, as the new clause suggests.

What I found most worrying about the Minister's response was his suggestion that the new clause would impose constraints on the freedom of operators. He then conceded, however, that the whole system of the route utilisation strategy will be controlled from the centre by the Government. That in itself will inhibit the freedom of operators to decide what is the best mix of first and standard-class accommodation. So I remain suspicious about the Government's agenda, and the best way forward is to ensure that, if they pursue these proposals, they are forced to consult on them.

**Mr. McNulty:** The hon. Gentleman is entirely wrong. That is not the function of the route utilisation strategy. Its function is to come up with strategies to use the route and eventually feed that into the franchise templates against which all operators will bid.

**Mr. Chope:** The Minister has done nothing to allay my concerns. He says that route utilisation strategies will feed into the specification that is used for the franchisees to bid against. I submit that, if one is a potential franchisee, and one does not bid against the specification laid down by the centre, one's chances of success in that franchise bidding are very small.

The only way to allay the increasing concerns of those who travel first class occasionally or frequently, particularly on main routes into London, is to ensure that they would be given proper notice and have the chance to express their views through consultation. I therefore hope that the House will support new clause 1.

*Question put,* That the clause be read a Second time:—

*The House divided:* Ayes 123, Noes 220.

**Division No. 52]** **[2.20 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brake, Tom *(Carshalton)*
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Cable, Dr. Vincent
Cameron, David
Carmichael, Alistair
Cash, William
Chope, Christopher
Clifton-Brown, Geoffrey
Cormack, Sir Patrick
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Doughty, Sue
Evans, Nigel
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Heald, Oliver
Hendry, Charles
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Jones, Nigel *(Cheltenham)*
Key, Robert *(Salisbury)*
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
McLoughlin, Patrick
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Ottaway, Richard
Page, Richard
Paice, James
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Trimble, rh David
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Wilshire, David
Winterton, Sir Nicholas *(Macclesfield)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. John Randall and**
**Mr. Mark Prisk**

**NOES**

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Bennett, Andrew
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Burden, Richard
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Clapham, Michael
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Crausby, David
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Denham, rh John
Dhanda, Parmjit
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Grogan, John
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Hendrick, Mark
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hoey, Kate *(Vauxhall)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*

Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Linton, Martin
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Michael, rh Alun
Moffatt, Laura
Mountford, Kali
Mudie, George
Munn, Ms Meg
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
Olner, Bill
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, Angus *(Moray)*
Robertson, John *(Glasgow Anniesland)*
Ross, Ernie *(Dundee W)*
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Truswell, Paul
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Weir, Michael
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wishart, Pete
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Margaret Moran and**
**Mr. Jim Murphy**

*Question accordingly negatived.*

## New Clause 3

### RAILWAY FUNCTIONS OF PASSENGER TRANSPORT EXECUTIVES IN SCOTLAND

(1) Before—

(a) issuing an invitation to tender for a franchise agreement in a case in which the services to be provided under the agreement are or include services in which a Passenger Transport Executive for an area in Scotland have an interest, or

(b) entering into a franchise agreement in respect of such services in a case in which no such invitation has been issued, the Scottish Minister must consult the Executive for that area.

(2) For the purposes of subsection (1) the services in which a Passenger Transport Executive has an interest are—

(a) services for the carriage of passengers by railway within the passenger transport area of that Executive; and

(b) services which are not such services but are services for the carriage of passengers by railway to or from such an area.

(3) A Passenger Transport Executive for a passenger transport area in Scotland and the Scottish Minister may enter into arrangements under which one or both of the following occurs—

(a) sums become due from the Executive to the Scottish Minister in respect of services for the carriage of passengers by railway within that area or in respect of station services or bus substitution services provided within that area; and

(b) the Scottish Minister undertakes to exercise or perform his powers and duties in relation to or in connection with such services in a particular way.

(4) A Passenger Transport Executive for a passenger transport area in Scotland may enter into agreements for purposes relating to or connected with the provision, by a person who is a franchisee or franchise operator in relation to a franchise agreement, of—

(a) services for the carriage of passengers by railway within that area; and

(b) station services provided for purposes connected with any such services.

(5) A Passenger Transport Executive for a passenger transport area in Scotland may not enter into an agreement (whether by virtue of subsection (4) or otherwise)—

(a) with a person who is a franchisee or franchise operator in relation to a franchise agreement, or

(b) with a person who is proposing to become such a franchisee or franchise operator, unless the agreement is approved by the Scottish Minister.

(6) The Scottish Minister may—

(a) give a general approval for the purposes of subsection (5) in relation to a description of agreements, as well as specific approvals for particular agreements; and

(b) withdraw his approval in relation to any agreement at any time before the agreement is entered into.

(7) The agreements to which a Passenger Transport Executive for a passenger transport area in Scotland may become a party with the approval of the Scottish Minister include franchise agreements under which services are provided which are or include services for the carriage of passengers by railway within that area.

(8) The Scottish Minister and the Passenger Transport Executive for a passenger transport area in Scotland must each provide to the other any information which—

(a) the other reasonably requires for purposes connected with his or their functions in relation to railways or railway services; and

(b) is information which it would have been lawful for him or (as the case may be) them to disclose apart from this subsection.

(9) In this section—

(a) a reference to a service for the carriage of passengers by railway within a passenger transport area is a reference to a service for the carriage of passengers by railway between places in that area or between places in that area and places outside it which are within the permitted distance;

(b) a reference to station services provided within such an area is a reference to station services provided in connection with any such service for the carriage of passengers by railway; and

(c) a reference to a bus substitution service provided within such an area is a reference to a bus substitution service for the carriage of passengers between places in that area or between places in that area and places outside it which are within the permitted distance; and in this subsection "the permitted distance" has the same meaning as in section 10(1)(ii) of the Transport Act 1968 (c. 73) (25 miles).'.—*[Mr. Davidson.]*

*Brought up, and read the First time.*

**Mr. Ian Davidson** (Glasgow, Pollok) (Lab/Co-op): I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker (Sir Michael Lord):** With this we may discuss the following amendments: No. 64, in clause 5, page 5, line 38 at end insert

'and they shall concurrently publish in full the reasons for adopting the strategy or revised strategy.'.

No. 7, in clause 13, page 12, line 2, at end insert 'in England'.

**Mr. Davidson:** The Conservatives have just fought for the rights of first-class passengers; I want to speak up for people in Strathclyde.

The amendments are intended to maintain equality between Scotland and England in terms of the role of passenger transport executives in the rail franchising process. Although the Bill will devolve significant additional powers over the railway network in Scotland to Scottish Ministers, it does not confer any additional legislative competence on the Scottish Parliament. The primary legislation governing the relationship between Ministers and regional authorities on railway matters will remain reserved to this Parliament. Consequently, unless the Bill gets it right, there is a real risk of a gap in the statutory chain, which could both fetter the future discretion of Scottish Ministers and frustrate the effective delivery of integrated transport in the west of Scotland.

This is not just a matter of legal niceties. It is of fundamental importance to my constituents, and to the 44 million passengers who use the Strathclyde rail network each year. Rail travel accounts for more than a quarter of all fare-paid journeys in the Strathclyde area, and the level of railway use in the west of Scotland is second only to that in Greater London. The railway network is therefore a core component in the regional transport system in Strathclyde. It is also undoubtedly a key reason why there are proportionately fewer car journeys in Strathclyde than in the rest of Scotland.

In other words, we are looking at a balance between private and public transport in the west of Scotland that clearly goes with the grain of the Government's national transport and sustainability objectives. It is important that the Bill should not undermine the continued delivery of integrated transport in the Strathclyde Passenger Transport area, and therefore unwittingly work against the wider policy objectives that the Government have set themselves.

The relatively healthy state of affairs in the west of Scotland's transport is not simply a happy accident. It is the result of more than 30 years of conscious political choice and deliberate financial decisions by accountable regional bodies that had the will and the means to influence directly the delivery of local railway services as part of an integrated transport system. Strathclyde regional council, of which I was a member—as was the Minister: I hope she will bear that in mind when she replies—invested more than £400 million in developing the local railway network while it was the passenger transport authority for the area. Since railway privatisation, the successor PTA has spent over £50 million of discretionary funding in service and network enhancements, and a recent study by consultants appointed by the Scottish Executive has shown that more than half the growth in traffic and revenue on the Strathclyde rail network during the 1990s was directly due to initiatives by the PTA and the PTE.

Such an outcome is clear proof of the correctness of what the Secretary of State for Transport said in the House when he introduced the railway White Paper:

"Local transport decisions are best taken by people who know what is needed locally." [*Official Report*, 15 July 2004; vol. 423, c.1548].

It also seems to accord with the intentions of the Scottish Transport Minister, Nicol Stephen, who has said:

"I still expect SPT to have a direct role in the management and development of rail services in the west of Scotland." [*Scottish Parliament Official Report*, 16 June 2004; c. 9099.]

Unfortunately, the present drafting of the Bill appears to undermine the delivery mechanism for that assurance. It is that defect that the amendments seek to address. The Bill proposes to take away PTEs' existing powers in relation to rail franchises, and clause 13 replaces them with new provisions for engaging PTEs in the franchising process. However, clause 13 does not apply in Scotland, although this is an area where the Scottish Parliament has no competence to enact equivalent or alternative provisions. The amendments therefore seek to introduce an additional clause that will give Ministers in Scotland the same discretion to involve a passenger transport executive in future railway franchises that the Secretary of State for Transport seeks in relation to English PTEs.

There is a parallel Bill before the Scottish Parliament that could potentially amend the basis on which SPT currently operates, and result in a transfer of powers between it and Scottish Ministers. That is an undoubted complication, but I cannot emphasise too strongly that it does not remove the need for the amendments. I remind the Minister that the Scottish Parliament is not able to amend the underlying legislation governing railways. It is also worth pointing out that Holyrood's Transport (Scotland) Bill is at a less advanced stage than the Railways Bill, and its key components in relation to SPT are simply enabling. Their implementation will depend ultimately on secondary legislation whose terms and scope have yet to be defined, let alone scrutinised by the Scottish Parliament.

The Government's acceptance of the amendments would not oblige Scottish Ministers to follow any particular future course of action, other than introducing a statutory obligation to consult. I am sure that hon. Members would in any event endorse that latter requirement. The same principles of open and accountable government should be adopted consistently

throughout the United Kingdom, and should not be differentially applied in a Bill that is the responsibility of this Parliament.

The remaining provisions of the amendments put the Bill's application to a PTE in Scotland on the same footing as in England. They would preserve a statutory framework that would enable, but not compel, Scottish Ministers to adopt the same participatory approach to a rail franchise in Scotland that would be available to the Secretary of State for Transport in England in equivalent circumstances.

We are always dealing with hypothetical situations when legislation is in progress, but in this one, the uncertainty is compounded by the fact that two legislatures are involved. If this part of the Railways Bill is passed unamended, there is a tangible risk of unintentionally restricting the future ability of the Scottish Executive and the Scottish Parliament to provide for the continuing effective delivery of integrated transport in the west of Scotland. Such a risk could arise, for example, if the current Transport (Scotland) Bill failed to gain Royal Assent or was substantially amended by the Holyrood Parliament. A risk could also arise if Scottish Ministers chose not to exercise their proposed power to initiate secondary legislation in this field, or sought to change the basis of that legislation at the outset or in future.

My new clause and amendment seek to remove such risks by ensuring the consistency of the reserved legislative framework within which devolved railway policy will be made and delivered in Scotland. They preserve, rather than forgo, options by preventing a situation in which Scottish Ministers are statutorily debarred from involving a PTE in rail franchising. In the interests of even-handedness and of ensuring the future delivery of integrated public transport in the west of Scotland, I commend the proposals to the House. I am sure that the Minister will not fail to be moved by them and will accept them.

**Mr. Greg Knight** (East Yorkshire) (Con): I rise to speak to amendment No. 64, which would add to the end of clause 5(2) the phrase

"and they shall concurrently publish in full the reasons for adopting the strategy or revised strategy."

A duty would thereby be imposed on Scottish Ministers, in preparing or revising a strategy, to publish in full their reasons for so doing.

We live in an age of openness and—I like to think—fairness, and everything that we do should at least be within the spirit of the Freedom of Information Act. The public have a right to know why decisions are made using their money in their name, and the amendment would impose a duty on Scottish Ministers to ensure that whenever they publish or change a strategy, they explain why.

I hope that the Minister will tell me and the House that my amendment is not necessary because she expects the giving of such explanations to be best practice. If she does, I shall be delighted not to pursue the matter further.

**John Thurso:** Was the right hon. Gentleman referring to the Westminster Freedom of Information Act 2000 or to the Freedom of Information (Scotland) Act 2002?

**Mr. Knight:** My general point was that in the enlightened age in which we now live, one hopes, an increasing number of decisions made involving the use of public money are open to scrutiny.

The hon. Member for Glasgow, Pollok (Mr. Davidson) made the case for new clause 3 very well, but nothing that he said led me to conclude that we should support him if he decides to divide the House on it.

**The Parliamentary Under-Secretary of State for Scotland (Mrs. Anne McGuire):** I am grateful to my hon. Friend the Member for Glasgow, Pollok (Mr. Davidson) for explaining the point of his new clause, which is that this Bill should make the same provision for passenger transport executives in Scotland as for those in England.

I, too, remember fondly our days as members of Strathclyde regional council many years ago, on which we both served our political apprenticeship. If I remember correctly, he had to serve his slightly longer than I served mine, before moving on to other things.

2.45 pm

I accept what my hon. Friend said about the approach of Strathclyde PTE, and I should make it clear that I highlighted those points in responding to my hon. Friends the Members for Glasgow Cathcart (Mr. Harris) and for Cumbernauld and Kilsyth (Rosemary McKenna), who have raised similar issues before. That PTE was forward-thinking and was at the forefront of providing integrated transport. As my hon. Friend alluded to, it underpinned a political agenda that recognised the need and desire in the west of Scotland for an integrated public transport system that served all the communities in the area. I should point, however, that I will be asking my hon. Friend to withdraw his new clause and amendment, for reasons that I hope he will understand.

It would be remiss of me not to put on the record the fact that yesterday, the Scottish Parliament gave its unanimous support—such unanimity is very unusual—for a Sewel motion transferring functions relating to railways from this House to Scottish Ministers. Having agreed that transfer of power to Scottish Ministers, it would not be right for this House then to second-guess what they want to do. As my hon. Friend said, they have outlined their approach to railway development in Scotland in the Transport (Scotland) Bill. They have made it clear that there will be a need for local input into the Scottish rail network, and have therefore stated categorically that the west of Scotland regional transport partnership, which will replace Strathclyde PTE, will have a role in the development, management and monitoring of the franchise in that part of Scotland. Indeed, the new regional transport partnerships will be established across Scotland.

I am aware that concern exists that there might be a gap between enactment of the Railways Bill and of the Transport (Scotland) Bill, but we anticipate no such gap. Under the terms of clause 14 of the Railways Bill, Strathclyde PTE will continue to be a party to the ScotRail franchise. That will allow it to maintain its current role in the management of that franchise, until Scottish Ministers make an order under the Transport (Scotland) Bill—once enacted—to transfer its powers.

*[Mrs. Anne McGuire]*

The Transport (Scotland) Bill also includes provisions that allow Scottish Ministers, if they so wish, to transfer or share their own transport functions with the new regional transport partnerships that will be established across Scotland. Therefore, if they wish, Scottish Ministers can share rail functions with any RTP. So clause 13 as drafted will not statutorily debar Scottish Ministers from involving other parties in rail franchises, and in the light of that assurance, I hope that my hon. Friend will see fit to withdraw his new clause. If he does so, it would be entirely logical for him to withdraw amendment No. 7 as well.

The amendment tabled in the name of the right hon. Member for East Yorkshire (Mr. Knight) is not necessary. We share the view that there needs to be maximum consultation, transparency and openness. Under freedom of information Acts north and south of the border, the opportunity now exists to underpin that transparency. I know that Scottish Ministers share the UK Government's concern that Scottish citizens should be properly informed about what is proposed for their railway network and why. As I said in Committee in response to a previous amendment to clause 5 that was based on a similar principle, the Scottish Executive have adopted the principles of the Cabinet Office's code of practice on policy development and public consultation. That being the case, the reasons behind policy and strategy proposals will be explained as part of observing those principles, and of good practice. There is every likelihood that before its actual publication, a strategy will have been widely available as a consultation document.

Those of us who represent Scottish constituencies know that the Scottish Executive and the Scottish Parliament are well versed in the importance of consultation in respect of policies and initiatives. In that spirit, I ask my hon. Friend the Member for Glasgow, Pollok to withdraw the new clause.

**Mr. Davidson:** As ever, my hon. Friend the Minister has been polite and considerate and has yielded no ground. Goodness me—some things have not changed since our days in Strathclyde! I had hoped that she might have mellowed, but apparently she has not.

I understand that I have a decision to make about pressing the new clause to a vote. It is maybes aye, and maybes no—but, on balance, I think that I will not do so.

I beg to ask leave to withdraw the motion.

*Motion and clause, by leave, withdrawn.*

## New Clause 5

### Rail Efficiency Report

'The Secretary of State shall publish annually a Rail Efficiency Report containing his assessment of the performance and cost effectiveness of Network Rail during the twelve months previous and in particular he shall provide comparisons of such performance data with other comparable rail companies operating partly or wholly in the European Union.'

*Brought up, and read the First time.*

**Mr. Greg Knight:** I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker (Sylvia Heal):** With this it will be convenient to discuss New clause 6—

Redundant Assets Register—

'The Secretary of State shall every three years lay before each House of Parliament a register of all assets including land and property owned by Network Rail which are redundant to railway use or which have not been used for railway purposes during the preceding eighteen months together with a statement of intent regarding their future use or disposal.'.

**Mr. Knight:** The Standing Committee debates on this Bill were very constructive, and genuine concerns were raised by hon. Members from all parties. It is in that spirit of constructive debate that I wish to speak to these new clauses.

The new clauses are reasonable, moderate and fair, and I hope that the Minister of State will respond positively to them. New clause 5, would require the Secretary of State to publish an annual rail efficiency report containing his assessment of the performance and cost effectiveness of Network Rail in the previous 12 months. In particular, it would encourage him to provide comparative data in respect of those rail companies operating wholly or in part in the EU.

The suggestion is not impractical. The Minister will know—as will many Conservative Members—that the EU position on railway service reform has three stages. Perhaps predictably, they are called the first railway package, the second railway package and the third railway package.

The second railway package aims to create a legally and technically integrated European railway, and was adopted by the EU in April 2004. The third railway package sets out proposals to open up international passenger services to competition inside the EU by the year 2010. It is therefore entirely appropriate that we should, wherever possible, compare the performance of the UK rail network with that of our European counterparts.

When hon. Members raise concerns about our railway system, they often say how wonderful the railways in France are. I have never had the delight of travelling on a French train, but I should be delighted to be able to scrutinise our performance in this country to see how it compares with what happens in France. In that way, I could determine whether the claims made about the French railway are accurate or apocryphal. An annual rail efficiency report would therefore do a service to us all, and I hope that the Minister can respond positively to the suggestion.

New clause 6 would require a review of assets to take place every three years, covering all land and other property owned by Network Rail that is redundant to railway use or which has not been used for railway purposes in the preceding 18 months. The review would also contain a statement of intent regarding the future use or disposal of such assets.

On 5 March 2002, the Under-Secretary of State for Transport, the hon. Member for Plymouth, Devonport (Mr. Jamieson), responded to a question by stating that the Strategic Rail Authority had not carried out any evaluation of rail assets at that stage. In the past, there has been some criticism of the lack of information in respect of assets held by the rail network.

I am not necessarily critical of the fact that Network Rail might have some assets that are not currently in use and which are in a temporary limbo. It is justifiable for businesses to have certain assets that they may not use at present but which they may want to use in the future. It would be very short-sighted to force a company such as Network Rail to dispose of assets when it may have tentative plans to bring those assets into use in the future. New clause 6 would not do that: instead, it would require the Secretary of State to produce a list of the relevant assets, and a statement of intent that would tell us what would become of them.

I know that many assets have been realised over recent years, but many redundant assets remaining in Network Rail's asset base could be brought back into use or disposed of. I shall give the Minister an example. The main rail line from St. Pancras to the north has quite a lengthy stretch through Leicestershire that used to have four tracks. As a former regular user of that line, I was aware that two of those tracks were used exclusively for freight and two for passenger services. The reason for having four lines in that stretch was to allow the faster passenger trains to overtake the slower-moving goods vehicles.

The collapse in rail freight a couple of decades ago caused someone in authority to decide that that stretch of line should not have four tracks. As a result, two of the tracks were taken up, but the track bed remains, and the people who manage these assets should be forced to decide whether they will be brought back into use in the future, or whether they should be realised and sold. The benefit of selling an asset that is for the moment dormant is that money is released for other railway purposes.

Both new clauses are reasonable, and the history of our railway network shows why there are surplus assets in many parts of the country that Network Rail could sell. The Stockton to Darlington railway opened in 1821, thus beginning 100 years in which the private sector raised capital for investment. It was a period of strong competition, which caused the original railway companies to lay tracks and purchase assets around the country. Some of those assets are still retained in railway ownership.

We are in a different ball game now. It is right that Network Rail should be forced to justify the assets that it still has, and to indicate whether they will be brought back into use or whether they could be made available for sale.

**John Thurso:** Both new clauses would place a duty on the Secretary of State to publish information or reports. However, they are relatively narrow, in that they concentrate on the financial side of his responsibilities.

New clause 5 deals with rail efficiency and the performance of Network Rail. In passing, a minor criticism is that it does not go far enough. By concentrating on Network Rail, it leaves out a large part of the rail system—the train operating companies, the ROSCOs—rolling stock companies—and so on.

New clause 6 relates specifically to a register of assets. I have no difficulty in supporting the new clauses, because they point the way to one of the deficiencies in the Bill. As the Minister knows, I support the Bill and the principle that the SRA should be abolished, because it is right for the Government to take strategic responsibility for the railway. However, under the present arrangements, the SRA is under a duty to report on the matters mentioned in the new clauses and on a range of other matters. That report is made available to us. In the transfer of duties from the SRA to the Secretary of State, the duty to report has been lost, and the new clauses are intended to restore it.

3 pm

I am sorry that new clause 4, which I tabled, did not find favour with Mr. Speaker, because it would have fully addressed the requirement to publish the strategy and to report on progress on it. That may be something for the other place to consider.

New clauses 5 and 6 are requests for the publication of information and my colleagues and I are happy to support them. However, I wish that they contained an additional requirement to publish the strategy. The travelling public, as I said on Second Reading, need to see where they are going in the long term and what mileposts should be met along the route.

**Mr. Mark Francois** (Rayleigh) (Con): I support my right hon. Friend the Member for East Yorkshire (Mr. Knight) and new clause 5, which calls for the publication of annual rail efficiency report by Network Rail. I should probably declare a small personal interest at this point, inasmuch as the chairman of Network Rail, Mr. Ian McAllister, is a constituent of mine, and I have written to him on the issue that I wish to raise this afternoon.

I wish to back the suggestion for a specific efficiency report, because a good number of my constituents are commuters. Many of them work in the City of London and travel into Liverpool Street station each morning. The efficiency of Network Rail is of considerable importance to them, not least because there are now important capacity issues on the Liverpool Street line. Network Rail, and Railtrack before it, has undertaken work to upgrade the line, both in terms of signalling improvements and initiatives such as lengthening some of the platforms at stations to facilitate the operation of 12-carriage trains, which are obviously more efficient. We also now have the combined franchise, operated by the 'one' group, which has led to some improvement in the co-ordination of services in and out of Liverpool Street, although the new timetable is taking a while to settle down.

Important physical constraints must be faced, however, including a narrow entrance, or neck, in and out of Liverpool Street station, so that it is comparatively difficult to run many more trains in and out, especially during the morning and evening peaks. Incidentally, if we are to see much expansion in house building in the Thames gateway area, that restriction will be an increasing problem, because at least some of the people who will live in those houses will want to commute into London. Ministers will have to be conscious of that.

**Mr. Mark Field:** Does my hon. Friend agree that the potential for increased capacity at Fenchurch Street station—used by the constituents of other south Essex Members, if not by his, to come into central London—

*[Mr. Mark Field]*

is also limited. I therefore recognise the issues that he raises about the potentially large increase in housing capacity in the Thames gateway region.

**Mr. Francois:** My hon. Friend raises an important point. I commuted into Fenchurch Street for some eight years, so I am familiar with that station. It, too, has a very narrow neck. It will be therefore a serious challenge to bring in additional trains from the east of London, because only so many trains will physically fit into so much space. Ministers will have to consider that situation seriously, as will a future Conservative Government.

Speed restrictions still apply in some areas of the track at times, and further upgrade work—especially on some of the bridges, which can be particular choke points in terms of speed restrictions—would probably prove cost-effective in helping the trains to run more smoothly and efficiently. In addition, if we are to have an annual report specifically about efficiency, one area that it should cover is time lost to engineering works, especially when scheduled engineering works take place over a weekend but overrun into Monday morning. The track is opened again later than scheduled, so services during the Monday morning peak are disrupted. I have experienced that myself on several occasions in the past year when travelling to the House.

In a letter I received from Network Rail in November, the company admitted that six such overruns had occurred in the previous nine months, including at least one occasion when the line could not be released until past 9 am, with predictable consequences for commuters struggling into work. Greater effort may be required from Network Rail to try to prevent what should be an avoidable problem that is largely under its own control. They are, after all, the company's works. If Network Rail were required to report on the matter specifically every year, in a way easily accessible to commuters, it might help to focus minds on the problem.

In fairness, I should say that Network Rail has already undertaken some initiatives to try to address the situation, so it is not as if it has ignored the difficulty or pretended that it does not exist. Nevertheless, the problem persists on occasions and greater effort needs to be applied to try to eradicate it. I am grateful for the opportunity to put those points on the record and I look forward to hearing the Minister's comments on the issues, which are of great interest to my constituents.

**Mr. McNulty:** I shall start with a few points arising from the contribution by the hon. Member for Rayleigh (Mr. Francois). We fully accept and understand, as we have said repeatedly, that the railways—and other transport dimensions—need the infrastructure commensurate with the developments that are coming in the gateway, in north Kent and south Essex. Clearly, that will have a knock-on effect for assorted London terminals in the constituency of the hon. Member for Cities of London and Westminster (Mr. Field), such as Liverpool Street, which will have to be factored into the mix.

From the Kent perspective—I know that the hon. Member for Rayleigh could care less about that as an Essex Member—the channel tunnel rail link and other changes to the integrated Kent franchise will assist matters and, although they are meeting some resistance, they will redress the balance somewhat in terms of the numbers of trains going into Cannon Street, Fenchurch Street and St. Pancras. The changes are causing some disquiet among Kent commuters who have taken trains into Cannon Street for ever, and we will have to take into account how they will be affected.

The hon. Gentleman also mentioned overruns. Engineering works need to be signed off only when it is safe to do so, and sometimes that means a couple of hours overrun with all the knock-on effects on the network. It is a fine balance, and Network Rail is getting better at it, but I cannot say that it will never happen again. In some cases, the safety considerations outweigh whatever delay and disruption may occur at that crucial time for commuters on a Monday morning. Safety must remain the key focal point.

**Mr. Mark Field:** In view of the cost implications of finding land in central London at Fenchurch Street station or Cannon Street, does the Minister think that we should have hubs in Finsbury Park, Stratford—which, in a sense, is already a hub—or the other side of London Bridge station, to provide larger capacity? Should we have new or enlarged stations outside the central zone stations that already exist? If so, is that the sort of initiative that should be replicated in other large cities, where the sheer cost and inconvenience of developing existing stations in the centre means that it is wise to consider areas in the suburbs for development?

**Mr. McNulty:** I think the answer is yes to some extent, but clearly it is dependent, whether it is in central London or elsewhere, on the existing hub and network reality as well as the potential for developing things further. The hon. Gentleman and other hon. Members know that we are seeking to overcome precisely such difficulties at Birmingham New Street. There will be a reconfiguration, once the channel tunnel rail link is up and running by 2009, in terms of the balance between the King's Cross/St. Pancras complex and a number of the channel tunnel rail link stations in the hon. Gentleman's constituency. As and when Thameslink 2000 is taken forward—perhaps the 2000 should be in inverted commas; I do not know—much of the real work there that will have a profound impact particularly on the southern commuter lines will be around the viaducts and bridges of Borough and the throat into London Bridge, and that will have serious ramifications in terms of enhancing capacity and efficiency.

So a number of things can be done. Finsbury Park, which the hon. Gentleman mentioned, is a mini-hub already and by the end of this work we shall have a very substantial hub at Stratford, with 10 or 11 lines going into it. If we are moving on to developments similar to those at Stratford, if there is an opportunity to make them transport hubs if they are close to but not in the centre—almost suburban but not quite; the hon. Gentleman will know what I mean—we should avail ourselves of that opportunity.

That leads me neatly to new clause 6 rather than new clause 5, and I will deal with both in detail after I have given way.

**Mr. Francois:** I thank the Minister for his courtesy in giving way. May I say for the record that even though I

am an Essex MP I have considerable sympathy with Kent commuters because they face many of the problems as my constituents do commuting in from Essex? But on infrastructure, the Minister may be aware that the East of England regional assembly voted for increased housing targets in November 2004 and then effectively abrogated that plan in December 2004, specifically because of a lack of transport infrastructure to accommodate house building on that scale. To be fair to the Minister, he has shown some awareness of the problem, but we cannot stress enough how important addressing this is going to be.

**Mr. McNulty:** To be honest, the assembly did not abrogate it; it simply looked again and did not go quite as far as it had earlier in terms of numbers. That is slightly different from a complete abrogation of what it passed in the first instance. But without getting too far off the point and the matters before us, there is a £200 million pot for the community infrastructure fund to take up smaller projects and schemes throughout the gateway and the other growth areas that we are progressing, and at the last count the currently committed spending just in the gateway in terms of transport infrastructure has been the best part of some £900 million—close to £1 billion; we have said time and again that of course the two must go together.

The point that I was going to end on in speaking about stations was that while I have sympathy with new clauses 5 and 6, for reasons that I shall explain I believe that both are unnecessary. But this point was raised at Second Reading and I do have some sympathy with it and am trying to pursue this more readily with Network Rail. It is not about its asset base; principally the land that it holds is operational rail land and not much more, and I shall return to that in detail. But there is an issue about what Network Rail can do in a proactive fashion around assorted termini to improve, and maybe enhance, passenger flow and so on by working far more readily than it has done thus far with the private sector, with the development industry, not only across the obvious London termini where there is clearly a commercial attraction but in other towns and cities too, and on a smaller level, to capture some sort of development gain. Network Rail has not been very good at that; I have told a constituent of the hon. Member for Rayleigh that to his face, so I am not talking out of turn. There is much more that can be done to turn our key termini far more readily into the transport interchanges and flourishing commercial ventures that they could be, perhaps far more so than they are now. I am exploring that and trying to move on with Network rail in that regard.

If I may, I shall "return to the clauses" but I am not sure that I had got to them yet. New clause 5 calls upon the Secretary of State to publish an annual assessment of the performance and efficiency of Network Rail in the form of a "rail efficiency report", with what the right hon. Member for East Yorkshire suggested about EU comparative data. The independent Office of Rail Regulation already carries out such an annual assessment, in the form of—I fully accept that it does not trip off the tongue as lightly as "rail efficiency report"—its annual statement on Network Rail's stewardship of the national rail network. It is a different label but it does capture, I would suggest, what the right hon. Gentleman is after. Its first such report covered primarily the year April 2003 to March 2004 and was published in November 2004. A rail efficiency report, I would contend, would therefore create unnecessary duplication.

3.15 pm.

The key function of the ORR is to monitor the performance and cost-effectiveness of Network Rail. The "Statement on Network Rail's Stewardship of the National Rail Network 2003–04" is an evaluation of the extent to which Network Rail met the stewardship requirements of its network licence, regulatory targets, and those targets identified in the business plan for April 2003 to March 2004. It covers all aspects of Network Rail's stewardship—expenditure, maintenance, renewal, enhancement, asset knowledge, operations, performance and monitoring. It consolidates the analysis carried out during the year by the regulator and allows Network Rail's customers, funders, members, users and other stakeholders to see how efficiently Network Rail is managing this important national asset. The Secretary of State will publish the ORR's second annual statement in autumn 2005.

I fully understand that in some ways that does not quite capture the reasons for the overruns and the reasons for the lack of efficiency, but they will be and are captured in other ways. As Minister with responsibility for rail, I have a meeting once a month with all the parties concerned, including Network Rail, just on performance of the various aspects of the rail industry, when those matters are explored further, but I do think this document does largely capture what the right hon. Gentleman rightly suggests should be in such an efficiency report. It sets out the regulatory calendar for the scrutiny of Network Rail's business plan and delivery against it. It includes an annual return, regulatory accounts and a quarterly statement, and the statement is presented as a balanced scorecard of high-level indicators that measure the extent to which Network Rail is achieving improvements and targets in a number of key areas of performance: safety, train performance, asset performance, activity volumes, finance, customer satisfaction and supplier satisfaction.

The views of consultees are sought on whether these indicators are the right ones, whether they need to be expanded to reflect Network Rail's broader responsibilities following the rail review, and the frequency with which they should be published. We are consulting on that now as we speak. Data comparing Network Rail's performance with that of rail companies operating partly or wholly within the European Union are currently not available. Whilst the European Commission would like to enhance benchmarking data, there is no prospect of any meaningful data becoming available for the foreseeable future, but I do take the right hon. Gentleman's point and we shall continue to look to the ORR, in carrying out its periodic reviews, to conduct research looking at benchmarking performance with other selected comparators that are appropriate comparators with other EU countries, to inform its assessment of Network Rail's performance and efficient gains. I understand that this was the approach taken in the last periodic review.

*[Mr. McNulty]*

I think that overall, given especially the shift of emphasis in terms of ORR and what it can do should the Bill receive Royal Assent, that would be a more effective approach than simply having an efficiency report by the Secretary of State. I would say too that many of the things we are doing outside the Bill would lend themselves more readily to trying to capture that performance assessment at the local level. We are requiring Network Rail to work much more closely with train operating companies on a franchise-by-franchise, region-by-region basis. Invariably, that is through a key integrated control centre, where Network Rail, the train operating company, and the rolling stock company if necessary, all sit side by side to manage that part of the network more efficiently.

When the centres are up and running more readily—I think that the next to go on stream will be the East Anglian one based at Liverpool Street—proper communication and information flow will give us more realistic reasons why overruns occur. The hon. Member for Rayleigh and the right hon. Member for East Yorkshire suggested that all such information is available and I would not demur from that.

Although I understand the impetus behind new clause 6, which would provide for a triennial register of Network Rail's land and property assets that were redundant or had not been used for eighteen months, I am not sure that I would go along with it. Perhaps it would be helpful if I explained the background to the management and disposal of railway land. At the time of privatisation, the ownership of operational railway land was transferred to Railtrack, and subsequently Network Rail. The British Railways Board retained the non-operational land and buildings. That estate was transferred to BRB (Residuary) Ltd, a subsidiary of the Strategic Rail Authority, upon the SRA's establishment in 2001.

As part of the periodic review process, Network Rail is encouraged to maximise its income from all sources, including the redevelopment of its land and property, by exploiting appropriate disposal opportunities. However, a balance is needed to ensure that future rail development opportunities are not sacrificed for short-term financial gain through disposals. As everyone knows, Network Rail is regulated by the Office of Rail Regulation, and it must seek the ORR's consent before making arrangements for land disposal.

I do not know about the specific piece of two-track line in Leicestershire that used to be the four-track line to which the right hon. Member for East Yorkshire referred. If there is any possible reason why that might be four-tracked again in the future, I would rather that is was left as it is and protected than for anything else to happen to it. That does not mean that something is imminent for that specific stretch. I am simply saying that it is sometimes appropriate for land to be held for more than 18 months—the time cited in new clause 6—pending future development.

**Sir Michael Spicer** (West Worcestershire) (Con): Of course I take the point that land which is redundant today might not be redundant tomorrow. Just before privatisation, a lot of land became redundant because of the inefficiency of the railways under nationalisation. Privatisation led to more demand, and although we now want the duelling of track throughout my constituency, we did not want that under nationalisation. However, surely that does not negate the value of reporting to the House about what is thought to be operationally viable in the future or redundant in the way envisaged by new clause 6. Why not keep the House of Commons informed?

**Mr. McNulty:** I am not saying that the House of Commons or anyone else should not be informed, but the ORR and Network Rail have a relationship in the first instance through which they can consider what happens to land. Let me go into a bit more detail, although we can return to the matter if hon. Members wish.

Network Rail's forecast income from property was closely scrutinised by the ORR as part of the access charges review in 2003, precisely to ensure that Network Rail was maximising the revenue generating potential of its property portfolio. In the conclusions of the review, the ORR determined that Network Rail should earn £1.2 billion in property income over the five years from 1 April 2004, which was £50 million more than Network Rail had forecast. That is clearly a challenging target, but assets, buildings and other portfolios do not stand idle while people decide what to do with them, because they form part of Network Rail's overall budget. As has been said, it is clearly best for Network Rail to determine how best to manage its property portfolio from day to day to optimise revenue earned from that without compromising its core business of operating, maintaining and renewing the rail network. It would not be terribly appropriate for civil servants or politicians to get involved in that process.

The ORR thus already regulates and monitors the disposal of Network Rail's land and property. Network Rail's network licence includes a condition that was imposed by the rail regulator to prevent the disposal of land by Network Rail unless the ORR consents to such disposal. When reaching a decision, the ORR will consult various railway industry stakeholders for their views. Consent is likely to be refused if the land could be important to the continuing operation and further development of the network, as I said.

The purpose of the licence condition is to ensure that parts of the Network Rail property portfolio that might be required for the future development of the railway are retained for that purpose. If consent is given, which may be for an individual case or in accordance with a general consent covering specified categories of land, the decision on whether, when and how land should be disposed is a commercial one for Network Rail.

A balance must be struck between what the ORR reports about the previous disposal and utilisation of assets and the real commercial considerations of the ORR and Network Rail. Many of the suggestions made by the right hon. Member for East Yorkshire are covered in one way or another by the relationship between the ORR and Network Rail. However, the arbitrary time frames in new clause 6 are not appropriate. When the post-SRA world settles down, I am more than happy to ensure that the right hon. Gentleman, his colleagues and anyone else who needs to know are aware of Network Rail's assets register, land

holdings and the targets for the next periodic review. In that context, I would suggest that most of the concerns addressed by new clauses 5 and 6 either have been covered already, or are well on their way to being covered. Although I accept the substance of the right hon. Gentleman's points, I hope that he will withdraw the motion.

**Mr. Greg Knight:** We have had a worthwhile debate. The hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) criticised what he described as the narrow drafting of the new clauses, but accepted the thrust of the argument behind them. I suppose it was a case of praising with faint damns, but I thank him for his qualified support.

My hon. Friend the Member for Rayleigh (Mr. Francois) drew the House's attention to specific problems occurring in his part of the country, and I am sure that the Minister will reflect on his comments. My hon. Friend made a telling point when he said that bridges on some parts of the network are choke points. They are indeed a big problem on a large part of the network, and in many cases they prevent the network from being opened up to increased freight business. If redundant assets could be sold to fund bridge replacement work, both passengers and freight customers would benefit.

We take the Minister's point about retaining—where appropriate—currently unused railway land if there are plans to bring it into use in future. We accept that, of course, but it was not part of the aim we sought to achieve through new clause 6. I was delighted to hear that the hon. Gentleman accepts that Network Rail could do more and be more proactive about enhancing passenger flow. We give him two cheers for clearly acknowledging that more could be done. I hope that as long as he is a Transport Minister, he will stay on the case and ensure that Network Rail is indeed more active in improving the quality of travel for passengers. In the light of his response and of the fact that the Minister acknowledges that there is a problem, I shall not pursue new clause 6 any further.

I was less convinced by the Minister's response to new clause 5. There is a case for saying that as long as the railways remain under the wing of the Secretary of State, the Secretary of State should be answerable to the House and should have a duty to publish a rail efficiency report—if only to focus his mind and ours on the fact that more could and should be done to improve rail efficiency. Although I thank the Minister for his comprehensive response, I still have some doubts regarding new clause 5, and when in doubt one should always take the mood of the House.

*Question put*, That the clause be read a Second time:—

*The House divided:* Ayes 129, Noes 222.

**Division No. 53]** **[3.29 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Cable, Dr. Vincent
Cameron, David
Carmichael, Alistair
Cash, William
Chope, Christopher
Clifton-Brown, Geoffrey
Cormack, Sir Patrick
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Doughty, Sue
Duncan, Alan *(Rutland)*
Evans, Nigel
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hawkins, Nick
Heald, Oliver
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jenkin, Bernard
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Ottaway, Richard
Page, Richard
Paice, James
Price, Adam *(E Carmarthen & Dinefwr)*
Randall, John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Shephard, rh Mrs Gillian
Shepherd, Richard
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thurso, John
Tredinnick, David
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Weir, Michael
Whittingdale, John
Wiggin, Bill
Williams, Hywel *(Caernarfon)*
Wilshire, David
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Mark Prisk and Andrew Selous**

**NOES**

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Bennett, Andrew
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard

Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Clapham, Michael
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Crausby, David
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Darling, rh Alistair
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Denham, rh John
Dhanda, Parmjit
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Grogan, John
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Heppell, John
Heyes, David
Hoey, Kate *(Vauxhall)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Keeble, Ms Sally
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Michael, rh Alun
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moran, Margaret
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pound, Stephen
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Truswell, Paul
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**James Purnell and**
**Ms Bridget Prentice**

*Question accordingly negatived.*

## New Clause 9

### Railway Strategy for Wales

'(1) The National Assembly for Wales may prepare a strategy for carrying out its functions in relation to railways and railway services.

(2) The National Assembly for Wales may from time to time revise that strategy.

(3) Where the National Assembly for Wales prepares or revises such a strategy, it must publish the strategy or revised strategy in such manner as they consider appropriate for bringing it to the attention of those likely to be affected by it.

(4) The reference in subsection (1) to the functions of the National Assembly for Wales in relation to railways and railway services includes, in particular, its functions under Part 1 of the 1993 Act and its functions under this Act.'.—*[Mr. Llwyd]*

*Brought up, and read the First time.*

**Mr. Llwyd:** I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker:** With this, it will be convenient to take the following amendments:

No. 33, in clause 10, page 9, line 14, leave out "Wales-only", insert "any Welsh".

No. 36, in clause 12, page 11, line 13, at end insert—

'(da) the National Assembly for Wales.'

No. 38, in clause 22, page 21, line 2, at end insert—

'(aa) in relation to a proposal relating to services all of which are Wales-only services, means the National Assembly for Wales; and'.

No. 39, in clause 23, page 22, line 9, at end insert—

'(aa) in relation to a proposal relating to services all of which are Wales-only services, means the National Assembly for Wales; and'.

No. 41, in clause 25, page 24, line 47, at end insert—

"(aa) in relation to a proposal relating to one or more services each of which is—

(i) a Wales-only service, or

(ii) a cross-border service in relation to which so much of the funding as is provided by a railway funding authority is funding provided by the National Assembly for Wales,

means the National Assembly for Wales; and".

No. 48, in clause 30, page 31, line 36, at end insert—

"(aa) in relation to a proposal relating to a station or part of a station that is wholly in Wales, means the National Assembly for Wales; and".

No. 49, in page 31, line 38, leave out 'and Wales'.

No. 50, in clause 31, page 32, line 45, at end insert—

'"(aa) in relation to a proposal relating to a station or part of a station that is wholly in Wales, means the National Assembly for Wales; and'.

No. 51, in page 32, line 47, leave out 'and Wales'.

No. 59, in schedule 9, page 114, line 19, at end insert—

'"(ba) where the relevant assets by reference to which the bye-laws are or were made are all Welsh assets, the National Assembly for Wales;

(bb) where some but not all of those assets are Welsh assets or include assets that are used partly in Wales and partly elsewhere, the Secretary of State and the National Assembly for Wales; and".'.

No. 57, in page 114, line 37, at end insert—

'(4) In sub-paragraph (1) "Welsh asset" means—

(a) an asset that is permanently situated in Wales; or

(b) an asset that is used only in Wales.

(5) In the case of bye-laws in relation to which both the Secretary of State and the National Assembly for Wales are the appropriate national authority—

(a) anything that must be done under this Schedule in relation to those bye-laws by the appropriate national authority must be done by them both, acting jointly;

(b) anything that may be done under this Schedule in relation to those bye-laws by the appropriate national authority may be done only by them both acting jointly; and

(c) any requirement of this Schedule in relation to those bye-laws to send something to the appropriate national authority is complied with only if that thing is sent both to the Secretary of State and to the National Assembly for Wales.'.

**Mr. Llwyd:** I make no apology for spending a little time on new clause 9 and the amendments grouped with it. They were requested by the National Assembly for Wales, not because Plaid Cymru Members asked for them, but because the Economic Development and Transport Committee of the National Assembly, chaired by Christine Gwyther AM, a former new Labour Minister of the Assembly, was concerned that they should be included in the Bill. To make matters slightly worse, and to add insult to injury, the Assembly had requested overall control of the railways in a measure in the Queen's Speech, but that proposal was dispatched with very little regard.

3.45 pm

Before I speak to the amendments, I wish to refer to a letter written by Christine Gwyther on 14 January 2005 to the Chairmen of the Railways Bill Committee. She says that her committee was

"very conscious that the timetable set for the Parliamentary process is very tight and that this has put your Committee under enormous pressure in its scrutiny of the Bill. While this is not a matter for you, my Members were disappointed that the timing of this most important piece of legislation allowed so little time for wider consideration, or for the National Assembly to consider the Bill in much detail . . . The Committee's overall view was that the Bill marked a major stage in the development of the Railways in Britain and provided an opportunity for a comprehensive transfer of powers over Welsh railways to the National Assembly. Members noted the substantial range of powers that it conferred on the Scottish Executive and were disappointed that the Secretary of State for Transport was retaining many of these powers in relation to Wales. A particular concern was the failure of the Bill to transfer to the National Assembly control over the infrastructure in Wales. Clearly, it is too late to make fundamental changes to the Bill, but there are two specific points which the Committee felt could easily be changed:

Members were concerned about the lack of control Wales would have over closures where the Assembly is not funding the rail service. Clauses 22 to 31 refer to National Authorities being notified of any closure proposal and then carrying out a consultation on this. However, while the Scottish Executive is the National Authority in Scotland, the Secretary of State for Transport would undertake this function in Wales. Members cannot see any reason why the National Assembly should not have this responsibility in Wales and urged you to amend the Bill accordingly.

Finally, the letter states:

"One other anomaly relates to the confirming of bye-laws. The National Assembly already has extensive powers in this regard and the Committee cannot see why it should not have the same powers as Scottish Ministers in relation to schedule 9. This could be achieved by amending Paragraph 1 of that schedule to include the National Assembly for Wales as the appropriate national authority for bye-laws relating to Welsh assets, with similar provisions to those relating to Scotland in relation to cross-border bye-laws."

I have quoted extensively from that letter since I believe that it is important not only in itself, but with regard to further issues. We are always told about the successful partnership between the National Assembly for Wales and this place and that the way in which legislation works, as and when it is necessary, is that it is called for by the Welsh Assembly and put in train by Ministers in this place. This is a classic example where the devolution process breaks down utterly. For whatever reason, the pleas of the Assembly, the cross-party committee and the letter penned by the ex-new Labour Minister who chairs that committee have been ignored utterly by the Committee in this place. Its members had the representations in good time to table amendments. Indeed, amendments were tabled, and they are now being discussed.

I have dealt with those points at length because I hope that somebody more kindly disposed to the devolution process in the other place will take them up. They are important if we are indeed going to refer to any form of partnership between the National Assembly for Wales and this place pro tem in any event.

I shall not read out the new clause, as other Members have important amendments to speak to later, but I wish to make a brief point. The new clause emulates the provision for Scotland and falls very well into the rest of

*[Mr. Llwyd]*

the Bill, which gives the Assembly power to spend money on rail services. It calls for a railway strategy for Wales, which would guide decisions about where to put money and what money to put in. The Transport (Wales) Bill requires the Assembly to draw up a Wales transport strategy. A railway strategy could be a part of that, but in our view, it needs to be mentioned in the Railways Bill, as it needs to be an input into the Secretary of State's decisions about railways, particularly if the other amendments that we have tabled to strengthen the Assembly's powers are rejected.

Amendment No. 33 deletes "Wales-only" and inserts "any Welsh". The purport of that is to give the Assembly a consultation role in any proposed franchise agreements which include Welsh stations, for example Paddington to Swansea, rather than to confine it to services run entirely within Wales.

Amendment No. 36 inserts a new subsection and adds the Assembly to the list of bodies that can own railway assets following the end of a franchise. One of the issues strongly raised by Miss Gwyther was the need for the infrastructure to be in the hands of the National Assembly.

Amendment No. 38 adds the Assembly to the national authorities—currently just the Scottish Executive and the Secretary of State— which must

"consider whether the closure in question should be allowed."

That comes from subsection (6). This is a proposal from a service operator to discontinue a service that the franchise does not require the operator to run and which, if it is decided to delete it, should not be allowed to run. Therefore this is to secure the provision of services.

Amendment No. 39 adds the Assembly to the definition of national authorities that must consider proposals coming from funding authorities, rather than service operators, to discontinue a service that may not be required under the franchise agreement.

Amendment No. 41 adds the Assembly to the national authorities that must consider proposals coming from service operators to discontinue excluded services, which are basically services other than ordinary passenger services. The wording emulates that which applies to Scotland.

Amendment No. 48 again adds the Assembly to the national authorities that must keep a station in operation if the Office of Rail Regulation turns down under subsection (7) a proposal from a funding authority to stop funding it.

Amendment No. 59 gives the Assembly power to make railway byelaws. Miss Gwyther specifically asked for this in her letter to the Committee. I ask the Minister to address these points, as I am sure he will. I felt it necessary to put them on the record because the last thing we want is for the National Assembly to feel that it has been entirely excluded from the process. I realise that the request came rather late to the Committee. Nevertheless, the request was plainly made well before today.

Amendment No. 50 adds the Assembly to the national authorities that must keep a "secured" station in operation if the ORR turns down under subsection (7) a proposal from a funding authority to cease funding it.

Amendment No. 57 backs up the previous amendment in the same way and emulates what is happening in Scottish byelaws, defining which byelaws can be made.

My hon. Friends and I have tabled this bank of amendments. Although they were mainly drafted by Members of our party, the purport of them came from every political party in the National Assembly, as represented on the Committee chaired by Miss Gwyther. I ask the Minister to give serious consideration to each and every one of them. I am not prejudging the issue, but if the Minister is unable so to do, I hope that someone in the other place more generously disposed to the devolution process might deal with them. The matters are important. I am not simply making political points; I am trying to make the point that we need this to be done for the railways infrastructure in Wales to be properly controlled.

**Jeremy Corbyn** (Islington, North) (Lab): What is the boundary for rail infrastructure in Wales, because the link lines between north and south Wales partly run through England? In the hon. Gentleman's view, should those lines be included in the Wales franchise?

**Mr. Llwyd:** The Welsh Assembly should be properly consulted with regard to the important rail service from Swansea to Paddington. I am not saying that it should control lines outside the Welsh border, but it should be consulted properly and its views should be taken into account, which is not the current situation with regard to the cross-party committee. I hope that I have made the point, and I ask the Minister to respond in as much detail as possible.

**John Thurso:** Before I address the new clause and amendments introduced by the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd), I shall refer to the amendments tabled by the hon. Member for Ceredigion (Mr. Thomas) in Committee. I am sure that there was a good reason why the hon. Member for Ceredigion was not in Committee when we reached those amendments. I am sorry that they were not moved, because I sympathise with them.

**Mr. Llwyd:** My hon. Friend the Member for Ceredigion (Mr. Thomas) experienced a flooding incident in his flat.

**Mr. McNulty:** For seven sittings?

**Mr. Llwyd:** For some unearthly reason, the message did not get through to the Clerk or the Chair, and I apologise for that on his behalf.

**John Thurso:** I am grateful to the hon. Gentleman for that explanation. If one's flat is flooded, it is a serious occurrence, which explains why the hon. Member for Ceredigion was not present on that morning. I sympathise with the amendments, and if I had known about the situation, I might have put my name to them.

New clause 9 and the amendments relate to the asymmetry of the devolution settlement in this country. In Scotland, we enjoy a Parliament with full powers, whereas the Welsh Assembly has powers over secondary

legislation only. It is fairly well known that my party would like Wales to be blessed with a Parliament as opposed to an Assembly.

In broad terms, I can see no reason why Wales should not be permitted the same devolutionary responsibilities as Scotland. Some difficulties exist, and the hon. Member for Islington, North (Jeremy Corbyn) has made the point that whereas the Scottish railway system is almost wholly in Scotland and has two well-defined routes in the west and the east, the situation is more complex in Wales, because the railways dip in and out of England. That difficulty in formulating strategy is not apparent in Scotland.

On the principle of the matter, the Welsh Assembly should be permitted as much say in the railways as possible. I have said this before, and I am sure that I will say it again: the correct principle for devolution is that what can be devolved should be devolved. Assembly Members—in particular, Jenny Randerson, who speaks for the Liberal Democrats on such matters—have contacted me to make the point that all parties would like to see a greater role for the Welsh Assembly. I hope that the Government will listen with some sympathy to the points that have been made and consider—if not today, in another place—how they might fulfil the legitimate aspirations for devolution expressed by the hon. Member for Meirionnydd Nant Conwy.

4 pm

**Mr. McNulty:** I do not doubt that these are serious matters. Nor do I doubt that the hon. Member for Ceredigion (Mr. Thomas), who sat—or rather, did not sit—for Plaid Cymru on the Committee, had difficulties on the day that the amendments should have been debated. These amendments should therefore be treated with all due consideration and regard, and in detail, and I shall try to respond to them in that context. However, the record should show that the inundation took place on only one sitting day. The hon. Member for Ceredigion popped along to see us for about half an hour on the first day that we sat and was not there for the remaining seven sittings. That is a matter of regret, not least for the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso), who, as he said, would have wanted to discuss the amendments had that been possible. I understand about the flood, but to turn up for only one sitting, albeit with an excuse for one of the others, is not a terribly good batting average for any member of any Committee.

New clause 9 seeks a power for the National Assembly for Wales to prepare and publish railway strategies for Wales that is equivalent to Scottish Ministers' powers in relation to Scottish railway strategies in clause 5. I contend that that is unnecessary. The Secretary of State has overall policy responsibility for the strategic direction of the railway in England and Wales. Scottish Ministers have the power to prepare a railway strategy because they have equivalent franchising and network functions in Scotland to those of the Secretary of State in England and Wales. I understand that the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) addresses those points in later amendments, which I shall deal with in due course.

Although the Bill does not place a statutory duty on the Secretary of State to publish railway strategies in the same way that section 206 of the Transport Act 2000 makes it a duty of the Strategic Rail Authority to publish such strategies, he will have an overall strategy for the railway. From time to time, the Department for Transport will undoubtedly publish documents that set out his objectives in this regard. The Department will certainly consult the National Assembly for Wales as a matter of course when preparing any strategies that affect Wales.

The Bill already requires the Secretary of State to consult the Assembly before exercising certain key functions: for example, before he gives general guidance to the Office of Rail Regulation as to that body's exercise of its functions, which is in clause 3; before he publishes a statement of policy on franchising, which is in schedule 1; and before issuing invitations to tender for franchises that provide or include Welsh services or entering into such a franchise without a tendering process, which is in clause 10. The Bill already has elements that take full account of the need to consult the Assembly.

Moreover, there is nothing in the Bill to prevent the Assembly from preparing and publishing its own strategy for the Welsh railway. As the hon. Member for Meirionnydd Nant Conwy will know, it already funds a significant programme of rail investment as part of its policy of developing an integrated transport system, which is set out in its document, "The Transport Framework for Wales". Clause 3 anticipates the Assembly's strategies. It provides that the Office of Rail Regulation must have regard to any Assembly's railway policies or strategies notified to it when exercising its functions under part 1 of the Railways Act 1993 and the Bill. Subsection (8) says that the ORR must

> "have regard to any notified strategies and policies of the National Assembly for Wales, so far as they relate to Welsh services or to any other matter in or as regards Wales that concerns railways or railway services".

The provision therefore already exists. There is a logic and integrity to the Bill's provisions for Wales and the National Assembly. I know that the hon. Gentleman wants to go much further and I shall deal with the amendments that try to achieve that shortly. However, the measure's logic reflects the asymmetrical democracy that exists through devolution in this country. As the hon. Member for Caithness, Sutherland and Easter Ross said, it reflects the relative weight, power and functions of the respective institutions.

**Mr. Llwyd:** I am genuinely grateful for the detail that the Minister is providing in his response. However, the debate echoes what was said when the Strategic Rail Authority was set up. People in Wales felt that there should have been either a separate Welsh branch of the SRA or a strong Welsh representation. However, I repeat that I am grateful to the Minister for going into such detail.

**Mr. McNulty:** I do not doubt that the hon. Gentleman is right. He will understand that I did not follow the debate on establishing the SRA with the same attention to detail and interest with which I am following the current debate, for obvious reasons. However, in the past year or two, the SRA has moved more readily towards a regional focus and taken account of the regional sensitivities that exist throughout the United Kingdom. We do not want to

*[Mr. McNulty]*

lose that in replicating the SRA functions that the Department for Transport rail unit, rather than the SRA, will cover.

Amendment No. 33 would give the Assembly a great deal more power—more power than Scottish Ministers would enjoy. It would make the National Assembly and the Secretary of State joint signatories to all the English franchises that cross the border into Wales. The Scottish Ministers will not have that power for the east and west coast franchises—the rough parallel that one could draw.

The core of the Bill as it relates to Wales is the Assembly's role in the Arriva Trains Wales franchise. That is the only franchise that currently provides what the Bill defines as "Wales-only services". As drafted, the Bill gives the Assembly the right to be a joint signatory with the Secretary of State to the Arriva Trains Wales franchise, thus recognising the importance of that franchise to Wales.

Clause 10(1) deals with the other important relationship between the Secretary of State and the National Assembly: on consultation about all franchises that serve Wales. My hon. Friend the Member for Islington, North (Jeremy Corbyn) made that point earlier. The Assembly will have the clear right to be consulted about franchises that provide Welsh services. That will give the Assembly the opportunity to say what it would like to achieve for Wales from them. It will also be able to use the broad powers in clause 10 to provide financial assistance to secure additional services from the relevant franchisee.

If he considered it appropriate, the Secretary of State could invite the National Assembly to be a joint signatory to a franchise that provided Welsh services—for example, if the Assembly wished to secure significant services via the franchise. Clause 10(3) enables him to do that. However, it is right that that remains a flexible option. I do not therefore believe that amendment No. 33 is necessary.

Amendment No. 36 would enable the Assembly to be the recipient of franchise assets at the end of a franchise agreement. At the end of the term of a franchise in England and Wales, it will be the Secretary of State's responsibility to make a transfer scheme in relation to the franchise assets. In Scotland, that role will be performed by Scottish Ministers.

Clause 12 sets out the parties to whom the franchise assets may transfer. They include the Secretary of State, the Scottish Ministers or a company that is either wholly or jointly owned by the Secretary of State and the Scottish Ministers, and a franchise company. The Secretary of State must consult every party to which he proposes to transfer assets before making the transfer scheme.

The primary intention of the clause is to transfer designated franchise assets at the end of the franchise to the new operator of train services. In the vast majority of cases, the new operator will be the new private sector franchisee. A transfer scheme will be made to transfer the franchise assets from the old franchise company to the new one. The out-going company will be paid by the in-coming train operator for the franchise assets in accordance with the terms of the franchise agreement.

In a small number of cases, the Secretary of State, Scottish Ministers or companies owned by them will operate a train service as the operator of last resort on a temporary basis. Assets such as ticket machines and office equipment will therefore have to be transferred to those bodies to allow them to provide the service. There is no provision in the Bill for the National Assembly for Wales to operate services as the operator of last resort. The Assembly is therefore not included in the list of bodies that can receive a transfer of franchise assets.

That does not prevent the Assembly from owning certain assets in relation to a franchise. For example, if the Assembly were to invest in the Arriva Trains Wales franchise and there were certain assets that it considered should remain the responsibility of the Assembly, those assets need not be designated as franchise assets. The franchise agreement could clearly state that those assets were not among the franchise assets and were to be returned to the Assembly, which would then decide how they were to be used. On replacing the Arriva Trains Wales franchise in future, it would be for the Assembly to decide how it wished such assets to be used by the new franchise operator. The Assembly will of course be involved in the re-letting process, and will be consulted by the Secretary of State about that franchise and all franchises that serve Wales. However the ultimate statutory responsibility rests with the Secretary of State. I am therefore convinced that amendment No. 36 is unnecessary.

I understand the import of amendments Nos. 38, 39, 41 and 48 to 51, which all seek to make the National Assembly for Wales the national authority in Wales for the purposes of clauses that deal with network modifications. At present, the Secretary of State has that role. The amendments, if accepted, would give the Assembly the same status in Wales as Scottish Ministers have in Scotland in this regard. Throughout clauses 22 to 31, the only national authorities are the Secretary of State and Scottish Ministers. Scottish Ministers have this duty for all services, stations and networks wholly within Scotland and for some cross-border services; it rests with the Secretary of State in all other circumstances. This reflects and is part of the much wider devolution of responsibility for railway policy and funding to Scottish Ministers. Apart from in a few important areas such as safety, Scottish Ministers now have policy responsibility for all aspects of Scotland's railway. That makes it appropriate for them to be the national authority in the circumstances that I have just described.

As hon. Members have pointed out, that devolution settlement has not been extended to Wales. Under the Bill, devolution of railway policy and funding to the Assembly is much less extensive than to Scottish Ministers, and I fully accept that that is the cause of the complaint by the hon. Member for Meirionnydd Nant Conwy. The Assembly is taking on responsibility for franchising services in Wales, and those starting and finishing in Wales, through the Arriva Trains Wales franchise. However, the Secretary of State continues to have a major role relating to the railway in Wales—in specifying high-level outputs for the railway under schedule 4 to the Bill and funding the network, for example. Part of the reason for this is that the network in Wales is much less discrete an entity than the network in Scotland, which makes fuller devolution difficult at present.

That being the case, it would be inappropriate for the Assembly to be the national authority for the purposes of this clause. Retaining this role for the Secretary of State fits better with the more general approach to devolving railway responsibilities to the Assembly, and is also simpler and more straightforward. Of course, in acting as the national authority for the purposes of the clause, the Secretary of State will need to consult and work closely with the National Assembly. There is already a requirement in schedule 7 for the Assembly to be a statutory consultee in relation to all closure proposals affecting Wales. Backing this up will be the extensive formal and informal discussions envisaged in the memorandum of understanding between the Secretary of State and the National Assembly.

**Hywel Williams** (Caernarfon) (PC): Does the Minister accept that some services, such as those operating on the Fishguard and Cardiff to Paddington line and those running along the north Wales coast, effectively serve local communities? They are mainline train services, but people use them in the same way as they would use a regional network such as Arriva, which operates within Wales. How would the Assembly discharge its responsibilities in regard to lines which the Minister would say start in Wales and end in England?

**Mr. McNulty:** I accept that point, which alludes to the complexities of the issue. Equally, portions, and no more than portions, of many of our high-speed lines in an English context will be utilised as inter-communal lines as well in various parts of the country. In terms of the examples given, and specifically the Assembly, such matters will be worked out between the provisions in the Bill relating to Wales, which I have described thus far and will come on to describe, and the memorandum of understanding to which I have just alluded. In those or other circumstances in which an Assembly viewpoint should be given in discussions on any aspect of rail services in Wales, there should be no blockage on that view being reflected. We are not simply in the business of imposing from the centre what view should prevail in terms of the Welsh rail network. Equally, we are trying to work with the Assembly around the complexities to which the hon. Gentleman and others have alluded. I am trying to do so by taking the amendments as seriously as I can and in the spirit in which they were suggested. The memorandum will pick up many of those complexities, beyond what is not already reflected in the Bill.

4.15 pm

For those reasons, we do not think it appropriate for the Assembly to be a national authority for the purposes of this clause. As I have said, retaining the role for the Secretary of State fits better with the more general approach to devolving railway responsibilities to the Assembly and is simpler and more straightforward. As I have said, there will be a consultation and memorandum.

Although the National Assembly is not a national authority, it has a significant role in closure procedures in Wales. In addition to being a statutory consultee, as I have said, it has a duty to provide closure guidance jointly with the Secretary of State for stations or networks in Wales and services in Wales, including cross-border services. I hope that the hon. Member for Meirionnydd Nant Conwy will have seen—if not, they are in the Library—the headlines of the closure guidance, and I promised no more than that in Committee. Consultation will take place with the Assembly to come to some broad agreement on what specifically those should be in relation to Wales, as they need to be published jointly with the Secretary of State, as I suggested. The Assembly is also a designated railway funding authority under clause 44 of the Bill. The effect of that and the Assembly's funding of the Arriva Wales franchise will be that the Assembly will have the power to initiate closure proposals for the services that it funds through the Arriva Wales franchise. In that context, although I understand the import and thrust of that series of amendments, they are not absolutely necessary.

Amendments Nos. 57 and 59, taken together, to which the hon. Member for Meirionnydd Nant Conwy alluded, seek to amend schedule 9 to replicate in Wales the arrangements for confirmation of railway byelaws, before they come into effect, that apply in Scotland. More specifically, the amendments would mean that where the byelaws affect only railway assets in Wales, they would need to be confirmed by the National Assembly. Where the byelaws affect railway assets including those in Wales, they would need to be confirmed by both the Welsh Assembly and the Secretary of State.

As currently drafted, the Bill makes the Secretary of State responsible for approving the byelaws of all railway operators wherever assets are located or used in England and Wales. This role is consistent with the Secretary of State's overall responsibility for the railway network in England and Wales. In Scotland, the Scottish Ministers have overall responsibility, hence their role in approving byelaws. I can understand the Assembly's desire to have a greater role in this regard. However, the arrangements set out in the Bill do not exclude it entirely. Byelaws will be made by the railway operator. The arrangements for approving the byelaws will not prevent the Assembly from working with Arriva Trains on the development of byelaws for the operator's stations and trains, which would then be approved by the Secretary of State.

I assure the hon. Gentleman that I will examine further the matter of byelaws and how they reflect dealings with Arriva Trains Wales, to see whether there is some way, perhaps outwith the Bill, that we can ensure that the Assembly plays a fuller role. I understand the importance of byelaws in many regards, although I am sure that he has read the *Official Report* of the assorted Committee proceedings, which reflect that there were those in Committee who would choose to push the byelaws a little too far in some regards. I will examine the byelaws point in more detail, to see whether through the memorandum, or some other way, there can be some accommodation.

I have dealt with the new clause and amendments in as detailed and serious a fashion as I could, and have tried to explain—I did receive a letter from the Welsh Assembly—why they are not necessary for a number of reasons. I will, however, pursue the point about byelaws outside the confines of the Bill.

*[Mr. McNulty]*

I hope that the hon. Gentleman will withdraw the motion.

**Mr. Llwyd:** The Minister went into great detail, and responded in a very fair way. I hope that this matter will be revisited in the other place, but that is by the by, and not for today.

I hope to be able to move amendment No. 38 formally at the conclusion of proceedings, but I beg to ask leave to withdraw the motion.

*Motion and clause, by leave, withdrawn.*

## New Clause 12

### OFFICE OF RAIL REGULATION SAFETY REPORT

'(1) It shall be the duty of the Office of Rail Regulation (ORR) to publish, before the end of each calendar year, a report on safety.

(2) The report referred to in subsection (1) shall include information concerning—

(a) injuries and fatalities suffered by railway passengers, and the ORR's conclusions as to their causes;

(b) injuries and fatalities suffered by persons other than railway passengers resulting from incidents occurring on the railway system, and the ORR's conclusions as to their causes;

(c) any recommendations resulting from consideration by the ORR of the incidents referred to in paragraphs (a) and (b); and

(d) the findings and recommendations contained in the most recent review by the ORR of safety at level crossings.

(3) The review referred to in paragraph (2d) shall be conducted at least annually, before the publication of the report referred to in subsection (1).'—*[Mr. Llwyd]*

*Brought up, and read the First time.*

**Mr. Llwyd:** I beg to move, That the clause be read a Second time.

The new clause is very straightforward. It seeks to give the Office of Rail Regulation a duty to spotlight safety issues, which I think is important. I am not being alarmist, but in 2003-04 there was a pronounced increase in the number of incidents in which fewer than five fatalities occurred in the United Kingdom, as compared with the preceding two years. Although there were no major incidents in 2003-04, there were several minor incidents on the network. My hon. Friend the Member for Caernarfon (Hywel Williams) and I know of one or two quite close to our constituencies, at Porthmadoc, and there have been some near misses elsewhere. There was a 6 per cent. reduction in the number of incidents of signals being passed at danger in 2003-04, but there were 378, which is quite a large number.

Without being alarmist, we firmly believe that as there will no longer be a separate body to consider this issue—the Health and Safety Commission, whose responsibilities are to be absorbed into those of the Office of Rail Regulation—the public would be reassured if the Bill took account of that change by reorganising the railways to strengthen safety provision. We would also like the ORR, when it reports annually, to have criteria on which to judge relative safety in the relevant year, in the context of performance targets and the like.

A later amendment, amendment No. 35, deals with safety, but we think that the extension of the ORR's responsibilities to rail safety should be in the Bill.

The Minister is deep in conversation. I do not want to embarrass him, but I should like him to respond.

**Mr. Greg Knight:** I shall be brief, because I want us to cover as much ground as possible today.

In the light of what we have just heard, I think it worth pointing out that rail travel in the UK is still one of the safest forms of travel. However, Conservative Members have some sympathy with new clause 12. Its aims are laudable. I have reservations about the potentially heavy-handed nature of these provisions, but if it is a question of balancing improved safety scrutiny against the imposition of a heavy-handed framework, we would all say that safety must come first. I hope that the Minister will be able to reassure the House that the new clause is not needed.

**Mr. McNulty:** As the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) said, new clause 12 seeks to impose on the Office of Rail Regulation a statutory duty to publish an annual safety report. The ORR would be required to include in the report information on passenger and non-passenger injuries and fatalities, and conclusions as to their causes; recommendations resulting from consideration of these incidents; and findings and recommendations arising from reviews of safety at level crossings. The statutory duty would also require that reviews of safety at level crossings be conducted annually.

I agree with the right hon. Member for East Yorkshire (Mr. Knight)—the hon. Member for Meirionnydd Nant Conwy seemed to make the same point—that accidents of one sort or another are always likely to occur on our rail system. Mercifully, grave incidents are few and far between, and rail remains overwhelmingly one of the safest forms of transport. We will all agree that when accidents do occur and difficulties arise, the actions of our emergency services and all subsequent inquiries and reports are expedited, in so far as they can be, in an extremely professional and committed fashion.

The right hon. Member for East Yorkshire has anticipated me, in that I shall ask the House to resist the new clause, which is not necessary, as I hope to show. The Health and Safety Executive is currently responsible for publishing an annual report on the safety record of the railways—a function that is set out in the memorandum of understanding drawn up by the Secretary of State for Transport and the Health and Safety Commission. That MOU details the respective working arrangements and responsibilities in respect of railway safety, including the functions to be performed by the HSE. There is no statutory requirement in the Health and Safety at Work, etc. Act 1974 for the HSE to publish an annual report on railway safety. Such reports give details of incidents involving passengers and non-passengers, as well as those involving level crossings, and they are publicly available, free of charge, on the HSE's website. The HSE considers safety recommendations separately, in the context of inquiries and investigations commissioned for specific incidents.

In transferring safety functions from the HSE to the ORR, we will seek to ensure that all such functions continue to be carried out in the same manner. Although there was no statutory requirement on the HSE to publish a safety report, the ORR should do so and we anticipate that it will. Indeed, we expect a similar reporting function to be set out in an MOU, to be drawn up by the Secretary of State and the ORR. The drawing up of an MOU with the ORR will form part of the transition arrangements.

The Rail Safety and Standards Board is also required to publish an annual safety report. Furthermore, the rail accident investigation branch will have a duty to produce a report on all accidents and incidents that are the subject of an investigation. The intention is that the regulations providing for these duties will come into force later this year. We need to consider how best to fit these publications together, with a view to providing the public with information in the most effective way. Although I cannot say at this stage exactly how that will be done, I can assure the House that the information currently available to the public will continue to be available. In that context, I suggest that the new clause is unnecessary.

The present health and safety regime on the railways will continue following the transfer to ORR, as will the publication requirements placed on the RSSB. In addition, when the RAIB comes fully into existence, information about its activities will remain in the public domain. Therefore, the proposals in the new clause are already covered by the Bill, and I ask the hon. Member for Meirionnydd Nant Conwy to withdraw the new clause.

**Mr. Llwyd:** I thank the Minister of State for that detailed explanation. Although I continue to believe that these matters should be included in the Bill and that responsibility for safety should reside with the ORR, it is possible that this is a debate for another place.

I beg to ask leave to withdraw the motion.

*Motion and clause, by leave, withdrawn.*

**New Clause 13**

CODE OF PRACTICE FOR DISABLED RAIL USERS IN ENGLAND AND WALES

'(1) The Secretary of State shall prepare, and from time to time revise, a code of practice for protecting the interests of users of relevant English and Welsh services who are disabled.'

(2) The Secretary of State shall publish a code prepared under this section, and every revision of it, in such manner as he considers appropriate.

(3) 'Before preparing or revising a code under this section the Secretary of State shall consult the Disabled Persons Transport Advisory Committee established under section 125 of the Transport Act 1985 (c. 67).'.

*Brought up, and read the First time.*

4.30 pm

**Mr. Chope:** I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker:** With this it will be convenient to discuss amendment No. 60, in clause 47, page 50, line 38, at end insert

'and the Mobility and Access Committee Scotland (MACS)'

**Mr. Chope:** Many disabled people still feel disenfranchised when they consider embarking on a rail journey, and the new clause would put that right. Rail journeys should be a pleasant experience for everyone, regardless of whether they are disabled, and I hope that the new clause will engender the Government's support.

**Mr. McNulty:** The hon. Gentleman has been very brief in his presentation of the new clause, but I am sure that the House shares his concerns about disabled passengers. I disagree, however, that the new clause goes further than existing provision. When one considers the lot of disabled passengers under the previous Conservative Government between 1979 and 1997, the new clause is, frankly, a joke. However, this is an important matter for discussion.

The new clause would require the Secretary of State to promulgate a code of practice for protecting disabled railway users in England and Wales. It would empower the Secretary of State to prepare and, from time to time, revise that code of practice. It would require him to publish it, and each revision of it. Finally, it would require him to consult the Department's disabled persons transport advisory committee before preparing or revising the code. It is designed to provide for a duty on the Secretary of State to maintain a code in England and Wales that corresponds to the power in clause 47 allowing Scottish Ministers to prepare a similar code. I strongly believe that the new clause is unnecessary, and suggest that it be withdrawn. If it is not withdrawn, I ask the House to resist it because a stronger provision is already included in the Bill.

The existing requirement on the SRA to maintain a code of practice is contained in section 71B of the Railways Act 1993. Paragraph 29 of schedule 1 to the Bill preserves that requirement, substituting the Secretary of State for the SRA. The Secretary of State's duty will extend to the whole of Great Britain, with the Scottish Executive's code applying only to services that they procure, including the ScotRail franchise. The schedule 1 provision is stronger than the terms of the new clause in that it additionally requires the Secretary of State to promote the adoption and implementation of the code, but the new clause would require him only to revise and publish the code from time to time. The requirements in the new clause would not achieve anything for disabled passengers. Schedule 1 also makes transitional provision to continue in force any existing SRA code and to enable the Secretary of State to draw on any consultation already undertaken by the SRA. That will provide continuity between the position as it stands under section 71B of the Railways Act 1993 and the position in the post-SRA period. That is important, but the new clause would mean the loss of that continuity.

Amendment No. 60 seeks to add an additional requirement on the Scottish Ministers as to which bodies they must consult before publishing a code of practice for disabled rail users in Scotland under clause 47. The clause currently requires consultation with the disabled persons transport advisory committee, which is the body that SRA must currently consult when preparing a code of practice under the Transport Act 2000, and the body that the Secretary of State will be required to consult when he acquires the SRA's duty. Therefore the third element of the new clause is

*[Mr. McNulty]*

redundant, because it provides for something that already happens and will continue to happen under the new system.

**John Thurso:** I am following the Minister's argument with some interest. He makes a powerful argument that the measures in the Bill are stronger than the new clause. On the question of consultation, can he say whether the SRA is—or the Secretary of State will be—under any obligation to consult the Disability Rights Commission, which has been established since the 1993 legislation?

**Mr. McNulty:** That is a fair point, but I will have to get back to the House on it. I am not completely au fait with the legislation that established the DRC, so I do not know whether it drew in all consultation requirements in extant legislation. I half think that the DRC automatically has a general role in any aspect of disability provision, including transport and the railways. I will certainly get back to the hon. Gentleman and the House on that point.

The amendment would add the Mobility and Access Committee Scotland as a second consultee, after the disabled persons transport advisory committee, for Scottish matters. I freely concede that the amendment raises a very good point. MACS has been established by the Scottish Parliament to fulfil a similar role in Scotland to that of DPTAC in Great Britain and the Scottish Executive have advised that MACS is very important, but we need to take a step back. I have some sympathy with the principle behind the amendment, but we still think that it is unnecessary. As the matter is convoluted, let me go through it briefly.

The Mobility and Access Committee for Scotland was established by the Scottish Parliament in 2002, and fulfils a similar role to DPTAC. DPTAC was established under legislation that pre-dated devolution, but equal opportunities law, including the Disability Discrimination Act 1995, is reserved to Westminster. So, on the face of current legislation, DPTAC continues to have a role in Scotland.

However, DPTAC and MACS work closely together. They have a concordat between them that will ensure that their work is complementary and that while DPTAC will deal with all issues that are reserved to Westminster, MACS will deal with issues that are devolved to the Scottish Parliament. I can imagine a much greater role for MACS in future with the additional devolution proposed by the Bill, but believe me, Madam Deputy Speaker, I have looked into how one might unpick the pre-devolution legislation that established DPTAC—pre-devolution legislation that established much of the framework of our equal opportunities legislative framework—and I have discovered that a great many amendments would be needed to get it all in order to such an extent that we could simply say that in Scotland, given where we have got to with greater devolution on rail, MACS should be consulted, and in the rest of the country DPTAC should be. Although it is convoluted, I think that that explanation renders the amendment unnecessary.

So, there would be a much greater role for MACS in future, given the additional devolution proposed by the Bill. However, a duty for Scottish Ministers to consult DPTAC but not MACS, however silly it sounds, should not adversely affect the existing role of MACS. Existing arrangements should ensure that DPTAC involves MACS or refers to it where an issue relates to devolved matters. I am also sure that when the Scottish Executive do consult on the code of practice, they will involve as wide an audience as necessary.

Although I have, as I have tried to explain, enormous sympathy with amendment No. 60, I think that, for many of the reasons that I have suggested in terms of the legislative complexities, it is unnecessary; equally, given the increasingly strong relationship between DPTAC and MACS, if the import of the amendment is to ensure that the Scottish voice of disabled transport users is as fully involved and consulted as possible once these rail matters have been devolved to the Scottish Executive, the House can have, I think, my assurance that we will work together with the Scottish Executive to ensure that what the amendment seeks to do will prevail. But please do not ask me to take the matter back and come back with what will be, I would guess, anything from 30 to 50 amendments just to get all the legislative elements lined up so that what we all want can prevail strictly and purely in law. Rather, I ask hon. Members, please accept the assurance that it will prevail in reality. We do not want to go unpicking pre and post-devolution legislation and the statutory framework. In that context, I hope that the new clause will be withdrawn and the amendment will not be pressed.

**Mr. Chope:** I note that the Minister has responded in great detail. We shall read what he has said and then consider whether we should come back with this amendment or something similar in the other place, but in the meantime, bearing in mind that there is only about 15 minutes left to discuss all the remaining amendments on the amendment paper, I beg to ask leave to withdraw the motion.

*Motion and clause, by leave, withdrawn.*

## Clause 12

### Transfer Schemes at End of Franchising Agreements

**Mr. Llwyd:** I beg to move amendment No. 35, in page 11, line 6, at end insert—

'(2A) The appropriate national authority may make a scheme for the transfer, before the end of the franchise period, if the authority considers, after consultation with the Office of Rail Regulation, that the safety record of the franchisee is such as to warrant a transfer on the grounds of passenger safety.'

**Madam Deputy Speaker:** With this it will be convenient to discuss the following amendments: No. 18, in page 11, line 13, leave out

'and

(c) a franchise company'.

No. 17, in page 11, line 14, at end insert—

'(3A) The appropriate national authority shall not make a scheme for the transfer of relevant franchise assets to a franchise company, at the end of the franchise period, if an independent assessment, which must be authorised by the national authority, demonstrates that the assets could be operated more economically and efficiently by a person identified in subsection (3)(a), (b), (c) or (d).'

No. 4, in page 11, line 43, at end insert—

'(9) The Secretary of State may not exercise his powers under subsections (2) and (3) to make a scheme to transfer the relevant franchise assets of any franchise currently operated by the Strategic Rail Authority (SRA) to a franchise company. Those assets shall continue to be operated by a company wholly owned by the Secretary of State or the Scottish Ministers.'.

**Mr. Llwyd:** The effect of amendment No. 35 is obvious. It would make safety a paramount consideration overriding other provisions in franchise agreements. It would open up the possibility of renationalising rail services on safety grounds, although the term "transfer" could include a transfer to a private company.

4.45 pm

**John McDonnell:** There are only 15 minutes left in the debate, so I shall be as brief as possible. I shall speak to amendments Nos. 18, 17 and 4, which I have tabled. With your permission, Madam Deputy Speaker, I hope to press amendment No. 17 to a Division at the appropriate time.

The Bill is part of a sequence of events since 1997 during which we have been on a path of overcoming the problems faced by the railway industry as a result of privatisation under the previous Conservative Government. Although I do not think that the amendments go far enough, they offer a range of ways in which the Bill could be improved to bring back a degree of public ownership and public sector involvement.

I argue the case for public sector ownership, control and accountability because the promises that we were given at the time of privatisation have demonstrably not been fulfilled. We were told that privatisation would bring about more investment in the railways and that the service would be improved. We were told that there would be a transfer of risk from the public sector to the private sector and that we would have a more efficient railway system throughout the country. I congratulate the Government on the massive growth in investment, but that has come not from the private sector, but the Government, taxpayers and passengers.

Last year's public subsidy to the private sector from the taxpayers of this country was £2 billion. Since privatisation, the Government have put £10 billion into the railway industry, but £1 billion of that—figures now suggest that it might be nearer £2 billion—has been creamed off for profit. Today's *Evening Standard* publishes the various companies' profits for last year. Their profits have risen by an average of 20 per cent., with FirstGroup making £60 million, National Express £54 million and Stagecoach £43 million. The private sector continues to exploit the railway industry for its own benefit.

We were told on Second Reading that we required private sector involvement because it would bring £70 million a week of additional investment to the railway industry itself, but recent independent examination by independent experts has demonstrated that all that £70 million a week is public sector money that has been laundered back into the system. It is made up of subsidies provided to the private sector which it then disguises as its own investment.

Profiteering has gone on apace, which is why we need a publicly accountable railway system. Profits have been achieved by what is called "sweating the assets", which means cutting services, exploiting the work force, and sometimes putting passengers at risk by undermining safety regulations and practices. We have heard of two further examples of that this week. On Monday, the *Daily Mirror* exposed yet again the fact that maintenance contracts on track renewal have led to the system being left unsafe overnight and over the weekend because of inadequate work done by inexperienced people. Only two days ago, 100,000 passengers were unable to travel on the London Underground because the private company managing the service could not complete its work overnight, as it did not bring the materials required for the job. Costs have escalated under the private sector, and costs for maintenance and renewal have almost doubled in the private sector compared with those under British Rail.

**Jeremy Corbyn:** Is my hon. Friend aware that the company Tube Lines, which is owned by Jarvis, has got into enormous financial difficulty and, indeed, has sold its contracts with the public sector to refurbish parts of the London Underground? There is now trading in public contracts, but priority should be given to finishing those contracts for the public interest and the public good, rather than advancing share prices in the City.

**John McDonnell:** Companies trading in profits is understandable when one looks at examples such as National Express, which expects a 70 per cent. increase on last year's profits. How can that provide value for money for the public sector and for the travelling public?

When the public sector demonstrates that it can run a service effectively and efficiently and give good value, as when Connex South Eastern went bust and South Eastern Trains took over the franchise, what happens? The Government force the operation back into the private sector. The private sector argues that its involvement enables transfer of risk, but we know that when that risk becomes too great, the public sector has to take it over again. That is what happened with the channel tunnel, Connex South Eastern and the maintenance contracts across the whole industry. Transfer of risk was a myth; it has been clearly demonstrated that it never worked from the start.

I am unable to comprehend why the Government cannot now allow some form of public sector operational involvement in the railways industry. The general public are convinced: poll after poll shows that the public want the railways to be brought back into the public sector. As for the Labour party, I remind comrades and colleagues that at its last conference the party voted overwhelmingly for a policy to bring rail back into public ownership. When South Eastern Trains was discussed at the London Labour party conference, which took place only weeks ago, it was agreed unanimously that South Eastern Trains should remain in the public sector. It is absolutely bizarre that the Government will not even allow the public sector a level playing field with the private sector. That is what amendment No. 17 would achieve.

*[John McDonnell]*

Amendment No. 18 is straightforward: it invites the Secretary of State to bring the railway industry back into public ownership as franchises run out. Amendment No. 17 simply proposes that when a franchise comes up for renewal, there should be a public sector comparator to enable an independent assessment of whether the public or the private sector can run it best; then, the contract should be awarded according to the results of that assessment.

Amendment No. 4 states simply, "If it ain't broke, don't fix it." If South Eastern Trains is running operations effectively in the public sector, why not leave it there? Ironically, it may well remain in the public sector—the Norwegian public sector, unfortunately, since Norway's state railway is bidding for the operation. The Government have a bizarre ideological commitment—a dogmatic commitment—to the private sector. It reminds us of the Victorian commitment to the hidden hand of the market, or, perhaps more appropriately, the American neo-conservatives' mantra for every occasion: "Private sector good, public sector bad." It appears that the only role that the Government envisage for the public sector is that of clearing up the mess made time and again by the private sector.

On Second Reading and elsewhere, the Secretary of State argued that the railways cannot be brought back into the public sector because it would be too expensive. We were told at one point that it would cost £3 billion, yet within six months we were told that the cost would be £22 billion. My amendments would enable the railway industry to be brought back within the public sector without cost, as franchises run out. It is argued that amendment No. 18 inserts a public sector preference, but amendment No. 17 answers that by invoking an independent and objective assessment process. In fact, it is almost a modernising amendment—practically third way-ish.

Amendment No. 4 is also straightforward. All the statistics for every quarter of last year show that South Eastern Trains in the public sector has outperformed all the private sector elements of the industry. They demonstrate how much more efficiently and effectively the operation has been run since it was taken over from Connex.

**Mr. Robin Cook** (Livingston) (Lab): I do not want my hon. Friend to understate his case. I am sure that he wants attention to be drawn to the fact that South Eastern Trains has not only improved the service to the public, but cut the subsidy needed by £1 million a month. The Government are therefore gaining every bit as much as the travelling public; surely they have an interest in ensuring that that continues.

**John McDonnell:** My right hon. Friend makes a valid point about benefits for the Government, but there are also benefits for South Eastern Trains from bringing maintenance contracts in-house. All that we are asking for is a rational process of decision making. We do not come with any ideological baggage from the past about the danger of relying on the hidden hand of the market or about the perfection of the public sector. We want a rational process of assessment.

Time is short, so I shall conclude with an extract from a moving speech that was made at the Labour party conference. It is about Africa and the Government's role in the world, and the example that the Government can set, not just in Europe but globally:

"But if we can show a publicly funded health service free at the point of need delivers to all the people, if we can show a modern state schooling free of charge is the best hope for all children, if we can show the ethic of public service is so strong that public services can provide efficiently for all people without having to privatise or charge . . . then what a difference our country can make to our world."

I agree with that emotional and powerful speech by the Chancellor of the Exchequer. It sums up the arguments of the amendments precisely and succinctly. All we want is a fair approach based on what works, what is in the best interests of our overall community, and what delivers services to passengers without exploiting the state for the profiteers in the private sector, as happens at present. On that basis, I should like to press the amendment to a vote.

**Mr. McNulty:** Amendment no. 35, which was moved by the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd), aims to provide a discretionary power to transfer designated assets from a franchisee if that is warranted on passenger safety grounds. It would not achieve that as worded, and it is also unnecessary. I accept, however, the hon. Gentleman's point about the paramountcy of safety on the railways, which was a feature of the various contributions from colleagues.

If a franchise operator operates in an unsafe manner, there are various means by which it can be held to account, including the terms of the franchise agreement, the terms of its operating licence and the enforcement of the Railways (Safety Case) Regulations 2000. The hon. Gentleman will know that those regulations require all railway operators to have a comprehensive safety case approved by the Health and Safety Executive before starting operations. A railway safety case ensures that a railway operation has effective arrangements in place to ensure the safety of workers, the travelling public and others who may be affected by the operation. If the operator acts in breach of its safety case, it may be prosecuted by the HSE.

The Office of Rail Regulation will only grant a licence to operate if the train operator holds a valid safety case, unless the HSE has granted a safety case exemption for any reason. The regulator may revoke a licence if the licence holder commits a serious breach of the Railways (Safety Case) Regulations. Unless exempt, it is unlawful for an operator to operate railway assets without a licence. It is an event of default under the franchise agreement if the operator's safety case is withdrawn or terminated, or if the operator is in material non-compliance with an HSE prohibition or enforcement order. All those powers are entirely adequate to protect passenger safety.

It is hard to imagine a circumstance in which passenger safety might require the ownership of designated assets such as ticket barriers, information systems or contracts to be transferred to another body. If the assets themselves are a danger to the public, it will not remedy the situation to transfer the ownership of those assets to another person. For all those reasons, amendment No. 35 is not necessary.

Amendments Nos. 4, 17 and 18, as my hon. Friend said, are intended to prevent private sector train companies operating franchises, but they would not work, nor would they outlaw franchises or transfer between operators. Taking back into the public sector each franchise as it ends costs nothing, for reasons that I shall amplify another time. It is also not the case, as my right hon. Friend the Member for Livingston (Mr. Cook) suggested, that the operating subsidy is far less—

*It being Five o'clock,* MR. DEPUTY SPEAKER *put the Question already proposed from the Chair, pursuant to Order [6 December 2004].*

*Amendment negatived.*

MR. DEPUTY SPEAKER *then proceeded to put the Questions necessary to dispose of the business to be concluded at that hour.*

## TRANSFER SCHEMES AT END OF FRANCHISING AGREEMENTS

*Amendment proposed:* No. 17, in page 11, line 14 [Clause 12], at end insert—

'(3A) The appropriate national authority shall not make a scheme for the transfer of relevant franchise assets to a franchise company, at the end of the franchise period, if an independent assessment, which must be authorised by the national authority, demonstrates that the assets could be operated more economically and efficiently by a person identified in subsection (3)(a), (b), (c) or (d).'.—*[John McDonnell.]*

*Question put,* That the amendment be made:—

*The House divided:* Ayes 49, Noes 208.

**Division No. 54]** **[5 pm**

### AYES

Allan, Richard
Barnes, Harry
Bruce, Malcolm
Burstow, Paul
Cable, Dr. Vincent
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Clapham, Michael
Cook, rh Robin *(Livingston)*
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Davidson, Ian
Dobbin, Jim *(Heywood)*
Doughty, Sue
Drew, David *(Stroud)*
Foster, Don *(Bath)*
Gerrard, Neil
Gill, Parmjit Singh
Green, Matthew *(Ludlow)*
Grogan, John
Hamilton, David *(Midlothian)*
Hoey, Kate *(Vauxhall)*
Hopkins, Kelvin
Hughes, Simon *(Southwark N)*
Jones, Lynne *(Selly Oak)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Lamb, Norman
Llwyd, Elfyn
McDonnell, John
Mackinlay, Andrew
Mahon, Mrs Alice
Marshall-Andrews, Robert
Mitchell, Austin *(Gt Grimsby)*
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Prosser, Gwyn
Rendel, David
Robertson, Angus *(Moray)*
Russell, Bob *(Colchester)*
Sedgemore, Brian
Skinner, Dennis
Smith, Llew *(Blaenau Gwent)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Thurso, John
Weir, Michael
Williams, Hywel *(Caernarfon)*
Winnick, David
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Robert N. Wareing and Jeremy Corbyn**

### NOES

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Boateng, rh Paul
Bradley, Peter *(The Wrekin)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Burnside, David
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Casale, Roger
Challen, Colin
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Cleland, David
Coffey, Ms Ann
Colman, Tony
Conway, Derek
Cooper, Yvette
Crausby, David
Cummings, John
Curry, rh David
Darling, rh Alistair
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Davis, rh David *(Haltemprice & Howden)*
Dhanda, Parmjit
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Fallon, Michael
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fitzpatrick, Jim
Follett, Barbara
Forth, rh Eric
Foster, rh Derek
Foster, Michael *(Worcester)*
Gapes, Mike *(Ilford S)*
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Kirkbride, Miss Julie
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luff, Peter *(M-Worcs)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
Mackay, rh Andrew
McKechin, Ann
McKenna, Rosemary
McNulty, Tony
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Michael, rh Alun
Miliband, David
Mitchell, Andrew *(Sutton Coldfield)*
Moffatt, Laura
Mole, Chris
Morris, rh Estelle
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
Olner, Bill
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Purchase, Ken

Quinn, Lawrie
Randall, John
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Rosindell, Andrew
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Smith, rh Chris *(Islington S & Finsbury)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Swayne, Desmond
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Tyrie, Andrew
Walley, Ms Joan
Ward, Claire
Watson, Tom
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Wills, Michael
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**James Purnell and Margaret Moran**

*Question accordingly negatived.*

## Clause 22

### Proposal by Service Operator to Discontinue Non-Franchised Services

*Amendment proposed*: No. 38, in page 21, line 2, at end insert—

'(aa) in relation to a proposal relating to services all of which are Wales-only services, means the National Assembly for Wales; and'.—*[Mr. Llwyd]*

*Question put*, That the amendment be made:—

*The House divided:* Ayes 22, Noes 215.

**Division No. 55]** **[5.13**

### AYES

Allan, Richard
Bruce, Malcolm
Burnside, David
Burstow, Paul
Cable, Dr. Vincent
Carmichael, Alistair
Doughty, Sue
Foster, Don *(Bath)*
Gill, Parmjit Singh
Green, Matthew *(Ludlow)*
Hughes, Simon *(Southwark N)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Llwyd, Elfyn
Price, Adam *(E Carmarthen & Dinefwr)*
Rendel, David
Robertson, Angus *(Moray)*
Russell, Bob *(Colchester)*
Stunell, Andrew
Taylor, Dr. Richard *(Wyre F)*
Thurso, John
Willis, Phil
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Michael Weir and Hywel Williams**

### NOES

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Bradley, Peter *(The Wrekin)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Casale, Roger
Caton, Martin
Challen, Colin
Clapham, Michael
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Crausby, David
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Darling, rh Alistair
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dhanda, Parmjit
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Grogan, John
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hoey, Kate *(Vauxhall)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Michael, rh Alun
Miliband, David
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Morris, rh Estelle
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
Olner, Bill
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Pickthall, Anne
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pound, Stephen

Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Truswell, Paul
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Walley, Ms Joan
Ward, Claire
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Margaret Moran and**
**Mr. Tom Watson**

*Question accordingly negatived.*

## Clause 17

MEMBERSHIP OF TRANSPORT FOR LONDON

*Amendment made:* No. 14, in page 16, line 3, at end insert—

'( ) In sub-paragraph (1) (which imposes a maximum of fifteen on the number of members appointed by the Mayor), for "fifteen" substitute "seventeen".

( ) In sub-paragraph (2) (which imposes a maximum of fourteen on the number so appointed where the Mayor is himself a member), for "fourteen" substitute "sixteen".'.—*[Mr. McNulty.]*

## Clause 44

INTERPRETATION OF PART 4

*Amendments made:* No. 9, in page 48, line 38, leave out 'Secretary of State' and insert 'appropriate authority'.

No. 10, in page 48, line 42, leave out 'Secretary of State' and insert 'appropriate authority'.

No. 11, in page 48, line 44, at end insert—

'(4A) In subsection (4), "appropriate authority"—

(a) in relation to a person who provides no financial assistance for purposes mentioned in subsection (4)(b) other than—

(i) funding in relation to the provision of Scotland-only services,

(ii) Scottish majority funding in relation to cross-border services, or

(iii) funding in relation to the operation or use of a network or station, or part of a network or station, that is wholly in Scotland,

means the Scottish Ministers;

(b) in any other case, means the Secretary of State.

(4B) For the purposes of subsection (4A)(a)(ii), a person provides Scottish majority funding in relation to particular services if—

(a) the person is—

(i) a body established by or under an Act of the Scottish Parliament, or

(ii) a body which has its principal office in Scotland, and

(b) in relation to those services, the person provides more funding than is provided in aggregate by railway funding authorities.'.—*[Mr. McNulty.]*

## Clause 46

POWER OF SCOTTISH MINISTERS TO MAKE PENALTY FARE REGULATIONS

*Amendment made:* No. 13, in page 50, line 29, at end insert—

'( ) After subsection (11) insert—

"(11A) A statutory instrument containing regulations made by the Scottish Ministers under this section is subject to annulment in pursuance of a resolution of the Scottish Parliament.".'.—*[Mr. McNulty.]*

## Clause 53

FURTHER AMENDMENTS OF THE 1993 ACT

*Amendment made:* No. 15, in page 56, line 10, at end insert—

'( ) After section 119(5) of that Act insert—

"(5A) The Secretary of State may give an instruction under this section for the protection of a relevant asset that is wholly in Scotland, or of persons or property on or in such an asset, only if—

(a) the asset would be a relevant asset even if railway did not have its wider meaning for the purposes of this section; or

(b) the instruction is given in the interests of national security.

(5B) In subsection (5A) the reference to an instruction given in the interests of national security includes a reference to any instruction given for the purpose of ensuring that protection against terrorism is provided to the asset, persons or property in question."

( ) In section 119(11) of that Act, after the definition of "specified" insert—

"'terrorism' has the same meaning as in the Terrorism Act 2000 (c. 11) (see section 1 of that Act);".'.—*[Mr. McNulty.]*

## Schedule 1

TRANSFER ETC. OF FUNCTIONS OF THE STRATEGIC RAIL AUTHORITY

*Amendment made:* No. 16, in page 66, line 17, leave out 'Secretary of State' and insert 'Strategic Rail Authority'.—*[Mr. McNulty.]*

## Schedule 3

TRANSFER OF SAFETY FUNCTIONS

*Amendment made:* No. 12, in page 87, line 44, at end insert—

*'Regulatory Reform Act 2001*

13A The effect of the preceding provisions of this Schedule is to be disregarded in determining for the purposes of section 1 of the Regulatory Reform Act 2001 (power by order to make provision reforming law which imposes burdens) whether any provision of the 1974 Act falls within subsection (4)(a) of that section (provision amended by Act within previous two years).'.—*[Mr. McNulty.]*

**Schedule 11**

MISCELLANEOUS AMENDMENTS OF 1993 ACT

*Amendments made:* No. 19, in page 128, line 27, after 'definition' insert

'of "final order", after "provisional order" insert "or an order under subsection (7B)".

( ) In that subsection, in the definition'.

No. 20, in page 129, line 29, at end insert—

'7A In section 57F(1) (validity and effect of penalties), for "penalty order" substitute "penalty notice".'.

No. 21, in page 133, line 13, leave out from 'In' to end of line 15 and insert

'section 143 (powers to make statutory instruments)—

(a) in subsection (1), for "under this Act to make orders" substitute "or the Scottish Ministers under this Act to make orders (except the power to make provisional or final orders under section 55)";

(b) in subsection (3), for "to make an order" substitute "or the Scottish Ministers to make an order (other than a provisional or final order under section 55)"; and

(c) in subsection (4), for "under this Act to make an order" substitute "or the Scottish Ministers under this Act to make an order (other than a provisional or final order under section 55)".'.

*Order for Third Reading read*

*Motion made, and Question proposed,* That the Bill be now read the Third time.—*[Jim Fitzpatrick.]*

5.24 pm

**Mr. McNulty:** We had an interesting debate on Report and I thank everyone who was associated with the Committee stage, where the Bill received excellent scrutiny. It is nice for the most minor party to be able reflect on Report the views that prevailed in Committee after its representative did not bother to turn up to the Committee proceedings. I repeat that I am deeply sorry that the hon. Member for Ceredigion (Mr. Thomas), who represented Plaid Cymru on the Committee once in eight sittings, had a flood in his house on the day when his amendments were to be discussed and they were therefore not moved. Nevertheless, it is a shame that he managed to attend only one sitting.

The Committee took the proceedings seriously and its members, from all parties, including Government Back Benchers, considered a range of issues in depth. That, together with the discussions on Second Reading and Report, means that the measure, as part of the overall implementation of the rail review, is all the better for our deliberations. I urge the usual channels—since I am no longer a member of that fraternity and sorority—to take lightly any urgent request from Plaid Cymru to serve on Committees because, in my experience, its members do not attend. None the less, Wales is important to the Bill, as are Scotland and the rest of the country, and the House lost the expertise that purportedly comes from Plaid Cymru.

Throughout our proceedings, I said that the Bill needed to be viewed in the broader context of implementing the rail White Paper and the overall rail review. There is therefore a wider backdrop, which must be considered, to each clause. The Bill consists of 10 main elements, including the winding-up of the Strategic Rail Authority. As was said in Committee, that is not a reflection of how bad the SRA has been. To be fair, it has got us to a stage where we can move on and make further progress on the railways. It has done a splendid job and will continue to do so until its demise.

However, we are now at the stage, given the assistance of the SRA, whereby we are marching from the complete bodge that was privatisation in 1994 towards something that has greater logic and integrity; something that no longer requires a body such as the SRA. Strategic elements of the Bill allow us to take it back into the Department for Transport. It is right and proper that the Government rather than the SRA make strategic decisions and determinations.

The same is true of not only safety regulation but the relationship between safety, economic regulation, the Office for Rail Regulation and the Government. It is right and proper that the Government should set the broad strategic context for our railways and also the parameters for resources. The Bill makes concomitant changes to the relationship between the Government, ORR, Network Rail and the industry to reflect the new settlement.

In shifting safety regulation from the Health and Safety Executive to ORR so that it is much more closely bedded into all the regulatory features of the railway industry, hon. Members should be assured that nothing will change the paramountcy that is afforded to safety throughout the industry. All the rail safety regulation functions that currently reside with HSE will move to ORR and will be locked far more firmly into the overall industry than has hitherto been the case. Because of that change in the nature of the relationship between the Secretary of State and the ORR, it has been important to make some changes in the Bill in relation to economic regulation.

One of the underlying features of the Bill is the Government's real desire to devolve decisions and functions as close to the local and regional areas as possible. The Bill provides for the most significant transfer of functions to the Scottish Executive since the Scotland Act 1998. The Under-Secretary of State for Scotland, my hon. Friend the Member for Stirling (Mrs. McGuire) said earlier that that is, at least in part, the reason why the Sewel motion passed so swiftly through the Scottish Parliament yesterday, not only unanimously and to great acclaim, but to a roaring round of applause, which is probably unheard of there. In terms of the transfer of functions and resources to Scotland, the settlement makes sense and is also quite historic.

We have explored many of the Welsh issues in the Bill. I do not want to dwell on the absence of Welsh Members when we met in Committee, but it is a shame that we had to have those discussions today rather than at that time. However, that is by the by. The Bill provides for a significant shift of functions, input and influence to colleagues in the National Assembly for Wales, as and when that is proper in relation to services that are entirely within Wales. There will also be a proper level of consultation and influence relating to services that go to and from Wales.

There has also been significant devolution in regard to the PTEs, and provision has been made for potential devolution in London, where appropriate. That is right and proper as well. Sadly, the geography of Wales, Scotland and London dictates that rail services are not

contiguous with administrative or national borders. We have made no apology for saying that if the Mayor and Transport for London want to take a greater role in regard to heavy rail in the areas that surround London, that would be worth looking at. In the first instance, London's devolution settlement did not include any significant input in regard to heavy rail. TFL has been enormously successful. As the hon. Member for Cities of London and Westminster (Mr. Field) very fairly said, much of what it has done has been a real bonus for London. In the broadest sense, it is appropriate to consider how its influence can be extended to heavy rail, because there is a major lacuna in London's transport settlement in that regard.

The Bill makes provision for that in the wider sense, and in the first instance, such devolution could involve the Silverlink franchises, which are more or less wholly in London, save for a little sojourn about three miles north of my constituency, where the Silverlink service finishes at Watford Junction. Given that Silverlink is almost wholly within London, however, it might provide a starting point for considering a new role for TFL. Any further role involving commuter services outside London would need to be considered only with the highest regard for the regional assemblies and areas into which such control might extend.

**Jeremy Corbyn:** I thank the Minister for giving way and I apologise for not being here for the beginning of his speech. On the transfer of facilities in London to TFL, is he prepared to consider the issue of the suburban interchange stations, which at the moment are run by Network Rail but which have a huge TFL input? Does he agree that it would make sense to reconsider the structure of the organisations, so that just one authority could run such stations? I am thinking particularly of Finsbury Park, but the same also applies to Clapham Junction and a number of other suburban junction stations.

**Mr. McNulty:** I thank my hon. Friend for making that point, which was made on Report, and Finsbury Park was prayed in aid—I think that he was in the Chamber at that time. On where the ownership should remain, I made the point in Committee and on Report that the development of suburban, inter-urban regional stations should be duly considered, and that at the very least, protocols should be put in place so that TFL, Network Rail and others can work and operate them in the interest of their collective networks far more readily than they do now. A linked point is the potential of those network hubs for local communities, which has not been explored as readily by TFL or others thus far. My hon. Friend will know, however, that interlinking either between various tube lines or tube lines and heavy rail is complex, and the benefit of the interchange must prevail in the first instance.

If the Bill is passed, the framework will be in place at least to examine how that sort of co-operation and advance can work in a London context and in the context of this Bill and other areas on which the transport White Paper elaborated last July. Our passenger transport executives, in some of the most significant cities in our country, will be able to take forward an integrated approach across all modes far more readily than they have done up to now. A good deal of devolution for Wales, Scotland, London and our major cities in terms of PTE areas would be introduced.

If we do that, there are consequences for much of the railways legislation that is currently on the statute book. Much of the Bill, admittedly in a rather tedious way, has been about accepting that the Strategic Rail Authority is going, and that the regional network of passenger committees is going, to be replaced by a far stronger passenger voice. Those two elements, plus all the devolution provisions in the Bill, have meant in some cases a tortuous track back to correct previous legislation, hence the 19 clauses on network modification and the point that we discussed on Report about bus substitution, not, I hasten to add, "bustitution".

While the Railways Bill should be considered as one element, which is hugely integrated, has a logic to it, and stands as one piece, it needs to be regarded in the wider context of all that we are doing in terms of transport generally, not just rail. It sets a framework, but as I have said on numerous occasions, the legislation only takes us so far. What really matters is what happens on the ground.

As some of my hon. Friends have suggested during our deliberations, the Railways Bill needs to be seen firmly in the context of taking steps: to continue sustained investment in our railway network; to ensure that the management of the industry is as robust and efficient as possible; to make changes increasingly to franchising arrangements to introduce a degree of vertical integration; to introduce far greater co-operation between train operating companies and Network Rail through integrated control centres, and a good deal more co-operation at regional and franchise level; and to develop a far better rolling stock strategy than that which prevails at the moment to help the industry derive best value from future lease renegotiations. That is not part of the Bill but is central to our overall vision for the future of railways.

To deliver a far better deal, it is not necessary for freight to be a substantive part of the Bill, but as we discussed a little on Report and in more detail in Committee, freight remains very important in terms of the delivery of this Government's vision for rail. It is also important to recognise all that we have done, in full co-operation with the outgoing Rail Passengers Council, to develop a far stronger, far more focused voice for passengers and consumers.

All that is possible because of the sustained investment being put in by the Government. We feel that we are now ready to move on to the next phase. The Bill will realise an exciting and improving vision for rail.

When I was made rail Minister last September, I announced that I could say without fear of contradiction that I was very pleased to be rail Minister, and that it was a very exciting time at which to become rail Minister. Had I said that five or 10 years earlier, John Major's fabled white coats would have been flapping over the horizon; but, not least because of the sustained investment that has taken place since 1997, this is indeed a very exciting time for the railways. The number of rail passengers is back to pre-1960 levels—and we should bear in mind that about a third of rail capacity was denuded by Dr. Beeching some years after 1960.

*[Mr. McNulty]*

As I said on Second Reading and in Committee, despite my excitement at being rail Minister, I have no intention of going down in history as the next Dr. Beeching. That cannot prevail, given our vision for the railways and the framework outlined in the Bill. We are starting to put right decades of mismanagement and underinvestment in both the private and the public sectors. The Bill will enable us to build on that sustained investment and accelerate the improvement of our transport networks to the benefit of all—the rail industry, business, taxpayers and, most important, passengers.

I thank everyone who has been involved in the Bill's passage, which has taken place in an engaging, informed and, dare I say, friendly fashion. The right hon. Member for East Yorkshire (Mr. Knight) accused me of, for most of the Committee stage, doing a passable impression of Leslie Phillips. I do not know quite what he meant, other than that I was being nice rather than nasty. My hon. Friends said that I was probably more like Sid James, but I will leave hon. Members to decide.

I am very pleased to have been party to our dealings on the Bill. Once it has Royal Assent, given everything else that we are doing—which I have sought to outline, at least in passing—we will have a railway industry fit for the 21st century. Strategic control will be with the Government, where it belongs, and operational control will be with Network Rail and the operating companies, where it belongs. I commend the Bill to the House.

5.42 pm

**Mr. Chope:** As on so many occasions in Committee, the Minister has demonstrated that he is not lost for words. We greatly appreciated much of the conduct in Committee, and we are grateful to the Minister for dealing with so many of our concerns.

My right hon. Friend the Member for East Yorkshire (Mr. Knight) would have liked to be here this evening, but he is helping to raise money for charity. A large number of hon. Members will be at the Palace of Varieties raising money for Macmillan cancer care. I think they will raise £50,000 tonight, and my right hon. Friend is heavily involved.

The Minister has been seeing the Bill through rose-tinted spectacles. He cannot disguise the fact that it is big on bureaucracy and centralisation, and very weak on how customers will actually benefit. I foresee that the passenger experience will involve more delay, increased overcrowding and rising fares during the years ahead. The only possibility of avoiding that would come from a change of Government, which we are working earnestly to bring about later this year.

Various aspects of the Bill represent unfinished business. Let me remind the Government of a specific worry of ours, which has not been resolved. We pointed out in Committee that paragraph 1G of schedule 4 is objectionable because it undermines the jurisdiction of the Office of Rail Regulation in carrying out an access charges review. Currently, the ORR, not the Secretary of State, determines network capacity, what it can deliver, where it needs most maintenance and what its renewal pattern should be. This was made very clear in a letter from the permanent secretary at the Department for Transport to the ORR on 16 December 2003—the time of the most recent ORR access charges review—which is published on the ORR website. The permanent secretary said:

"Under the Railways Act 1993, and the licences issued and contracts approved by virtue of that Act, it is the role of the Rail Regulator . . . alone to determine and establish the income requirement of Network Rail, and to set access charges accordingly."

On 9 February 2004, the Secretary of State told the House that the rail review—the Bill is a significant part of the review's implementation—would definitely not do certain things. He expressly excluded from the review re-nationalisation, loss of independence of the ORR and

"any change to the rights of third parties, which will be protected."

He also excluded

"weakening the effectiveness of economic regulation"

and any

"diminution in the regulatory protection of the private sector investors in the railway." [*Official Report*, 9 February 2004; vol. 417, c. 1237–38W.]

In our view, it is impossible to reconcile paragraph 1G of schedule 4 to the Bill with the Secretary of State's statement to the House on 9 February 2004, because the schedule transfers from the ORR to the Secretary of State the role of determining the size and other features of the network. It diminishes the ORR's jurisdiction and thereby transfers a very important function from an independent regulator to the political Secretary of State.

**Jeremy Corbyn:** Can the hon. Gentleman explain why he has a problem with a network that is funded largely by the public being determined by an elected Secretary of State who is answerable to this House? Surely that is a more democratic and transparent process than the arcane bureaucracy that the Opposition seem to be promoting.

**Mr. Chope:** I know that the hon. Gentleman has different views from the Secretary of State, and certainly from me. He wants re-nationalisation.

**Jeremy Corbyn** *indicated assent.*

**Mr. Chope:** At least that is a coherent policy. The Secretary of State said last February that re-nationalisation would not happen and he gave various guarantees. I am trying to point out that those guarantees are not reflected in the Bill.

I hope that this and other issues will be taken up with vigour in the other place, and that the Lords will also be able to examine the memorandum of understanding between the Government and Transport for London concerning the definition of TFL's control of rail services in London. I understand that the MOU has been produced and is available, but that it was not made available to members of the Standing Committee. That is a matter of regret, and I hope that the Minister will ensure that it is publicly available, so that it can be discussed in the other place. That was a missed opportunity for Members of this House—even some Labour Back Benchers might have liked to scrutinise the MOU.

We are extremely unhappy about the Bill in major respects, but it does of course abolish the Strategic Rail Authority. It is typical of the Minister's selective

memory that he omitted to remind us that in 2001, Labour's election manifesto stated that the SRA would provide a clear, coherent and strategic programme for the development of the railways, so that passenger expectations are met. Here we are in 2005, abolishing that self-same authority. What a mess the Government are in with their railway policy, and how passengers are suffering as a result!

5.49 pm

**John Thurso:** It is true that our deliberations at all stages on this Bill have been good natured and largely constructive, and that the Bill is all the better for it. However, I retain reservations about a number of matters.

I know that other hon. Members want to contribute, so I shall make only one or two brief points. First, my party continues to support he Bill's general principles. If the House divides on Third Reading, we shall support the Government.

I expressed my concern about closures on Second Reading. I am grateful that the Minister of State made it clear throughout our deliberations—he has done so again this evening—that he did not intend to be the second Dr. Beeching. In Committee, he said:

> "This is not about a secret agenda. It is not about closures. It is not about me or any successor of mine being the new manifestation of the Conservative Dr. Beeching."—[*Official Report, Standing Committee A*, 13 January 2005; c. 204.]

I am grateful that he put that on the record.

However, I think that my noble Friends in the other place will want to look again at the strategy developed by the Secretary of State. I agree with the plan to get rid of the SRA. Given that the railways are largely, if not entirely, paid for from the public purse, and that the Treasury and the Secretary of State will make the decisions, it is correct that an elected Government—the representatives of the people—should have the duty to produce a strategy. I am completely at odds with those on the Conservative Front Bench on that matter. Even so, it is also right that the Bill should place a duty on the Secretary of State to develop that strategy, and to make an annual report on its progress. I know that that question will be revisited.

The Minister indicated that the Government would support rail freight, and I am grateful for that. Various issues are not covered by the Bill and will be dealt with elsewhere, as was said on Second Reading. I hope that the Government will continue their commitment to rail freight, the development of rail freight interchanges and other measures. Britain needs a safe, reliable and affordable railway as a real alternative to the roads.

We look forward to supporting the Government if the House divides on Third Reading.

5.52 pm

**John McDonnell** (Hayes and Harlington) (Lab): I welcome the Bill overall, as it is another stepping stone on the way to achieving a rational policy-making process in the industry. I have lost count of the number of rail and transport Bills that I have sat through, each of which has been said to establish a permanent structure for the long-term future of this country's rail industry and transport network.

I believe that we shall return to this matter, and relatively soon. The travelling public have expressed a great many concerns about transport. For example, many people were trapped on the tube this week as a result of Metronet's mistakes, and the same thing has happened again this evening. I think that people will demand further change from the Government.

I regret that we were unable to use the Bill to acknowledge the efforts of the rail work force. Our rail system depends on the hard work and commitment of dedicated professionals in the industry, some of whom have been treated unfairly since privatisation. An example of that is the two-tier system of travel concessions available to workers. I hope that that problem can be addressed in another place, or perhaps in subsequent legislation. Some rail staff working before privatisation gained full travel concessions, whereas others employed after privatisation received only a fraction of that, or none at all.

Without the dedication, commitment and professionalism of staff we would not have the efficient service evident in many sectors of the industry. In addition, we should pay tribute to the commitment to safety that has persisted since the development of the regional rail network.

I hope that we will be able to deal with some of those staffing issues at some time in the future, and that we can establish a structure based on public ownership and accountability.

5.53 pm

**Jeremy Corbyn:** Like other hon. Members, I have listened with interest to much of the debate on this Bill. I wish that it went a lot further, and various opportunities have been missed, but I nevertheless support it.

As my hon. Friend the Member for Hayes and Harlington (John McDonnell) noted, today's *Evening Standard* carries screaming headlines about rail company profits. We should remember that we are voting to invest large sums of money in the rail network and infrastructure. That is correct, but we must be aware that much of that money is simply creamed off in profits by the train operating and rolling stock companies, and by many others. It is our public responsibility to think carefully about that.

I hope that it is not too late for my hon. Friend the Minister to think again about the consequences of handing the South Eastern Trains franchise back to the private sector. The franchise has been run efficiently and effectively in the public sector, and Government money has been saved.

The amount being invested in infrastructure is enormous. I welcome that and we now have a higher level of investment in railways than we have had for decades. Investment is now higher than in most other parts of western Europe, which is welcome. That investment recognises the role of railways in our society—their efficiency, safety and environmental sustainability.

I welcome the increased investment, but I hope that Ministers will recognise the need to think seriously about the expansion of the network. We have seen the reopening of several lines, but many more could be reopened, such as the east-west freight route or the Waverley line in Scotland. It would be very welcome if such lines could be reopened and money put into them.

*[Jeremy Corbyn]*

We also need to consider the serious issues of rail congestion that affect all the main routes in this country, to some extent because of the success of the transfer of freight from road to rail, but also because of the increase in the number of passengers. We have huge opportunities to develop, expand and improve the network.

I agree with my hon. Friend the Member for Hayes and Harlington that the opportunities I have mentioned should be taken up within the concept of public ownership, because that is the more responsible and efficient way. I am sure that we will come back to that subject.

I welcome what my hon. Friend the Minister said earlier in response to my intervention on the question of local stations in London. The city has a complex transport network, with an over-used London underground system, a rapidly and vastly improving bus network, but several under-used overground railway lines. They need to be fully integrated. London's transport planning has been bedevilled in the past by the separation between London Transport and the railway network. We have an opportunity with Transport for London and the concepts enshrined in this Bill to make TFL the body that can integrate the tube network with the overground network, the expanding tram network and the bus network. We need good local hubs and interchanges.

I mentioned Finsbury Park station in my constituency. It is a parochial example, but I think that a lesson may be drawn from it. It is a local inter-transport hub. After much work between the bus companies, TFL's bus section and the local authorities, we have a wonderful refurbishment of all the external parts and the interchanges at the station. However, we do not have the necessary improvements to the station itself, where the underground and the overground meet, because the two organisations involved cannot agree on who will pay for it and what to do. If the station were run by one organisation, such as TFL, we could make some progress. I expect that exactly the same arguments apply to Willesden Junction, Clapham Junction and several other local suburban interchange stations. I welcome my hon. Friend the Minister's comments on that point and I look forward to further discussions with him about it.

These are exciting days for rail, which is expanding all around the world. I hope that we see more new lines in the future, but above all I hope that we see public ownership of our railway system.

*Question put and agreed to.*

*Bill accordingly read the Third time, and passed.*

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118 (6) (Standing Committees on Delegated Legislation),*

### CHILD TRUST FUNDS

That the draft Child Trust Funds (Amendment) Regulations 2005, which were laid before this House on 21st December, be approved.—*[James Purnell.]*

*Question agreed to.*

## PETITION

## Quiet Tarmac

5.59 pm

**Hugh Robertson** (Faversham and Mid-Kent) (Con): I wish to present the petition of residents of Doddington, Erriottwood, Kingsdown and Lynsted, which

Declares appreciation for the current resurfacing work on the M2

and asks that it

should be extended as far as Faversham (junction 6), improving the

quality of life and reducing noise pollution for householders in the surrounding rural areas.

The petitioners, therefore, request that the House of Commons urge the Highways Agency to continue its resurfacing of the M2 with quiet tarmac as far as Faversham.

And the petitioners remain, etc.

*To lie upon the Table.*

## Childhood Anaemia

*Motion made, and Question proposed,* That this House do now adjourn.— [*James Purnell.*]

6 pm

**Mr. Bob Laxton** (Derby, North) (Lab): I am glad to be given the opportunity this evening to speak about the incidence and importance of detecting childhood anaemia. Anaemia is a condition where the level of haemoglobin in blood is lower than normal. Haemoglobin plays an essential role in the body, carrying oxygen to every living cell. Lowered levels can have a profound effect on health in both adults and children, producing a range of symptoms. In children, these symptoms can seriously impede mental and physical development. Anaemic children perform poorly in the classroom and are unable to participate in many physical activities. The problems become compounded as anaemic children develop into teenagers who fail to benefit from education.

In 1988, one of the first studies looking into iron deficiency anaemia discovered the extent to which pre-school children had this condition. Over a 17-year period, study after study has also demonstrated the extent of iron deficiency anaemia in children. For instance, 52 per cent. of pre-school inner-city children are anaemic, as are 34 per cent. of female undergraduates. Anaemia does not differentiate between social classes either, with 9 per cent. of teenagers being diagnosed as anaemic, irrespective of which social class they come from. This level of anaemia in children is comparable to that of developing countries.

In its last health survey for England in 1994, the Department of Health found that 4.1 per cent. of men and 10.8 per cent. of women were classified as anaemic, using the World Health Organisation's definition of anaemia. When the national diet and nutrition survey looked into iron deficiency anaemia in children, it found that 10 per cent. of children aged one and a half to two and a half years of age were anaemic. This fell to 6 per cent. for those aged two and a half to three and a half years. However, the percentage did not continue to fall into the rest of childhood. Instead, an absolutely staggering 50 per cent. of young women between 15 and 18-years-old were found with iron intakes well below the recommended amounts.

In 1998, a separate study was carried out by HemoCue, a name that I am sure is familiar to both doctors and nurses. Its aim was to determine the prevalence of anaemia and to assess and improve the diets of children of pre-school age in the Pear Tree district of Derby. Pear Tree is an area just outside my constituency of Derby, North, falling in the neighbouring constituency of my right hon. Friend the Secretary of State for Environment, Food and Rural Affairs.

Nevertheless, the results of the study demonstrate the terrifying level of anaemia in an area of economic deprivation, with a high number of Asian immigrants. For instance, 54 per cent. of Asian Muslim children referred to the study were anaemic. In Asian Sikh and caucasian children this figure was 32 per cent. and 30 per cent. respectively. A similar study that HemoCue carried out in north Birmingham, in south Birmingham and in Bradford yielded similar results. In north Birmingham, for instance, 45 per cent. of children aged 21 months old were anaemic.

Until the issue of anaemia, and particularly childhood anaemia, was raised with me by John Clague, the director of HemoCue, I had, like many non-medical people, no idea of the incidence of anaemia in children, particularly in the UK's inner-city areas—in spite of the fact that many health professionals are aware of the existence and prevalence of iron deficiency anaemia. However, we have not seen a great deal of change in the last 15 years or so, except where specific programmes have been introduced by health care professionals with a particularly strong interest in the subject. The conventional attitude, in the meantime, is that childhood anaemia is self-correcting and does not have too serious longer-term consequences for a child. That is of course untrue. Persistent anaemia causes sores; spare hair; brittle, flattened nails; pallor and general debility. In other words, an anaemic child could well make for an unhealthy adult.

I understand that the Scientific Advisory Committee on Nutrition's working group on iron is expected to make its draft report available for comment in summer this year, with finalisation in spring 2006. I look forward to reading its findings and recommendations. However, childhood anaemia is not remotely high enough on the Government's health agenda. Indeed, due to the nature of the problem, childhood anaemia is the responsibility of both the Department of Health and the Department for Education and Skills. I urge the Minister to use the planned publication as a more than timely opportunity to address childhood anaemia and perhaps approach the problem from a new angle and build the identification of childhood anaemia into primary care provision. I also hope to start to do something about it now.

According to the World Health Organisation, anaemia is the most common evidence of nutritional deficiency in the world. As it happens, anaemia is not a specific disease, but a symptom of many conditions that result from a lack of haemoglobin in the blood. Several causes underpin anaemia. It could be due to the body's failure to produce red blood cells, which carry haemoglobin. It could be caused because red blood cells are being destroyed unusually quickly, or simply because someone is bleeding. Such bleeding is often brisk and obvious, but can be hidden in the case of a slow-bleeding gastrointestinal ulcer, or a tumour.

The WHO study focused on anaemia due to nutritional deficiency. As one would expect, it was most common among children in the third world. However, even in the western world, nutritionally induced anaemia is not as rare as one might think. A survey showed that 10 to 15 per cent. of women of reproductive age were anaemic.

There are several ways in which anaemia caused by nutritional deficiency can be treated. The obvious solution would be to ensure that children eat foods that contain the best sources of iron, namely red meat, offal, such as liver and kidneys, and eggs. From personal experience, an average child will probably eat red meat and eggs, perhaps in the form of a hearty steak and an omelette, but trying to get an eight-year-old to eat liver, kidneys or leafy green vegetables is a battle of parental wits over a child's intransigence. Of course, there is also

*[Mr. Bob Laxton]*

iron in cereals, lentils, soya and beans. As some die-hard chocoholics will no doubt be pleased to hear, chocolate is also a source of iron, although I suspect that one would have to eat more than a box of Mars bars or KitKats a day to reach the optimum level of iron intake.

If it is difficult to address the problem through the daily diet, the next best option is to treat it with iron supplements, but there are possible problems with that approach if a full analysis is not completed. For example, if there is no true iron deficiency, the excess iron supplements hinder the absorption of calcium and zinc.

A lack of iron is not the only cause of anaemia. A shortage of vitamin B12 and folic acid can also slow down the production of red blood cells. Vitamin B12 is found in meat and dairy products, and if a person consumes sufficient quantities of it over time, it is stored in the liver for a good five years. Like iron, folic acid is obtained from green vegetables, cereals and liver, but it is not stored in the body for long.

When it comes to babies, the biggest form of anaemia is encountered when breast milk is replaced by cow's or formula milk. Babies who are moved too quickly from breast milk to fruit juices or sugary concoctions miss out on the iron in milk. In a strange irony, one study found that middle-class babies from the so-called muesli eating classes, as well as those from immigrant homes, were most likely to have anaemia. Indeed, the Department of Health found similar results when it examined differences by household benefit status for men and women.

What are the effects of anaemia? Even mild anaemia can lead to extreme fatigue and interfere with a child's ability to perform at school and participate in social activities. There are even more severe consequences in the long term, such as an irreversible delay in mental or psychomotor development. The Government are doing good work through Sure Start and children's centres to ensure that children growing up in deprived communities receive the additional support that they need. As recently as last Tuesday, my right hon. Friend the Minister for Industry and the Regions, who also happens to be the Deputy Minister for Women and Equality, came to my constituency and we visited Sure Start programmes and a children and families centre there.

We were both extremely impressed by the engagement of nurses and a range of professionals in dealing with children. Vulnerable children from families in receipt of the welfare food scheme are already provided with supplements, including vitamin C, which helps to aid absorption of iron from the diet. The publication of last year's White Paper "Choosing Health" reflects the Government's continued commitment to improving the diet and health of our children. However, the scattergun approach is not sufficient. The consequences of childhood anaemia are long lasting; more can and should be done to tackle it. If we succeed, we lay another solid brick for the future of each deprived inner-city child.

If we set aside discussions of education in nutritional awareness, ethnic weaning practices and poverty, the basic conclusion is simple: to reduce the incidence of anaemia in children in UK inner cities, we must, first and foremost, ensure that we can identify the individual children at risk. The Government have, rightly, concentrated on childhood obesity, which has to be tackled, but it is not the only problem affecting the development of young children that needs our attention. It is equally important that anaemia is tackled.

Companies such as HemoCue, which provides testing apparatus for anaemia, have to establish closer links with community health organisations and with Sure Start programmes. HemoCue is a Derbyshire-based firm and global leader, whose technology is used in many NHS hospitals throughout the UK. With just a single drop of blood and in less than a minute, HemoCue technology can give a precise haemoglobin analysis.

If a positive identification of iron deficiency is found in a child, two immediate courses of action can be taken to remedy the situation. One is to inform the child's parents that dietary changes must be made. As I have said, that might mean the inclusion of more iron-rich food in the child's diet—for example, red meat, eggs, leafy vegetables and, dare I say, chocolate. The iron fortification of food such as bread, milk and cereals can also help to reduce iron deficiency. Several studies have shown that because the recommendation being made is based on a scientific test, parents accept more readily advice that might otherwise be dismissed as nannying or hectoring.

In addition, it is important that regular screening is offered to all children as part of their routine development check. We must first harness the expertise of the health care professionals who know the extent of the problem and work at the sharp end in the community—midwives, nurses, community nurses and community-based paediatricians. In primary care trusts and the priorities determined within health action zones, there is a mechanism to empower those professionals to screen for anaemia in domiciliary visits. Bradford community health NHS trust has led the way in that respect. We must ensure that other NHS trusts seize the opportunity. Well woman clinics and well person clinics have become part of the health-speak vocabulary in recent years. It is not time that we extended the terminology across the board to include well woman and child clinics in inner-city areas, and systematically provided anaemia screening for both mother and child?

The development of such links and services in primary care take us a long way toward our goal of reducing anaemia in children. At the same time, it will create the right framework that will move us closer to our longer-term goal of better health for future generations. I trust that my hon. Friend the Minister appreciates the problem of childhood anaemia—I am sure that he does—but will he assure me that his Department will take the necessary steps toward tackling that serious health problem, and do so as soon as possible?

6.13 pm

**The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman):** I congratulate my hon. Friend the Member for Derby, North (Mr. Laxton) on raising this important subject, in which he has taken a considerable interest for a long time. I hope to be able to reassure him that the Government take it as seriously as he does.

Nutritional anaemia is the most common type of anaemia in children. As my hon. Friend said, it can be caused by deficiency of iron, vitamin B12 or folate, although iron deficiency appears to be the most important cause of the condition. Its effect is to limit a child's ability to be physically active. Prevention of iron deficiency is important, because the condition can affect intellectual development and behaviour in the longer term, and it is also associated with deficits in a variety of developmental and behavioural measures. The Department of Health and the Food Standards Agency undertake regular surveys to monitor the diet and health of children. My hon. Friend mentioned the national diet and nutrition survey, and the last survey in 2000 indicated that the reported prevalence of anaemia varies markedly in different age groups and that younger children and teenagers are both prone to iron deficiency. It showed that 3 per cent. of boys aged two to six years were anaemic, compared with 1 per cent. of boys aged seven to 18 years. Eight per cent. of girls aged four to six years, 4 per cent. of girls aged seven to 10 years, and 9 per cent. of 15 to 18-year-olds were anaemic. In addition, lower intakes of both iron and vitamin C, which helps in the absorption of iron, are more common among manual worker social classes.

My hon. Friend rightly mentioned concerns that iron-deficiency anaemia is much more common among certain ethnic groups, including people from south Asian and Afro-Caribbean backgrounds. One survey, as he suggested, showed very high levels of deficiency. For example, 29 per cent. of Pakistani children, 25 per cent. of Bangladeshi children, and 20 per cent. of Indian children aged about two years were anaemic. Also of concern is the fact that iron intakes are considerably lower in young women, with 50 per cent. of 15 to 18-year-olds having intakes well below the recommended amounts, which can put them at risk of iron-deficiency anaemia. My hon. Friend raised the possibility of screening and early detection of anaemia. I can understand why he has come to that conclusion, but we must consider all the available evidence before deciding on such a course.

The UK national screening committee—the NSC—advises the Government about all aspects of screening policy, drawing on the latest research evidence and the skills of a specially convened multidisciplinary expert group. While screening has the potential to save lives or improve the quality of life through early diagnosis of serious conditions, it can never be 100 per cent. accurate. The NSC is increasingly presenting screening in a risk reduction context to emphasise that point. Its child health sub-group has advised that there is currently insufficient evidence to introduce a national screening programme for iron deficiency anaemia, and that the emphasis should be on primary prevention through good nutritional advice until further evidence is available.

The child health sub-group is a specialist sub-group of the NSC consisting of representatives of the royal colleges, paediatricians, researchers, health visitors and consumer interests. They weighed in the balance a number of arguments against screening when arriving at their recommendations. The test requires a blood sample, which some parents might regard as an unwelcome intrusion. Although haemoglobinometers are simple to use, a meticulous technique in collecting the sample and using the instrument is essential. The instruments available in community settings have a higher measurement error than those used in laboratories, and little is known about the accuracy of the measurements carried out in the primary care setting. Severe iron-deficiency anaemia would probably be identified without difficulty, but detection of the mild cases that would form the bulk of the screening could be less reliable.

The timing of a screening test would present problems. Many children who would have the screening test at the age of 12 or 18 months would become iron-deficient in their third year. Conversely, some children who are iron-deficient in their second year recover as they eat a more varied diet in the third or fourth year of life. We do not think, therefore, that the evidence currently supports the extension of whole-population screening programmes. Iron deficiency is preventable, and resources need to be directed at primary prevention rather than screening. I realise that my hon. Friend may not agree with that recommendation, but if it is of any reassurance to him, the UK national screening committee always keeps its policies under close review, and I will draw its attention to the issues that he has raised today.

What are we doing about childhood anaemia? I took part of my hon. Friend's speech as an indication that he does not believe that our emphasis should be on improved nutrition. However, I believe that is exactly where it should be. The Government are committed to improving the diet and nutrition of the nation, as set out in the recent Government White Paper, "Choosing Health".

Specific actions to improve children's diet include introducing healthy start vouchers, providing training and support for head teachers, governors, caterers and health professionals, aiming for all schools to be healthy schools, adopting a whole-school approach to food through the food in schools programme, improving school meals and considering the introduction of nutrient-based standards, and introducing Ofsted inspections of healthy eating in schools.

Current action on nutrition includes our investment in the five-a-day programme, the school fruit and vegetable scheme, promotion of breastfeeding and action to improve diet and nutrition across the whole school, as well as working with industry to reduce fat, sugar and salt. In addition to these specific actions, there is a considerable amount of local action including healthy living centres, Sure Start and action to deliver national service frameworks—all actions that my hon. Friend mentioned.

The Government recognise the importance of primary prevention and have several actions under way. The importance of good nutrition prior to pregnancy and during pregnancy is well recognised. The welfare food scheme was established in 1940 to protect the health of women and young children at the time of rationing and price rises. The scheme was originally universal, but is now primarily targeted at low income families in receipt of income support, income-based jobseeker's allowance or child tax credit under a certain level. The scheme currently provides tokens for free milk—both liquid milk and infant formula—and vitamins to around 800,000 pregnant women, mothers

*[Dr. Stephen Ladyman]*

and young children under five in England, Scotland and Wales. A separate but parallel scheme operates in Northern Ireland.

In line with the recommendations made by the committee on medical aspects of food and nutrition policy, the welfare food scheme is being revised to meet the present-day nutritional needs of mothers and children. Following the public health White Paper, from mid-2005 a reformed scheme, Healthy Start, will be introduced. The key features of the new scheme will be to provide access to a broader range of foods—for example, fresh fruit and fresh vegetables are being added to cow's milk and cow's milk-based infant formula at the outset—and this range will be kept under review. The scheme will use fixed-value vouchers, rather than volume-based tokens, which can be exchanged in the widest possible range of participating retail outlets, including food co-operatives and community shops as well as supermarkets, milk roundsmen, greengrocers, farmers markets and others. Closer links with the NHS will also enable the scheme to become the vehicle for delivering advice and information on diet, exercise, and other health issues to qualifying pregnant women and families. Finally, the new scheme will provide equal value benefits for breastfeeding and non-breastfeeding mothers.

Vulnerable children in qualifying families are also provided with supplements, including vitamins A, C and D. Vitamin C in particular aids the absorption of iron from the diet. Iron supplements may also be prescribed to children with iron deficiency anaemia that does not improve with appropriate dietary advice. The provision of iron supplements for premature and low birth-weight infants is now standard practice, as they are at risk of iron deficiency.

Breast milk provides the best form of nutrition for an infant. Following World Health Organisation revised guidance, the Department of Health recommended in May 2003 exclusive breastfeeding for the first six months of an infant's life. The early introduction of cow's milk, as my hon. Friend said, is associated with an increased risk of anaemia in children. The Department recommends that unmodified cow's milk be given as a main drink only after the age of one year. Appropriate weaning is important. After one year, the child's diet should include a variety of foods to ensure that it is adequate in iron and vitamin C.

My hon. Friend pointed out that this is an agenda spread across two Departments, the Department of Health and the Department for Education and Skills. I believe that is right, as schools are pivotal to achieving our goals. Schools are a key setting through which we can improve children's health. Our vision is that all schools will be healthy schools that provide supportive environments, including policies on healthy and nutritious food, with the time and facilities for physical activity and sport, both within and beyond the curriculum. That needs the support of colleagues in the Department for Education and Skills.

We are committed to improving school food and drink, not just at lunch time but across the school day, and we are revising and extending school meal standards, including food sold through vending machines and tuck shops. School meals should be nutritionally balanced and should cater for children's dietary requirements and specific religious or philosophical requirements and medical needs. The Department for Education and Skills is also ensuring that there are special diets for customers from religious and ethnic groups. These include halal meat and a variety of vegetarian options.

We will be supporting school heads, governors and caterers to provide the best meal service possible, for example through training for caterers and guidance on food procurement. We will soon be launching a food in schools toolkit that will guide, inspire and help schools take the whole-school approach to healthy eating. I am delighted to say that, today, almost 2 million four to six-year-old children are now receiving free fruit and vegetables every school day in more than 15,600 schools in England.

Recognising the vulnerability of teenage girls, the Government have also developed targeted healthy eating advice aimed particularly at young women. Following research that it conducted in 2004, the Food Standards Agency has issued special advice to teenage girls and young women. That includes practical tips on how to increase iron intakes and information on iron-rich foods. For example, a glass of orange or grapefruit juice with meals rather than the often consumed cup of tea can increase iron absorption.

My hon. Friend mentioned the Scientific Advisory Committee on Nutrition, and we have indeed asked it to look at issues around dietary iron for us. As too much iron can be harmful, both beneficial and adverse effects are being considered, including the effect of dietary components on iron absorption and utilisation in the body; the interaction of infections and inflammation with iron metabolism and the possibility that that may affect the apparent incidence of iron deficiency; the effect of iron deficiency on health and well-being, for example mental and physical development; and the potentially adverse effects of excess iron, including free radical damage and the risk of cardiovascular disease and cancer. The team is now in the final stages of reviewing evidence for the iron report, which, as my hon. Friend said, is expected to be ready to be released for stakeholder comment in summer 2005.

Finally, as well as the White Paper "Choosing Health", the national service framework for children and young people and maternity services, together with the chief nursing officer's review of school nursing, will also play important roles in our campaign. The NSF puts an emphasis on early identification and intervention in child and family-focused services. The first strand is about promoting health and well-being, identifying needs and intervening early. I assure my hon. Friend that, although the framework began solely as a Department of Health document, with the appointment of the Minister for Children, Young People and Families, it became a joint Department for Education and Skills and Department of Health document, and we are collaborating very closely on ensuring that it is implemented.

One of the key themes of the chief nursing officer's review is the need to follow the child, providing services where vulnerable children and young people are, rather than services being dictated by professional roles and organisational boundaries. In order to fulfil the chief

nursing officer's vision of having at least one full-time year-round qualified school nurse working in each cluster or group of primary schools, new funding will be provided to make that a reality by 2010. I think that those school nurses will be pivotal in spotting childhood anaemia at an early stage.

Having set out the Government's position, I hope that I have given my hon. Friend some reassurance that the issue is very important to the Government and a high priority for us. Obviously, we will keep the situation and emerging evidence under review, and change the position as necessary. I congratulate him once again on raising this important issue, and I assure him that I personally take it very seriously, as do the whole Government.

*Question put and agreed to.*

*Adjourned accordingly at twenty-eight minutes past Six o'clock.*

# House of Commons

*Monday 31 January 2005*

*The House met at half-past Two o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## HOME OFFICE

*The Secretary of State was asked—*

### Alcohol Vendors

1. **Mr. Ben Chapman** (Wirral, South) (Lab): What powers are available to the police to shut down irresponsible vendors of alcohol. [211493]

**The Secretary of State for the Home Department (Mr. Charles Clarke):** The police and others already have a range of powers available to them to deal with irresponsible vendors of alcohol and the associated problems. The police can close pubs, clubs and other on-licence premises with immediate effect for up to 24 hours in the interests of public safety—that is, if there is or is likely to be disorder in or around the premises. The Licensing Act 2003 expands those powers to cover any licensed premises and allows the police to close premises where noise is causing a public nuisance. What is more, use of these powers will trigger an automatic review of the premises' licence and that review can consider all history of problems at the premises—in other words, it is not limited to the events that led to closure. Even where closure powers are not used, the Licensing Act will also allow the police to seek review of any premises' licence. The police have assured me that they will enforce all these powers rigorously.

**Mr. Chapman:** Is my right hon. Friend aware that antisocial behaviour caused by young people who have drunk alcohol sold by irresponsible vendors of one sort or another is a major cause of concern, whether the constituents are in Heswall, Bebington, Bromborough or Eastham? Although the powers in the Licensing Act are welcome, in the past the police found, for example, that the trade would use ruses such as changing the landlord so as to have a new, clean figure in the premises where the record of the premises was poor, to avoid revocation. Can he assure me that the powers in the new Act will be much stronger, much more effective and benefit my constituents much more than the previous provisions?

**Mr. Clarke:** My hon. Friend is right. I remember him showing me examples of such abuse when I visited his constituency in the Wirral some four or five years ago. The new Act will provide the powers to address those issues. Let me say clearly again today that it is vital that local authorities, working with the police, ensure that a rigorous regime is established. I believe that the fee regime that has been put in place will enable that to happen.

**Mr. James Gray** (North Wiltshire) (Con): Does the Home Secretary agree that the only reason why any licensee will apply for a 24-hour licence is to sell more drink and they will make more profit out of it to cover the extra costs? By definition, if more drink is sold, there will be more yobbishness, more violence and more bad behaviour. Will he not restrict licensing hours to their present format?

**Mr. Clarke:** I do not accept the fundamental premise of the question. Licensees want flexibility as to which licensing hours they will follow. There is little evidence that any premises will go down the 24-hour route. To the extent that there is more flexibility, it will ensure that we match people's drinking desires more directly. It is very important, as I said in the Supply day debate on the matter, to distinguish in our minds between the licensing regime and the cost of policing alcohol disorder zones, which we will put in place.

**Linda Gilroy** (Plymouth, Sutton) (Lab/Co-op): My right hon. Friend may know that Plymouth took part in the pilot scheme last summer and over Christmas, using the present powers, and will greatly welcome their being increased. Does he understand that that can entail an increase in the number of violent crimes, because the police are catching more people and taking more action against them, but the positive message from Plymouth is that that resulted in a fall in serious violent crime?

**Mr. Clarke:** Plymouth is an example of an authority that is rigorous in trying to carry out the proposals and I congratulate it on that. That has meant that more low-level violent crimes are recorded, which is what we have been seeking to achieve. What it has also meant in practice in the pilots is that there have been fewer serious crimes of violence, which is precisely why we want to put in place more widely the measures adopted in Plymouth.

**Mr. Damian Green** (Ashford) (Con): The Home Secretary may be aware that the Home Affairs Committee recently took evidence from a senior police officer suggesting that, in big cities with a large student population, it is routine for pub chains to sell themselves as offering not just cheap drinking, but fast drinking, through happy hours and other promotions. Such encouragement to young people to get drunk faster is a significant contribution to making city centres the vision of hell they too often are on Friday and Saturday nights. Does the right hon. Gentleman agree that we do not need new laws to stop that—just a sense of responsibility on the part of the drinks industry?

**Mr. Clarke:** I agree with that, which is why the measures that my right hon. Friend the Secretary of State for Culture, Media and Sport announced a week or so ago specifically encouraged the drinks industry to put in place voluntary codes to address the irresponsible promotions that the hon. Gentleman described. That is

the right way to go. I have spoken to a number of the main industry bodies and I believe that he is right that there is a desire to make the codes work. We will work with all parties to try and ensure that we achieve that.

**Ms Sally Keeble** (Northampton, North) (Lab): My right hon. Friend referred to the possibility of the drinks industry having to pay some of the costs of policing alcohol-related disorders, which I think would help in dealing with the problems that we have in Northampton. Will he say some more about those proposals, and in particular about when they might be brought forward?

**Mr. Clarke:** We are consulting on the proposal. As my hon. Friend says, the proposal is that, where a concentration of outlets is identified where particular binge drinking occurs, the local authority and the police together will designate the area and say to pubs and clubs, as well as off-licences, "You have to clean your act up and get it together." If that does not happen, there will be an entitlement to levy money to meet the costs of ensuring public order. We are consulting on the proposals and I believe that there is already a strong welcome for them from the industries concerned. I hope that we will be able to legislate to put them into effect in the near future.

**David Davis** (Haltemprice and Howden) (Con): From what the Home Secretary said, he would accept that under-age drinking has soared out of control in the past several years. Can he tell the House what has happened to convictions and cautions for under-age drinking in the past seven years?

**Mr. Clarke:** I cannot give the right hon. Gentleman the figures off the cuff, but I can say that it is important to take steps against under-age drinking, which is why one of the measures that we set out in the consultation paper to which I referred would give police the power to close pubs where under-age drinking had been taking place. I agree that there is an issue to be addressed and I believe that we are taking the steps to address it.

**David Davis:** I can help the Home Secretary. The figures show a decline in convictions and cautions for under-age drinking from 1997 to 2003 of 86 per cent., while such drinking was going out of control. At the same time, there was a reduction in convictions for drunk and disorderly behaviour and very few disorderly pubs were closed. He is right to lecture the industry on being responsible, but is not one reason for the unfettered growth in alcohol-fuelled crime and disorder this Government's neglect?

**Mr. Clarke:** I do not accept that at all. Courtesy of my hon. Friends, I now have the figures on fixed penalty notices issued to deal with these issues. For example, on being drunk and disorderly, more than 21,000 fixed penalty notices were issued from 1 April to 30 November 2004, while 1,975 notices were issued for being drunk in a highway and 428 for drinking in a designated public place. This is a measure that this Government put in place and that is dealing with the issue in a way that is effective, rapid and on the spot, to try to drive out binge drinking.

**Huw Irranca-Davies** (Ogmore) (Lab): My right hon. Friend's Department should be congratulated on the cross-cutting way in which it is approaching this issue, because there is no one silver bullet. Does he recognise that one of the most important aspects is the design of a mixed type of facility in a particular area? I appreciate his steer in respect of what local authorities and licensing agencies can do to ensure that, even if we do not quite have more of the café culture, we at least have less of the gin lanes.

**Mr. Clarke:** I agree with my hon. Friend. The most impressive scheme that I have personally seen was in the centre of Manchester, where new outlets were licensed specifically on the basis that they would be appealing to particular sections of the market by age, culture and so on, so that there was no one place with a large number of young people and another place with a large number oldies, but a mix ensuring that the whole situation was far more disciplined. The licensing powers that local authorities have been given under the Licensing Act 2003 allow the matter to be addressed in a constructive way, and much more so than in the past.

## Police Effectiveness

2. **Mr. Nick Gibb** (Bognor Regis and Littlehampton) (Con): What research he has conducted on the effectiveness of policing in England and Wales. [211494]

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** The Home Office has an ongoing research programme focused on improving policing effectiveness. Studies published in 2004 covered a wide range of topics, including neighbourhood policing and tackling organised crime.

**Mr. Gibb:** That is all very good, but does the Minister agree with the criticism of the police made by the chief inspector of constabulary, Sir Keith Povey, that too many police constables still patrol in pairs and rarely get out of their cars to walk the beat?

**Ms Blears:** The hon. Gentleman will know that we agree absolutely that we need to drive up the amount of time that police officers spend on front-line policing. That is a very important measure to us this year. I am keen to see not only police officers, but community support officers, of whom there are a number in his own force—I think that he has 149 CSOs at the moment out there on patrol—because it is important for the public that police officers and CSOs are out there reassuring them and being visible, accessible and in touch.

**Mr. Brian Jenkins** (Tamworth) (Lab): On that point, will my hon. Friend not only issue a guidance table, but make it a requirement that every uniformed officer, irrespective of rank, spends at least two hours per shift on highly visual policing duties on the beat?

**Ms Blears:** I recognise my hon. Friend's concern that all police officers should be on the front line reassuring their communities. I cannot remember which force was involved, but I understand that, in a recent experiment, every officer from the chief constable down went out on to the streets and, on that day, no crimes were

committed at all. I am keen to ensure that police officers do that. That is why we are asking the police to tell us how they spend their time so that we can drive up the number of police officers on the front line from the current average of about 60 per cent. to 70 per cent. That will free up an extra 12,000 officers and make a significant difference.

**Mrs. Annette L. Brooke** (Mid-Dorset and North Poole) (LD): Dorset is the second lowest funded police authority in the country, yet massive resources are allocated to Bournemouth at weekends to cope with the influx of binge drinkers from far and wide. What action will the Minister take to support Dorset police in maintaining effective policing for all Dorset residents throughout the county? Many are missing out because there are not as many community beat officers in all our communities as we would like.

**Ms Blears:** The hon. Lady will acknowledge that this year's police funding settlement is one of the best that we have seen in recent years. Extra money for the police ranges from 3.75 to 6.8 per cent. and, together with our record number of police officers—140,000—we also have 4,000 CSOs. It is important that those police officers provide a service throughout their communities. That is why we have introduced measures to tackle binge drinking in particular and to ensure that officers are not abstracted from those problems in future. I hope that the hon. Lady will welcome the proposals that we have recently issued for consultation.

**Andrew Mackinlay** (Thurrock) (Lab): The Minister will be aware that Essex police authority has received accolades for maximising its scarce resources and keeping costs down. The authority spends £137 per resident compared with an average in the shire counties of £151. What incentive is there for Essex police authority to keep down costs, given that there is no recognition of its effectiveness compared with the awards to other comparable police authorities, such as Kent? Is it not unfair discrimination that those who maximise scarce resources and increase operational effectiveness receive a pat on the shoulder but no bonus in the form of additional resources to encourage them?

**Ms Blears:** My hon. Friend will recognise that this year's police settlement is a generous one. I am aware of the excellent work that is being done by Essex police authority, particularly in tackling bureaucracy. I have just seen a photograph of the chief constable of Essex with his staff burning forms representing the bureaucracy in their force. I am delighted about that, and we are encouraging them to do so.

We are developing a system in which we will grade forces as excellent, good, weak or poor. We want to give the excellent forces more freedom and flexibility, particularly from inspection, to give them an incentive to carry on being excellent forces.

**Mr. Andrew Mitchell** (Sutton Coldfield) (Con): Is the Minister aware that reported violent crime has increased by nearly 100 per cent. under this Government, with yet further increases admitted in figures announced last week by the Home Office? Yet over the same period, detection rates for those awful crimes fell from nearly 80 per cent. before 1997 to only 50 per cent. today. That is the record of the past eight years. When do the Government plan to do something about it?

**Ms Blears:** As usual, the hon. Gentleman is selective in the statistics that he chooses to use. He did not mention that the British crime survey—the most authoritative survey during the past 20 years—shows that all crime is down by 11 per cent., or that recorded crime is down by 6 per cent. Those two measures—BCS and recorded crime—are both down, but he did not mention that.

The hon. Gentleman referred to violent crime. That is an important and serious issue, but he did not say that there has been a 35 per cent. drop in violent crime in the past 10 years and that it is now remarkably stable.

Detection rates have started to increase again because we recognise that the public want more crime to be detected. If the hon. Gentleman examines the figures for the past 12 months, he will see a significant increase in detection. He should be a bit more honest and acknowledge that he intends to cut the Home Office by £1.6 billion. How many cuts in the number of police officers will his financial projections mean?

**Ian Lucas** (Wrexham) (Lab): Residents in Wrexham have noticed a massive increase in the effectiveness of policing, thanks to the introduction of a community-based beat manager system. Is not the introduction of more neighbourhood wardens the way to improve effectiveness even further? I am delighted to say that we have community support officers at last in north Wales.

**Ms Blears:** Like my hon. Friend, I am delighted to welcome the community support officers in Wales. I am convinced that good teams of neighbourhood police officers, community support officers and wardens, who are in touch with their communities, can drive down crime. The interim evaluation of CSOs that we conducted recently showed that, when they were introduced in Leeds city centre, vehicle theft fell by 49 per cent. and personal robbery dropped by 47 per cent. That is not all due to CSOs, but I am sure that they made a significant contribution.

## Prisons

3. **Sir Teddy Taylor** (Rochford and Southend, East) (Con): If he will make a statement on prison overcrowding. [211495]

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** The capacity of each prison is limited to numbers that minimise the risk to safety and security. There are currently 74,100 people in prison and 77,168 usable places. A new 840-place prison will open in Peterborough in March to add to the 17,000 extra places that have been built since 1997.

**Sir Teddy Taylor:** Do not the Government face a specific problem in housing women prisoners? The latest figures that I have show that, although the number of men in prison has increased by 50 per cent. in the past 10 years, the number of women has increased by 173 per cent. Is the Minister satisfied with the care that is given

to women prisoners, given that many of them come from the most terrible backgrounds and deserve a great deal of sympathy?

**Ms Blears:** The hon. Gentleman has a good record on raising those important issues in the House. I am pleased to tell him that, last Friday, the women's prison population was 4,261—down by 3 per cent. from last year. Contrary to previous trends, the women's prison population is beginning to decrease. In the past 10 years, the number of women in prison tripled yet last year, for the first time, it started to reduce. That constitutes a success but I do not dispute that many women in prison suffer from a range of problems, as he said, and targeting our support at them is therefore especially important.

**Mr. Neil Gerrard** (Walthamstow) (Lab): Is my hon. Friend aware of the anxieties that have been expressed that pressures on the Prison Service mean that some accommodation is mothballed and that that contributes to overcrowding in the places that are used?

**Ms Blears:** I am not aware of any specific instances. If my hon. Friend wants to send me details, I will be happy to look into the matter. I am sure that he acknowledges that, since 1997, we have increased prison places by 17,000. A further 3,000 are on their way. They are real prison places, unlike the promises that the Conservative party makes.

**Mr. Mark Oaten** (Winchester) (LD): Does the Minister acknowledge that overcrowding leads to other problems in prisons and that that is why 74 per cent. of young prisoners leave and reoffend? Last year, 17,000 prisoners self-harmed and 95 committed suicide. Two thirds of our prisoners have the reading skills of an 11-year-old and, last year, 10,000 drug-related crimes took place in prison. Do not those figures suggest a shambles in our Prison Service?

**Ms Blears:** No. I reject the contention that it is a shambles. The hon. Gentleman raises important issues. We have said that prison must be there for dangerous and serious offenders but that we need a system of more rigorous community penalties for those who are serving sometimes fairly futile short sentences. We are beginning to rebalance matters. The projections are lower than they were initially, so the new sentences are beginning to kick in. There is a huge programme of work to examine suicide in prison because that is a matter of great concern. There are also plans to ensure that we provide sufficient places for prisoners so that the courts are not influenced by that factor in their sentencing decisions. When they need to send people to prison, we will ensure that they are accommodated. Providing useful activity—for example, literacy, numeracy or information technology—for people in prison is a top priority to try to ensure that we break the cycle of reoffending when people are released from custody.

**Mr. Hilton Dawson** (Lancaster and Wyre) (Lab): I am ashamed to have been a Member of Parliament over the past eight years, during which 16 children have died in prison. That is coupled with the ghastly fact that we have closed down 24 places in local authority secure children's homes, where those children could have been kept safe. Is it not time for the Home Office entirely to review the position of children in prison to ensure that there are no more deaths?

**Ms Blears:** I understand my hon. Friend's concern, and every Member of the House will agree that the death of any young person in custody is a terrible tragedy. It is important to have appropriate accommodation for young people, but I am afraid that, in some circumstances—when they could present a serious threat to the community, for example—it is appropriate for them to be held in custody.

This is a matter that we take very seriously and my hon. Friend is right to say that we need adequate secure accommodation. Indeed, many young people are held in local authority secure accommodation. I understand the depth of his personal feelings on this issue, but it is important that young people, as well as adults, are held in the right accommodation and that we get the balance absolutely correct.

**Mrs. Cheryl Gillan** (Chesham and Amersham) (Con): I am surprised that the Minister should come to the Dispatch Box so ill informed. Last week, the chief inspector of prisons said that our prisons were still 24 per cent. overcrowded and operating perilously close to capacity. Money has been taken from the Prison Service's budget to resolve the financial crisis in other parts of the Home Office, which has led to a four-month recruitment freeze and the mothballing of more than 1,000 prison places. Will the Minister confirm that the service is now considering reducing the number of offending behaviour programmes for prisoners and, in the words of the director general of the Prison Service, merely sustaining

"the basic operation of the Service"?

Is this the way to run the Prison Service?

**Ms Blears:** It is this Government who are running the Prison Service and providing extra capacity. As I have said, 17,000 extra places have been created since 1997, and a further 3,000 are on the way—

**Mrs. Gillan** *indicated dissent.*

**Ms Blears:** The hon. Lady shakes her head, but these are real places for real prisoners. A brand-new prison will open in Peterborough in March, providing an extra 360 places, particularly for women—an issue raised by the hon. Member for Rochford and Southend, East (Sir Teddy Taylor)—and there will be 450 places at the Bronzefield prison. This Government have taken the issue seriously by ensuring that we have the right capacity and by developing modern, purpose-built premises, with proper facilities for education and useful work, to house our prisoners. The hon. Lady should ask the shadow Chancellor how many cuts in prison places would result from his budget proposals.

### Community Integration (Peterborough)

4. **Mrs. Helen Clark** (Peterborough) (Lab): If he will make a statement on the integration of asylum seekers and economic migrants in Peterborough. [211496]

**The Minister for Citizenship and Immigration (Mr. Desmond Browne):** I acknowledge that there have been some difficulties in Peterborough with the integration of asylum seekers, refugees and migrant workers. However, community relations there are improving, as I saw when I visited Peterborough on 15 December to see how the Government's investment of just over £1.5 million in a £2.2 million programme of nine projects in Peterborough was working. The projects aim to join statutory and voluntary agencies to provide more cost-effective services for the benefit of the whole community, including asylum seekers, refugees and migrant workers.

**Mrs. Clark:** Does the Minister agree that, instead of being an asylum hot spot, Peterborough has recently become a model for managing and controlling immigration properly? We have been greatly assisted by local employers such as Peter Boizot, the owner of the Great Northern hotel, who welcome these additions to the work force, and by the splendid New Link centre, which is funded by this Labour Government and provides vital help and support to all our new arrivals to Peterborough.

**Mr. Browne:** When I visited Peterborough on 15 December, it was clear to me that the council and others who were represented at an interesting meeting were proud of the way in which Peterborough had integrated asylum seekers, refugees and, indeed, migrant workers. There are many good examples of the benefits that migration can bring our communities in Peterborough. It is unfortunate that some of the circumstances there have been so badly misrepresented and that that has done so much damage to the community, but people are working together and moving in the right direction.

**Mr. Humfrey Malins** (Woking) (Con): I understand that quite a large number of failed asylum seekers now reside in the Peterborough area. Has the Minister any idea how many there are and what plans has he to remove them?

**Mr. Browne:** The hon. Gentleman has raised an important issue. The removal of failed asylum seekers is a priority for me, as Minister with that responsibility, and for the Government. That is why I am pleased to be able to announce that, since 1997, we have been able to double the number of failed asylum seekers whom we have been able to remove from the country and that, because of steps we have taken—including changes in the law, for instance in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004—we are confident that we shall be able to increase the number further.

I am sorry that I cannot help the hon. Gentleman with the specifics of his question. The community in Peterborough did not know exactly how many failed asylum seekers there were. I acknowledged that this was an issue during our discussions, however, and we are working with the community to deal with it.

## Alcohol (Purchases for Minors)

5. **Helen Jones** (Warrington, North) (Lab): If he will increase the penalties for those who knowingly purchase alcohol for a minor; and if he will make a statement. [211497]

**The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint):** We have recently raised to £80 the fine issued under fixed penalty notice for buying alcohol for those under 18. The Licensing Act 2003 will increase the maximum fine for purchasing alcohol for a minor from £1,000 to £5,000, as well as the maximum fine for selling alcohol to children.

**Helen Jones:** I welcome the provisions in the new Act, but as my hon. Friend will know, in parts of my constituency real problems of crime and disorder have been caused by people purchasing alcohol for youngsters, usually in return for a share of the proceeds. Can my hon. Friend assure me that she will monitor the new provisions carefully and ensure that the police and trading standards officers have enough resources to tackle the problem? Will she also monitor the fines issued by the courts to ensure that they are sufficient to deter those who are caught from offending again?

**Caroline Flint:** My hon. Friend has raised an important point about those who, on behalf of young people, go into licensed establishments such as bars, and let us not forget off-licences, supermarkets and the 7/11 on the corner of the street, because it is important to tackle them as well. We will consider monitoring those establishments and, following our consultation last week, we have announced that we will review the penalties for alcohol offences to establish whether they are robust enough. I hope that my hon. Friend will make a contribution to our further consultation.

## Licensing Act

6. **Andrew Selous** (South-West Bedfordshire) (Con): What assessment he has made of the effects on police resources of implementation of the Licensing Act 2003. [211498]

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** Under existing licensing law, the police annually engage in over 1.6 million administrative licensing processes. That will be streamlined to around 170,000 under the Licensing Act 2003, which will result in a saving of up to £15 million annually. The Act will also give the police further powers to tackle alcohol-related disorder, for instance through introducing temporary or permanent reductions in trading hours.

**Andrew Selous:** Given that the United Kingdom has some of the worst binge drinking in Europe and that the police have expressed serious concern about the advent of 24-hour drinking, what reassurance can the Minister give that the police will have enough officers available between 2 am and 6 am when the Licensing Act is implemented?

**Ms Blears:** I am not sure whether Home Office Question Time is turning into happy hour, but we seem to be having an extensive discussion on this issue.

We should certainly take account of pressures on the police. According to Rick Naylor, president of the Police Superintendents Association,

"Extended licensing hours are not a concern for us. The problem exists now with all pubs and clubs closing at two set times, spilling out thousands of people onto our streets . . . We believe that by a more gradual dispersal of the crowds over a longer period of time, these problems would be significantly reduced."

However, he also welcomed the possibility that licensed premises would have to contribute not just to policing costs but to other local costs of disorder on our streets. That is a statement from the police that they are preparing to deal with the issues, and in fact they are dealing with them now.

**Mr. Kelvin Hopkins** (Luton, North) (Lab): I have recently heard allegations and received evidence that mini-markets at garages in my constituency are selling alcohol to under-age people. Does my hon. Friend agree that withdrawing those mini-markets' licence to sell alcohol would be the most effective way of stopping them doing that?

**Ms Blears:** My hon. Friend makes an extremely important point. The transfer of the licensing regime to local authorities, which are very much in touch with their communities, should give them extra powers not just to limit hours but to review licences, to suspend them, and if necessary to withdraw them.

**Mr. Julian Brazier** (Canterbury) (Con): Surely one of the best ways of saving police resources and public hassle is to prevent irresponsible people from getting licences in the first place. Can the Minister confirm that, under the new legislation, the council considering an application from an individual licensee is no longer allowed to take account of police intelligence on their conduct with regard to selling alcohol? It is not even allowed to take account of convictions in that regard if they have expired.

**Ms Blears:** The hon. Gentleman should know that when councils consider applications for licences, they will be able to listen to representations from the police, from local residents and from others in the area. As I understand it, in the past, courts could look at taking away a licence only where someone was convicted for a second or subsequent time of serving to under-age youngsters. Under the new regime, they will be able to consider doing so where someone has been convicted for the first time. Therefore, the powers will be even stronger.

**Mr. Kevan Jones** (North Durham) (Lab): A lot of the focus has been on 24-hour drinking in respect of the new Act, but does my hon. Friend agree that the provision to give local people a say not only in licensing policy but in individual applications is welcome? It has been welcomed wholeheartedly in local government, most recently in the north-east by the new Liberal Democrat chair of Newcastle city council's licensing committee, Anita Lower.

**Ms Blears:** My hon. Friend makes an important point. The transition from the magistrates court to the local authorities is a once-in-a-lifetime chance to look at every licence over the next few months. The process from now until November, when those licences are being reviewed, is crucial to the agenda of tackling binge drinking. I say to the local authorities concerned: look at every licence carefully and take into account what local people and the police are saying. We must get a better mix in town and city centres, so that premises appeal to a range of people rather than appealing solely to young people and encouraging them to drink irresponsibly.

**Michael Fabricant** (Lichfield) (Con): How can the Minister be so sanguine about the prospect of 24-hour drinking? She prayed in aid the president of the Police Superintendents Association to my hon. Friend the Member for South-West Bedfordshire (Andrew Selous) but she will have heard the comments of Sir John Stevens and the comments of police constables on the beat, who say that it is hard enough tackling one person who is drunk, without hordes and hordes of people being drunk. We heard earlier about the problems in large cities. In the city of Lichfield, we have a problem, too.

**Ms Blears:** I am sure that there is a problem in Lichfield and other places. It is not confined to the inner cities. Rural market towns and very small areas face similar problems of disorder fuelled by alcohol. I am not complacent at all. I recognise police concerns about the need to deploy officers on the streets, but if the police work with local authorities, with the newly licensed door supervisors at the premises, and with the many public sector people who are on the streets, we can help to get a grip on the problem. We must ensure that the industry itself has a more responsible attitude towards drinking. I am delighted that some of the big chains, including Wetherspoon and Yates's, are outlawing irresponsible promotions. That is an extremely good sign, and I would encourage many more licensees and retailers to do the same.

## Together Initiative

7. **Kevin Brennan** (Cardiff, West) (Lab): What recent assessment he has made of the Together initiative. [211499]

**The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart):** On 28 October 2004, the Government published two reports highlighting progress made since the antisocial behaviour action plan was launched in October 2003. Results from a national antisocial behaviour survey showed that, between October 2003 and September 2004, 5,383 acceptable behaviour contracts were made and 2,633 antisocial behaviour orders issued, and that between January 2004 and September 2004, 158 crack house orders and 418 dispersal orders were made. Projecting the results of the survey nationally, that is in excess of 100,000 cases tackled in the 12-month period.

In addition, more than 2,500 people were trained at Together academy events and more than 6,200 practitioners have used the Together action line. We also announced the 50 new Together action areas.

**Kevin Brennan:** I thank my hon. Friend for her comprehensive answer. What message would she give to the agencies participating in a meeting that I am organising in my constituency next month, under the auspices of the initiative, to ensure that we tackle and refuse to tolerate antisocial behaviour? Will she comment on the proposal announced in the House last week that the Liberal Democrats want to reduce the age of drinking to 16, which is—

**Mr. Speaker:** Order. I call the Minister.

**Fiona Mactaggart:** I had the privilege of speaking at the Together academy in Cardiff, and I want to praise people there who have worked well together to drive out antisocial behaviour in their communities. My hon. Friend asked what message I would bring to the meeting that he is co-ordinating, and my answer is, keep at it—working together. I would also stress that we are on the side of the law-abiding majority in wanting to drive out the antisocial behaviour of the minority.

## Community Support Officers (Leeds)

8. **Colin Burgon** (Elmet) (Lab): What assessment he has made of the role of community support officers in community policing for the Leeds area. [211500]

**The Secretary of State for the Home Department (Mr. Charles Clarke):** West Yorkshire police commissioned the centre for criminal justice studies at the university of Leeds to produce a detailed evaluation of community support officers in Leeds and Bradford city centres. The final report, "Patrolling with a Purpose", was published in July 2004. It gave very positive indications about the impact of CSOs on crime and disorder and public confidence. The report showed that CSOs in Leeds spend a very high proportion of their time—77 per cent.—on high-visibility patrol. In the first year of their deployment, theft of vehicles fell by 49 per cent. and personal robbery declined by 47 per cent.

**Colin Burgon:** I would like to confirm what my right hon. Friend said about the good work of community support officers, particularly those working in association with the Wetherby and Garforth police stations in my constituency. Along with their police colleagues, they are playing a vital and effective part in launching the new neighbourhood policing strategy. However, I have a piece of shocking news: the Liberal-Conservative alliance that runs Leeds is now trying to claim credit for extra CSOs, extra CCTV cameras and extra police officers. Does not that dramatically show how Labour is setting the agenda in our vital public services by talking about investment rather than cuts?

**Mr. Clarke:** I am indeed shocked, but not surprised, to hear that the council is claiming credit for this Government initiative. The fact is that it is the Government who provided substantial funding for community support officers, who pioneered the approach and who established the legal powers. I want seriously to stress that we want to carry it through in partnership with local authorities. I am prepared to give the council the credit that is due to it, but it should give us the credit that is due to us.

## Binge Drinking

9. **Iain Wright** (Hartlepool) (Lab): What steps are being taken to tackle binge drinking. [211501]

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** More about drinking, I am afraid. The Government are working through the alcohol harm reduction strategy for England to tackle the health and crime and disorder problems associated with binge, under-age and chronic drinkers. As part of that, the recent alcohol misuse enforcement campaigns have shown that a united effort to crack down on binge drinking can make a real impact, but we are not complacent and we recognise that work needs to be done to reduce the likelihood of alcohol misuse happening in the first place.

**Iain Wright:** I am extremely concerned about binge drinking, particularly as a report in my local paper, the *Hartlepool Mail*, recently suggested that almost half of 15 to 16-year-old schoolgirls in my constituency had drunk up to 14 units of alcohol in the previous week. A local nightclub, the Wesley, was recently bought by new owners, who voluntarily clamped down hard on excessive drinking, especially among the young, with beneficial results in respect of the number of incidents occurring in or near the club. What else can the Minister do to ensure that more pubs and clubs emulate the Wesley and encourage responsible drinking? Perhaps she could ensure that Hartlepool has one of the first alcohol disorder zones.

**Ms Blears:** I visited my hon. Friend's constituency while he was seeking election. As a result of his excellent activity in the constituency, he is now a fine Member of Parliament representing the good people of Hartlepool. I am delighted that clubs in his area are taking a more responsible attitude to drinking. When I visited Hartlepool, one of the pubs had an "All you can drink for £8" promotion, but I hope that we have seen the last of that. There is more that we can do to work with schools to educate young people about the damage that alcohol can do to them, but many pubs and clubs now recognise that it is good business to run premises in which there is good order and where people can have an excellent night out without getting involved in crime, disorder and binge drinking. I encourage the clubs in his area to adopt the best practice that he has highlighted today.

**Miss Anne McIntosh** (Vale of York) (Con): We heard earlier about the number of fixed penalty notices that are being issued. Does the hon. Lady accept that they are failing to address the problem because the extent of binge drinking has increased, and they are, in large measure, left unpaid?

**Ms Blears:** No, I do not accept that at all. Some 4,000 fixed penalty notices were issued in the 13 days over Christmas, which is a tremendous testament to the hard work of the police service in carrying out proactive policing, issuing on-the-spot fines and facing young people with the consequences of their behaviour. If you get a fine of £80 on your night out, Mr. Speaker, it ought to act as a pretty significant deterrent, and it would

certainly mean that you would have less money to spend on drink. I can tell the hon. Lady that some 50 per cent. of fixed penalty notices are paid straight away and up to 75 per cent. are paid when they become a fine, which is not a bad record for an on-the-spot penalty.

**Mr. Speaker:** I can tell the Minister that if I get fined £80 on my night out, it will make the headlines for sure.

**Richard Ottaway** (Croydon, South) (Con): Is the Minister aware that at night in Croydon, we have 20 extra policemen in the town centre to deal with binge drinking on Thursday, Friday and Saturday nights? Those 20 policemen are thus not on the beat. Does she accept, as it was pointed out earlier, that the beneficiaries of binge drinking—the vertical retail outlets—should pay for such extra policing? Although the Home Secretary may be consulting on that, frankly it is time for action.

**Ms Blears:** Which is exactly what we are doing—in two ways. We are consulting on the proposal to establish alcohol disorder zones. I know that there is a problem in Croydon. I recently arranged for some of the chief executives of major alcohol producers to go out on a Saturday night in places such as Croydon and Romford so that they could see the situation for themselves, and it is fair to say that several were quite shocked by the extent of the problem. We are consulting on alcohol disorder zones, which will mean that licensed premises will have to make a contribution; and we have the new fee structure, under which, the hon. Gentleman will be pleased to know, vertical drinking places will have to pay more for inspection, administration and enforcement.

## Police Numbers

10. **Mr. Stephen Hepburn** (Jarrow) (Lab): If he will make a statement on police numbers. [211502]

**The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint):** The Government have delivered record police numbers. I am pleased to say that there are now nearly 140,000 police officers, which is an increase of more than 12,500 since 1997. In addition, there are 4,600 community support officers, who all contribute to increasing police visibility in our communities. We intend that number to rise to 5,500 by the end of March. It is clear that the Government have delivered an increase in policing of historic proportions.

**Mr. Hepburn:** I welcome the national increase in the number of police officers, which is indeed impressive, but I remind the Minister that when that is broken down into command areas, it does not mean that a lot of extra police are on the beat. May I urge her to increase her efforts—I know that she is making a strong effort in the Home Office—to raise the numbers of police on the beat and community officers, to reduce bureaucracy in police stations, and to encourage initiatives such as the 24-hour hotline in South Tyneside for reporting antisocial behaviour?

**Caroline Flint:** That last point is a good idea. My hon. Friend is absolutely right about how police forces must play a role in restructuring their policing to meet local needs. I am pleased that the divisional commander in his area has done exactly that by restructuring staffing so that the number of community-based police officers in Jarrow has increased. We will ensure that we examine performance to find out whether police are spending their time behind a desk or out in the community doing what they are trained to do: catching criminals and reassuring the community that they are doing just that.

**Alistair Burt** (North-East Bedfordshire) (Con): But is not the Minister aware that it is not just how many officers the chief constable has but how they are used that matters? In Bedfordshire, seven years ago, there were two ring-fenced grants in the police budget; this year there are 29. Does not she appreciate how that ties the hands of chief constables so that they cannot deploy their officers in the way that local communities want? That is at the heart of the problem, and unless that question is addressed we shall still see rising crime.

**Caroline Flint:** We need to remember that one of the reasons why some of those funds are ring-fenced is that communities have asked for that to be done. That is partly because people think that some issues, such as the rural crime fighting fund, are important. Let us look at that against a real-terms increase of 21 per cent. in police funding since 1997, and an increase in the number of police officers—not forgetting the community support officers, opposed by the hon. Gentleman's party. At the end of the day, we can provide more resources from central Government, as we have done. We have given more attention to the crimes that are of most concern to the community. We have looked at ways of ensuring that we reduce bureaucracy, and we have given opportunities to civilian staff to do some of the jobs that police officers clearly should not be doing because they should be out there catching criminals.

**Mr. Lindsay Hoyle** (Chorley) (Lab): My hon. Friend is right. There are more police, but the problem is that people want more visibility, especially in urban and rural areas such as Chorley. Will she talk to police constables to ensure that there is less paperwork and more visibility, to fight crime?

**Caroline Flint:** I agree, and that is exactly what we are trying to do. We welcome the support of MPs on both sides of the House to make that point to their chief constables. Let us not forget that under the Tories there was no ring-fencing and police numbers went down.

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): But can the Minister explain the statement she issued to the House last week on 27 January? She told the House that in Derbyshire the number of operations for which firearms were issued rose from 167 in 2000–01 to last year's figure of 369 firearms incidents, yet at the same time the number of police officers authorised to use firearms fell from 81 to 70?

**Caroline Flint:** As the hon. Gentleman is fully aware, we are currently looking at a review of firearms legislation and taking soundings on firearms licensing. The process is ongoing. The review has closed and we are considering the responses. I am happy to look at the points that the hon. Gentleman raises, but the key issue is that there are more police officers than ever before and also more people working with the police—people doing drug testing at our police stations, and civilian staff involved in detention and custody suites. More and more, we are enabling our police officers to do the job that they should be doing, equipped with full powers, while ensuring that there is a family of law enforcement so that we can meet all the different pressures on the police service today.

## Police Call Centres

11. **Barbara Follett** (Stevenage) (Lab): What measures his Department is taking to ensure that police call centres are efficient and responsive. [211503]

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** Successful call handling is central not only for the satisfaction of the public, but also for the effective investigation of crime and management of intelligence. As part of a national strategy to improve call handling across all forces, the police reform White Paper set out a number of projects that the Government are bringing together.

**Barbara Follett:** Is my hon. Friend aware that Hertfordshire constabulary, normally excellent in every way, has experienced severe problems with its new call centre at Welwyn Garden City for the past 18 months? Constituents have had to wait 10 minutes for their 999 calls to be answered, and in some regrettable cases no action was taken afterwards. Will my hon. Friend do all that she can to ensure that the lack of adequately trained staff, which apparently caused those problems, is rectified?

**Ms Blears:** This is an extremely important issue. Whenever I visit forces and communities, the issue that is constantly raised is call handling and responsiveness, and I am aware of the difficulties in my hon. Friend's force area. I understand that Hertfordshire has made that a priority, in response to complaints from the community, and has set up a single non-emergency number which is beginning to take some 999 calls and that is helping to draw demand on the service. There are 1.3 million calls to her local force, so the volume is huge, but she is right to say that we need properly trained, high-quality staff in the call centres to ensure that the service to the public is of a proper standard. I shall certainly do everything I can to impress the importance of that on her local force—and indeed nationally.

**Dr. Vincent Cable** (Twickenham) (LD): Does the Minister accept that there is a distinction between 999 calls, where the service is usually good, and non-emergency calls, where it is often abysmal, to the extent that large numbers of criminal offences are never reported or recorded? Will she investigate in particular the position in London, where we are told that in large parts of the capital it may be two years before anything can be done to have an even half-decent reporting system for non-emergency calls?

**Ms Blears:** This is an important area. The hon. Gentleman will be pleased to know that we are now working on plans for a single national non-emergency service. It is apparent that many of the calls that go to the police would be better dealt with by local authorities—community psychiatric nurses, for example, if there is a problem in the community. We want to try to ensure that calls to the non-emergency number are channelled to the right people at the right time, so that there can be a much quicker response. We are making significant progress on that national non-emergency number. Responsiveness and call handling are an absolute top priority for the public, and that is why we are working on national standards, which will be in place everywhere in the country by the end of 2006. Every force, including London, will be expected to comply with those standards.

## Year of the Volunteer

12. **Tom Levitt** (High Peak) (Lab): What his assessment is of the impact of the year of the volunteer 2005. [211504]

**The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart):** The year of the volunteer 2005 was launched by the Chancellor and the Home Secretary on 10 January. Three key aims of the year are to recognise volunteers and celebrate their contribution, to demonstrate the impact and benefits of volunteering, and to increase the availability of volunteering opportunities throughout this year and beyond. In order to provide a lasting and worthwhile legacy of the year, we are taking the opportunity to invest in increasing capacity in the voluntary and community sector through investment programmes such as ChangeUp and Futurebuilders.

**Tom Levitt:** I thank my hon. Friend for that answer and very much welcome the national year of the volunteer. Does she agree that volunteers have very much to offer and that we are far from tapping the capacity that they have to help our communities? Will she ensure that during the year we look not just at conventional volunteering opportunities but at new areas? I think in particular of the way in which groups of young people, such as those in Glossop in my constituency, are actively involved in volunteer groups that are fighting antisocial behaviour.

**Fiona Mactaggart:** I thank my hon. Friend for that supplementary question. I recognise his wide range of activities as vice-chairman of the all-party group on deafness and as chair of the Community Development Foundation. Of course volunteers have a huge amount to offer in improving the quality of all kinds of services. Members on both sides of the House are involved in volunteering and voluntary organisations in their constituencies, and there is a fantastic opportunity this year to use the energy of volunteers to solve social

problems and to find new ways of tackling them. I believe that Members can provide some real leadership in their communities.

### Asylum Seekers

13. **Mr. Tom Harris** (Glasgow, Cathcart) (Lab): How many failed asylum seekers resident in *(a)* Glasgow, Cathcart and *(b)* the United Kingdom are in receipt of hard case payments; and if he will make a statement. [211505]

**The Minister for Citizenship and Immigration (Mr. Desmond Browne):** According to provisional management information, as at 21 January there were no failed asylum seekers in section 4 accommodation in my hon. Friend's constituency. There were, however, 2,223 in section 4 accommodation in the United Kingdom as a whole.

**Mr. Harris:** I am grateful to my hon. Friend for that answer, because it flatly contradicts those who criticise the Government for leaving failed asylum seekers without accommodation or any income. In fact, the truth is that those who do not have a legitimate claim for asylum in this country can claim hard case payments provided that they co-operate with the authorities for their eventual return home. Will my hon. Friend highlight and improve awareness of the hard case payment scheme, and assure the House that finance is in place to meet any substantial consequent increase in take-up?

**Mr. Browne:** Failed asylum seekers are expected to leave the UK, and there is nothing to stop the vast majority of them from so doing. When they do not leave and it is appropriate that they should be removed, it is the responsibility of Government to remove them. The issue was raised earlier in questions, and the improvement in removals was recognised. Indeed, it was recognised by the hon. Member for Woking (Mr. Malins), who speaks on these issues on behalf of the official Opposition, in a debate in Westminster Hall in July, when he said that he had no further advice for the Government in this area. I think that even he would agree that working on a supportive basis under section 4 with people who genuinely cannot leave is the appropriate thing to do. We in Government are happy to provide that support as long as those failed asylum seekers continue to co-operate with us.

### Zimbabwe

15. **Joyce Quin** (Gateshead, East and Washington, West) (Lab): If he will make a further statement on his Department's policy on the repatriation to Zimbabwe of Zimbabwean nationals whose asylum and residence applications to the UK have been unsuccessful. [211507]

**The Minister for Citizenship and Immigration (Mr. Desmond Browne):** The Government's position remains as set out in the statement that I made on 16 November. The treatment of Zimbabwean asylum applicants is the same as that of all other nationalities. There are Zimbabweans in need of international protection from persecution. Our asylum system provides that protection, and will continue to do so. People who need international protection are given it, but if an asylum and human rights claim by an individual of any nationality is refused, and any appeal to the independent appellate authorities is unsuccessful, we consider that it would be safe for that individual to return to their country of origin. They are expected to leave voluntarily, and if they do not do so we will seek to enforce their return.

**Joyce Quin:** I am worried about the Department's policy of allowing failed asylum seekers to return to Zimbabwe in certain circumstances, which might result in the return of one of my constituents, who is a valued member of the local community. Is my hon. Friend aware that the United Nations High Commissioner for Refugees opposes asylum seekers being returned to Zimbabwe at present? There are worrying accounts of asylum seekers on their return being handed over to Mugabe and his henchmen.

**Mr. Browne:** I am, of course, aware of the UNHCR position, which is based on a broad assessment of the situation in Zimbabwe generally. However, asylum and human rights claims are not decided on the basis of the general situation—they are based on the circumstances of the particular individual and the risk to that individual, as they are in relation to all asylum seekers, wherever they come from. Those who are found to be at risk because of the situation in Zimbabwe will be granted asylum or other appropriate protection. For them, the question of removal does not arise. With regard to my right hon. Friend's individual case, I am happy to consider to any information that she wishes to submit.

# Iraq

3.32 pm

**The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw):** With permission, Mr. Speaker, I would like to make a statement on the elections that were held in Iraq yesterday.

First, however, let me deal with the tragic crash of an RAF C-130 Hercules aircraft. As the House will be aware, the aircraft came down approximately 30 km to the north-west of Baghdad, at half-past four in the afternoon, Iraq time, yesterday. The aircraft was flying from Baghdad international airport to Balad airbase. The site of the crash has been secured, and we are investigating its cause. The House will understand that it would be wrong at this stage to speculate about possible causes. Ten United Kingdom service personnel were onboard the aircraft and, sadly, are presumed killed—nine were from the Royal Air Force and one from the Army. Their next of kin are being informed. The Ministry of Defence will release the names of those who were onboard only once this process is complete and the families have been given time to inform other loved ones and friends. I know that the whole House will join me in sending our deepest condolences and sympathy to the families of these brave men and to their comrades.

Yesterday's elections in Iraq demonstrated the vital importance of what those service personnel and thousands of other brave British servicemen and women have been helping to achieve in Iraq. Only two years ago, Iraq was still under the sway of one of the most ruthless dictators in the world. Dissent was punishable by torture and summary execution, with an estimated 300,000 people buried in mass graves during the period of Saddam's dictatorship. The last time that the Iraqi people voted was in the staged elections of Saddam's tyranny, with just one candidate—a man who had been flouting the will of the United Nations for 12 long years. Yesterday, in contrast, the elections took place in the implementation of the will of the United Nations, for it was the Security Council, in resolution 1546, that laid down the timetable and process for the elections and the steps that follow. Yesterday, the Iraqi people had a choice of not one candidate but 8,000 candidates for the new National Assembly, from 111 different political parties and entities, with 11,000 candidates in regional and Kurdish elections. I am delighted to say that one third of the candidates in the national elections were women.

Although turnout figures will not be available for some days, it is already clear from initial estimates that a substantial proportion of the Iraqi population took part in the elections. Turnout appears to have been especially high in the north and south of the country, among both men and women. Turnout in Sunni majority areas was lower, mainly because of the high penetration of insurgents threatening to kill voters. However, in other areas where Sunni Arabs were able to vote freely, they appear to have done so in good numbers. Simon Collis, British consul-general in Basra, told me this afternoon that some 50 per cent. of Sunnis in that province may have voted. He described the extraordinary atmosphere in Basra, as families went out to vote, taking along their children dressed in their smartest festive clothing. Polling was also brisk in the mixed Sunni-Shi'a suburbs of Baghdad. In Mosul, extra polling stations had to be opened when turnout exceeded expectations.

Yesterday's elections were monitored by some 22,000 domestic election observers, 33,000 party officials and some 120 international monitors accredited to the Independent Electoral Commission of Iraq. I arranged for three of the monitors to come from the House on an all-party basis, and my hon. Friend the Member for Forest of Dean (Diana Organ) and the hon. Members for Blaby (Mr. Robathan) and for Torridge and West Devon (Mr. Burnett) formed that delegation. My hon. Friend the Member for Cynon Valley (Ann Clwyd) also observed the elections, and Baroness Nicholson did so on behalf of the European Parliament.

Electoral procedures are reported to have worked efficiently throughout the country. Jean-Pierre Kingsley, the Canadian head of the International Mission for Iraqi Elections, has described the election as a "very good process". I understand that my hon. Friend the Member for Forest of Dean—one of the three all-party observers from the House—has described arrangements in the town of Maysan as "model".

I should like to pay tribute to the Independent Electoral Commission of Iraq and to its advisers from the United Nations—led by the quite exceptional international diplomat, Mr. Carlos Valenzuela—for their outstanding work in assisting the Iraqis and ensuring that yesterday's elections ran smoothly. I should also like to thank our ambassador, Edward Chaplin, and all our staff in Baghdad, Basra and Kirkuk for the excellent job that they do generally, but specifically in covering the elections.

No one expected these first free elections in half a century to be perfect, but they went far better than many had anticipated, and they are all the more remarkable given the circumstances in which they were held. We have grown used to insurgents in Iraq who attack any and every group and organisation that is working to rebuild the country. The Iraqi people most of all have suffered from that terrorist violence, and the insurgents had made it clear that they would use the vilest means possible to stop yesterday's elections running smoothly or at all. Abu Mussab al-Zarqawi, a leader of the insurgency in Iraq, declared last week that democracy was an "evil principle". He and his henchmen—many, like him, are not Iraqis themselves—sent suicide bombers to attack polling stations and other areas associated with the elections, with the message, "If you vote, you die."

Yesterday's elections, by contrast, represent a real blow to that disgusting campaign of violence and intimidation. In Sadr City in Baghdad, for example, a mortar attack at a polling station in a local school left a number of people wounded. However, multinational force troops at the site report that people simply helped the wounded and then, along with those who could do so, rejoined the queue to vote. In Sunni areas in central Iraq, large groups of people defied terrorist intimidation and walked several kilometres to polling stations to cast their votes. Those elections were a moving demonstration that democracy and freedom are universal values to which people everywhere aspire.

*[Mr. Jack Straw]*

The fact that not a single suicide bomber managed to get through the security cordons around polling stations is a great tribute to the bravery and effectiveness of Iraq's own security forces, who were in the front line. I pay tribute to them, and to the troops of the UN-mandated multinational force, who helped to maintain security around the polling stations. Several policemen were killed when suicide bombers who were unable to get through their rigorous searches simply blew themselves up. Our thoughts are with their families and those of all the Iraqis who lost their lives in yesterday's violence.

As Iraq's interim Prime Minister, Dr. Ayad Allawi, said this morning:

"There will still be violence, but the terrorists now know that they cannot win".

We have seen the determination of the Iraqi people to participate in building a more secure and democratic future for their country, and we now need to support them as they continue that process. The Independent Electoral Commission for Iraq expects to publish the results of the election within 10 days, and to certify those results by 20 February.

Yesterday's elections were for a Transitional National Assembly of 275 members, who are elected on a wholly proportional system. The TNA's first task will be to elect a three-person presidency, which will in turn appoint a Prime Minister and Cabinet, which the TNA will be asked to approve. This Iraqi Transitional Government will then be sworn in and the Interim Government will dissolve, and we expect that to have taken place by the end of February. As UN Secretary-General Kofi Annan has said,

"the success of these elections augurs well for the transition process".

The new Assembly will then begin work on the next stage of the political process in Iraq—the drafting of a permanent constitution for Iraq—as set out in Security Council resolution 1546. Many Iraqi political and religious leaders, including Ayatollah Sistani, have made clear their wish to include Sunni groups in that process. I welcome Prime Minister Allawi's call earlier today for a

"new national dialogue that guarantees that all Iraqis have a voice in the next government".

There is also an important safeguard for both the Sunni and Kurdish minorities in the transitional administrative law, under whose terms the constitution must be approved: the constitution must receive an absolute majority of votes in a referendum and, in addition, it can be blocked by two thirds of voters in any three of the country's 18 provinces.

The United Kingdom will continue to offer every support to the political process in Iraq as set out by the United Nations, working with our international partners including through the European Union. We shall seek an early meeting of the Sharm-el-Sheik group of Iraq's neighbours and G8 countries to build on international support for Iraq. We will continue to work for a central role for the UN in supporting the political process.

The House knows that there have been deep divisions over Iraq policy in the past two years, but this election should unite us all. Yesterday, the Iraqi people in their millions showed their wish to embrace freedom and to shape the future destiny of their country. I know that the whole House and our country stand behind them as they pursue that historic endeavour.

**Mr. Michael Ancram** (Devizes) (Con): May I thank the Foreign Secretary for his statement and for giving me advance sight of it?

On behalf of Conservative Members, I join the Foreign Secretary in his expressions of sorrow at the crash of the RAF C-130 Hercules north of Baghdad yesterday. Our thoughts and prayers are very much with the families of those who have died in this incident. In Iraq, we have asked a lot of the dedication and professionalism of our armed forces, who have responded magnificently, and I pay tribute to those who have given their lives.

Obviously, we must await the outcome of inquiries into the cause of the crash. Those planes, as I personally know, have a good safety record and are flown with the greatest professionalism. If there is any evidence that that crash was caused by hostile action, the Government will have many further questions to address. Can we be assured that the Foreign Secretary or the Defence Secretary will keep the House informed?

In the meantime, there are certain questions which I hope the Foreign Secretary will answer now. Why was this plane flying to Balad? Is that a routine run for RAF C-130s, as is the regular flight from Basra to Baghdad? Has the whole site of the crash now been fully secured? We are told that an Australian airman was killed in the crash. Were any Americans involved?

On yesterday's elections, may I join the Foreign Secretary in his warm words of praise for the way in which they were conducted, and for the courageous way in which the Iraqi people responded? The turnout and level of participation, even in the face of the gravest terrorist threats and violent intimidation, were not only encouraging but proved the doom merchants wrong. At the suggested 60 per cent. overall, the turnout would be a little higher than in our last general election, which should give us food for thought.

On terrorist intimidation, I see that interim Prime Minister Allawi announced today that seven foreign nationals had been held in relation to election day attacks. Are there any indications as to which countries those seven came from?

While the vote was a major blow for freedom and democracy and against tyranny and terrorist intimidation, is not the key to its longer-term success the breadth of the turnout in all parts of Iraq and across the various ethnic and sectarian divides? I see from the reported remarks of the UN's Carlos Valenzuela that higher numbers of Sunnis than expected turned out to vote, and that in the former rebel stronghold of Falluja queues were seen forming outside polling stations. Is not that a welcome vindication of the anti-insurgency action taken by multinational forces in rebel areas over recent months? And was it not encouraging that, in most areas, Iraqi forces took the lead in providing the necessary security to allow the poll to proceed? I, too, pay tribute to them for that.

Now we must look to the future. The new Transitional National Assembly and Government will now draw up, as we have heard, a constitution to put to

the people in a referendum later this year. Does the Foreign Secretary agree that all elements of Iraqi society must be involved in the drawing up of that constitution if they are to feel a sense of ownership in it? What steps will be taken to ensure that, even where low turnout or boycott have caused under-representation of certain crucial elements in the new Assembly, those elements can still become part of the constitution-formulating process? Looking further to the future, can the Foreign Secretary comment on the words of Iraqi interim Interior Minister Falah al-Nakib yesterday:

"I think we will not need the foreign forces in this country within 18 months"?

How does such a time estimate fit with the current rate at which effective Iraqi security forces are being trained and commissioned?

Can the Foreign Secretary comment on the extraordinary reports today that since the war almost $9 billion of Iraqi oil revenue has gone missing from a fund specifically set up for Iraq reconstruction, and that mismanagement by the coalition provisional authority was to blame? I am sure that he will agree that that is a most serious allegation. What steps are he and his Department taking to follow this up?

Yesterday's elections are a positive step towards a stable and democratic Iraq, which has been the long-standing goal of all of us who supported the war. Of course one poll does not deliver democracy; indeed, sometimes in history it has delivered the opposite. Yesterday's vote, however, was good for Iraq, the middle east and freedom. For that we must all be thankful. Our hope must now be that it will set the path for wider peace and harmony throughout that troubled region.

**Mr. Straw:** I am grateful to the right hon. and learned Gentleman for his remarks. He asks me essentially to speculate about the causes of the crash yesterday. With respect, I would rather not do so. A board of inquiry has been established, and it is appropriate that it should deal with the causes.

The right hon. and learned Gentleman makes a very good point about turnout. We do not know what the turnout will be, but if it is at or above 60 per cent., then on the basis on which Members are in this House it must be a highly legitimate election.

The right hon. and learned Gentleman asks about the number of foreign nationals who may have been held by Iraqi security forces. I am afraid that I have no further information about them.

The right hon. and learned Gentleman raises an important point about how inclusive the process of forming the Transitional Government will be. It will be very inclusive and, as I pointed out, Ayatollah Sistani, who represents a substantial part of the Shi'a majority, has made that clear. There are protections for both the Sunni and the Kurdish minorities, as I have spelled out, but it is also worth bearing it in mind that even if, as a result of a lower Sunni turnout, the Sunnis have fewer members in the Transitional National Assembly than their population would suggest, it would be open to the government's appointing panel to appoint Sunnis to the government, because it is not a requirement that members of the Iraqi Government be members of the TNA.

The mandate for the multinational force—it of course includes the British force—was established in resolution 1546, which states that the mandate will be reviewed in June this year and will terminate, unless extended by a further Security Council resolution, this December. Meanwhile, as the Iraqi Interior Minister implied, the question of whether foreign forces should be on Iraqi soil is entirely a matter for the Iraqis themselves. I heard Dr. Shaikhly, the Iraqi ambassador to the United Kingdom, say yesterday on the BBC that this election could not have taken place but for the presence of the multinational force of the United States, the United Kingdom and other contributor forces to the coalition. We proved yesterday that it is there not as an army of occupation, but as a force for democracy by, for and of the Iraqis. We will only stay there as long as we are needed, but how long that is depends almost entirely on how quickly the Iraqis' own forces can be built up. However, yesterday's experience was a good one in terms of their ability to deal with such matters.

I have no further information concerning reports of missing oil money, but we are actively looking into the situation.

**Sir Menzies Campbell** (North-East Fife) (LD): May I associate my right hon. and hon. Friends with the expressions of sympathy with which the Foreign Secretary began his statement, and express our regret at the loss of life? I have no detailed questions to ask the Foreign Secretary about the circumstances of the crash; I am content to wait until the Government feel able to release such details as are appropriate.

It would be churlish not to salute the courage of the ordinary citizens of Iraq who have voted in such numbers; nor would it be right to complain if the British Government felt a moment of satisfaction—even relief—at the fact that the election has taken place with such success. The Foreign Secretary will doubtless agree, however, that this is no time for triumphalism, and we would do well to accept Kofi Annan's sober judgment that this is merely the beginning. May I therefore ask the Foreign Secretary what steps can be taken to strengthen and improve the quality of the Iraqi security forces? What practical steps can be taken to ensure that the political process now set in motion will be as inclusive and representative of all opinions as he, the shadow Foreign Secretary and I consider desirable? What steps can be taken to improve delivery of public services such as water, sanitation and electricity, and to deal with unemployment?

The Foreign Secretary knows that my colleagues and I were opposed to military action, but we have accepted the moral obligation that that action imposed on us all. However, that commitment cannot be open-ended. The United Nations' mandate is due to expire at the end of 2005. Should not United Kingdom forces be withdrawn by then?

**Mr. Straw:** I am grateful to the right hon. and learned Gentleman for his expression of sympathy and condolences concerning the victims of yesterday's crash of a C-130 Hercules.

I understand the position in which the right hon. and learned Gentleman finds himself, but I should point out that there is no question of "triumphalism". No one

*[Mr. Straw]*

feels triumphal about what has happened in Iraq, but there is a great sense of relief. I should also point out as gently as possible that we all have to bear responsibility for the consequences of our own actions. Some of us in all parts of the House—a majority—decided on a course of action on 18 March 2003 that has caused much heart-searching. It meant that each of us individually, as well as collectively, has come under a huge amount of criticism, and in some cases much worse. We all made that decision because we felt that it was the right decision and that the outcome, however difficult, would be to produce a better Iraq than that which had gone before. So it has turned out. We now have the beginnings of a democratic Iraq. No one can gainsay what happened yesterday, which we have seen with our own eyes and through the eyes of observers.

I say to the right hon. and learned Gentleman, whose party has made so much of the position that it took in respect of Iraq, that the consequence of the decision that his party took was that there would be no democratic elections in Iraq. Saddam would still be in power, and the only elections that would have taken place in Iraq would have been a continuation of those ruthless elections in which the only issue was whether the leading candidate—the only candidate—got 99 or 100 per cent. of the vote. We bear responsibility for our actions, including the loss of life of British soldiers that has taken place. The right hon. and learned Gentleman's party bears responsibility for the strategy that he and his colleagues resolutely pursued, which, whatever their good reasons, had the consequence, whether intended or inadvertent, of keeping Saddam in power and crushing the very idea of democracy in Iraq. The British people can make their own judgment about that.

Let me answer the other two questions that the right hon. and learned Gentleman raised. He asked what we are doing about water, sanitation and so on. We are doing everything we can. My right hon. Friend the Secretary of State for International Development is present. He and his Department have been indefatigable in pursuing the aid and reconstruction programme, along with other international partners. The one thing that has set back the reconstruction and rehabilitation of Iraq has been the terrorism. That is why we must have our multinational forces—British forces, United States forces and forces from other countries—as long as the Iraqi forces cannot cope themselves.

The right hon. and learned Gentleman says we should make a commitment to withdraw our forces by the end of the year. If we were to decide that now, in advance of knowing what the security situation will be, we would be going back to the situation that his party wanted, where the forces of democracy are weakened and the forces of tyranny are strengthened. It would be utterly irresponsible for the House or the Government to make a premature decision about the withdrawal of British and other forces.

It is for the Iraqis themselves to make that judgment. If the Iraqi Government were to say today that our mandate had ended, we would leave tomorrow, but so far they have said, and we all understand this, that they do not like the idea of foreign forces on their soil—nobody does—but they understand fully that without foreign forces on their soil for a period, they cannot rebuild their country and create the freedom, security and democracy that they so desperately need.

**Donald Anderson** (Swansea, East) (Lab): For many of us, the enthusiasm that we saw yesterday in many parts of Iraq reminded us of the post-liberation election in South Africa in 1994. Is it not ironic, however, that a blocking mechanism on the constitution—two thirds of the electorate in three provinces—which was designed to protect the Kurds, may, unless we are careful, be used by Sunni elements if they feel excluded from the process? So is there not now a very strong incentive to ensure that the Sunni elements who, often for good patriotic reasons, stayed outside the elections are brought within the big tent and feel part of the process?

Even though I agree that it would be wholly premature to give a date now for withdrawal, if we accept that the new Government are in the driving seat, should we not reconsider with them a staged withdrawal, province by province, to show that they are indeed in charge?

**Mr. Straw:** It showed great foresight when the drafters of the transitional administrative law put in the mechanism allowing a two-thirds vote in three of the provinces to block the constitution. It was originally put in as a protection for the Kurds, but is there now as a protection for the Sunni as well. All of us understand the apprehension of perfectly decent Sunni about whether they will be excluded from the political process, but it is the determination not only of us, but especially of the Iraqis, that that should not be the case, and there are mechanisms ensuring that it is not. On a timetable, the point is premature. Resolution 1546 lays down a clear timetable for review and termination of the mandate at the end of this year, unless it is renewed. It will be renewed only if the Iraqis themselves plainly ask for it, but they may well do so, because their own forces may not be fully ready.

**Mr. James Gray** (North Wiltshire) (Con): The profound sympathy of the Foreign Secretary and the whole House will be much welcomed by my constituents at RAF Lyneham, who have so tragically lost nine of their number, although the healing of their hearts and of the surrounding communities will take a very long time indeed. I hope that that process will be helped by the knowledge that the sheer professionalism, determination and guts of the men and women of RAF Lyneham have made such a significant contribution to the successful elections yesterday. I hope that, through their grief, they will realise that their men have made some contribution to restoring democracy and peace in Iraq.

**Mr. Straw:** I would be grateful if the hon. Gentleman passed on directly to the families concerned and all those on the base our profound condolences and those of the whole House for what has happened. He speaks of their sheer professionalism. I have had the privilege of flying in a C-130 Hercules, as a number of hon. Members have, and of seeing their astonishing professionalism, including, for example, in tactical flying at between 100 and 150 ft, lower than most helicopters, where they will normally fly at speed for kilometre after kilometre

in that dangerous territory of Iraq. Without their bravery and professionalism, we would not have been able to do the job that we have done, culminating at this stage in the elections that went so well yesterday. It is of little comfort, but maybe some solace for the families concerned, that those who died did so for a very great cause.

**Ross Cranston** (Dudley, North) (Lab): A tragic shadow is cast by the death of our servicemen, but my right hon. Friend was absolutely right to enthuse about the response of Iraqis to democracy, which certainly puts paid to what a number of the doubting Thomases in this country have been peddling. In terms of the next stage under resolution 1546, does he think that there is any mileage in making available the UK experience with devolution as one way of accommodating both the Kurds and the Sunnis?

**Mr. Straw:** The Iraqis have available to them a wide variety of experience of setting up federal or quasi-federal constitutions. Our experience is quite important, as we have produced an asymmetrical arrangement, and yet it is one that is working well. Also available are the experiences in Switzerland and Belgium, which are regarded as classics of their kind in terms of maintaining a federal structure and a unified country with a high level of devolution. We will certainly ensure that that experience is made available.

**Mr. William Hague** (Richmond, Yorks) (Con): Does the Foreign Secretary have any new information that he can give the House about the trial of Saddam Hussein, which will presumably be an appropriate way in which to build on the hopes for freedom engendered yesterday? More disturbingly, does he accept and will he convey to the Ministry of Defence that great distress was caused yesterday to relatives of servicemen flying Hercules aircraft in Iraq, including some living in my constituency, when news was given out of a specific type of aircraft coming down, but before the next of kin were informed? Would it not be wise to do everything possible, while recognising the immense operational difficulties involved, to minimise the time interval between news of a specific aircraft coming down and the informing of next of kin, so that those whose relatives are safe can at least sleep more easily?

**Mr. Straw:** I have no further information as I stand here about the trial of Saddam Hussein, but I will write to the right hon. Gentleman and place a copy of my letter in the Library. I shall certainly raise the points that he has made with my right hon. Friend the Secretary of State for Defence. Having spoken to the Minister of State, Ministry of Defence, and the Under-Secretary of State for Defence, I can say that my colleagues are very well aware of the necessity wherever possible to inform next of kin before any publicity is given. I understand—this is only my understanding—that the reports about the crash were made by news outlets initially and not by the Ministry of Defence. We live in a kind of global goldfish bowl, which has some advantages, but many disadvantages in circumstances such as these.

**Mr. Robin Cook** (Livingston) (Lab): May I join my right hon. Friend in saluting the courage of those millions of Iraqis who went to the polls despite the grim security situation in that country and may I associate myself with his congratulations to our ambassador, Edward Chaplin, and his staff for the difficult and delicate task that they have had to perform on behalf of our country?

Does my right hon. Friend agree that now that the forces of democracy have been released in Iraq, there is an obligation on us to listen to the demands of the newly elected representatives? Will he confirm that the great majority of the parties standing in yesterday's elections stood on a mandate for negotiation to end the occupation? Is my right hon. Friend sensitive to the fact that if we want to achieve a constructive and positive partnership with the new Assembly, we must convince it and the Iraqi public that we have a clear perspective for withdrawal within a realistic time line?

**Mr. Straw:** I am grateful to my right hon. Friend for his salute to the Iraqis' courage and for his congratulations to the ambassador in Baghdad, Edward Chaplin, and his colleagues. My right hon. Friend knows those people, and their skill and professionalism, very well.

Of course, we have an obligation not only to listen to the elected representatives of the new Transitional Government, but to do what they say in respect of the future of the multinational force. Frankly, an issue about ending the occupation does not arise. In terms of its legal and practical effect, the occupation ended with the passage of resolution 1546. Since then, the multinational force has been there at the invitation, and only at the invitation, of the Interim Iraqi Government, who are now to be the Transitional Government. Of course, one item on that Government's agenda will be when they want us to go, but we have had no indication that any serious and responsible Iraqi politicians want us to go before our job is done. The moment they do so—it is their judgment, not ours—we will go.

**Sir Patrick Cormack** (South Staffordshire) (Con): In thanking the Foreign Secretary for what he just said and for the tone and content of his statement, will he take an early opportunity to talk to his new counterpart, when he or she is appointed, to make it plain that the British Government will make no unilateral commitment of any sort other than to stand by the democratically elected Government of Iraq and the principles on which they were elected?

**Mr. Straw:** Indeed we shall.

**Joyce Quin** (Gateshead, East and Washington, West) (Lab): I welcome my right hon. Friend's statement as a huge step forward for Iraq. While our thoughts are rightly with the British victims of the Hercules crash, he will be aware that in recent months a number of young Iraqi army recruits and policemen have been killed by terrorists and insurgents, even during the election period. Will the Government take the opportunity to pay tribute to those people and, alongside the new Iraqi Government, to look at ways of helping their bereaved families?

**Mr. Straw:** We do pay tribute to their great bravery. Notwithstanding the level of casualties that the Iraqi army and other security forces have suffered, I am pleased to say that recruitment levels are high and morale is improving. It is clear that the success of the Iraqi forces yesterday will help to defeat terrorism in the months ahead and to raise the morale of those forces.

**Mr. John Maples** (Stratford-on-Avon) (Con): The manner in which yesterday's elections appear to have been conducted is the best news to have come out of Iraq for a very long time, but it remains to be seen whether it improves the security situation. I rather doubt that that will be so in the short term, but, as more and more Iraqis show their support for the Government that they have elected, perhaps support for the terrorists will decline.

The Foreign Secretary said that the presence of allied forces is an essential part of that security operation. However, although they are part of the solution, they are also part of the problem in that they are often a target and make it difficult for Iraqi security forces to operate because they are often seen, wrongly, as being the proxy for American and British forces. At some point, the Iraqis must take over responsibility for their own security. I suggest that that will be easier in the absence of allied forces, who are perhaps seen as pulling the strings, and that he should consider not keeping our forces there for long after the elections at the end of this year on the basis of the new constitution.

**Mr. Straw:** I anticipate that the security situation will remain difficult for some time but it is also clear that the fact that elections took place and the Iraqi people's overwhelming endorsement of the democratic process will weaken support for the terrorists and greatly help stability and security in the medium and long term.

As I said earlier, the timetable for the presence of a multinational force including the United Kingdom is clearly set out in resolution 1546 and that is the basis of our remaining there.

**Mr. Robert Marshall-Andrews** (Medway) (Lab): Does the Foreign Secretary accept that many who actively campaigned against Saddam Hussein years before he invaded Kuwait and also opposed the invasion of Iraq because they believed that the prospectus was false can none the less acknowledge success with the generosity of spirit that it deserves? Does he also accept that many questions remain unanswered and many concerns have not yet been tackled, not least a genuine audit of the number of Iraqi civilians who have been killed, including in Falluja, during the war and the occupation?

**Mr. Straw:** I understand the basis of my hon. and learned Friend's initial comments. When I made the point about the consequences of people's actions, I did not say that people wished Saddam to remain in Iraq. It simply happens to be an obvious fact that a consequence—intended or unintended—of failing to vote for military action on 18 March is that Saddam would still have been there and the elections would not have happened.

I gave a full written ministerial statement about casualty figures in the autumn. I am happy to send my hon. and learned Friend a copy. The most reliable figures that are now issued come from the Iraqi Ministry of Health, although there are serious methodological difficulties about their categorisation—as some being caused by terrorists and others by the security forces. However, those figures appear to be the more reliable. The figures that *The Lancet* suggested, which range from 8,000 to 194,000—there was never an estimate of 100,000—need to be treated with the greatest scepticism.

**Mr. Simon Thomas** (Ceredigion) (PC): Does the Foreign Secretary accept that many of those who voted against the war in March voted for pursuing action through the United Nations in the earlier vote in February? A key matter is that the action was not taken legally within a United Nations framework. I accept the success of the elections, which were conducted through the United Nations thus demonstrating what it can achieve when supported internationally. Will the right hon. Gentleman ascertain what the United Nations can achieve in Iran as well as in Iraq?

**Mr. Straw:** To repeat the point, at the moment of decision, which was not February 2003 but 18 March 2003, the possibility of weakening Saddam through sanctions was not available. Everybody knows that. The choice before the House at the point of decision was between taking military action or walking away, with the consequence that sanctions would have degraded and Saddam would have re-emerged, strengthened and much emboldened. A majority in the House made one choice, others, including Plaid Cymru, made another. We take responsibility for our choice; the hon. Gentleman must take responsibility for his. It is an indelible fact that the consequences of the Liberal Democrat, Scottish nationalist and Welsh nationalist policy would have been that Saddam, an undemocratic tyrant, would still be there and there would have been no elections yesterday. Those parties must understand that.

**David Winnick** (Walsall, North) (Lab): Following that, do not those who say that they were always against Saddam's tyranny have a responsibility to tell us how that tyranny could have been destroyed without military action, and how genuine democratic elections could have taken place without the intervention of the occupying forces nearly two years ago? On the occupation, would it not be wise for all the Governments involved, including the British Government, regularly to review the position, for obvious reasons?

**Mr. Straw:** Of course I accept what my hon. Friend said at the outset. Those who willed the end had a responsibility to will the means, but they failed to do so. I have set out the timetable for the review of the mandate of the multinational force, and I believe that it would be most appropriate, certainly for the British Government, to stick to the timetable in resolution 1546.

**Mr. John Wilkinson** (Ruislip-Northwood) (Con): I associate myself with the most moving tributes paid by the Foreign Secretary and by my hon. Friend the Member for North Wiltshire (Mr. Gray) regarding the tragic loss of the C-130 Hercules crew yesterday. I am most appreciative of the unsung heroes of the Royal

Air Force's air transport force, who, in war, emergency and times of humanitarian catastrophe, fly in the most demanding circumstances at great personal risk. May I ask the Foreign Secretary to look forward to the time when Iraq is an established democracy born of the common sacrifice of British and Iraqi security personnel, and to make an investment in the training of such personnel at British training schools such as Sandhurst, so that, over the months and years ahead, we can more fully build a peaceful future for Iraq?

**Mr. Straw:** I associate myself entirely with the hon. Gentleman's opening remarks. I understand from the Minister of State, Ministry of Defence that there will indeed be offers from the British Government of such support and training for the Iraqi national forces.

**Tom Levitt** (High Peak) (Lab): After months of reporting and comment that can only be described as selective, will my right hon. Friend pass on to those elements of the British media that appear to have had a change of heart in the past 72 hours our polite and respectful thanks for having acknowledged that it was right to go ahead with the election, that it was a success and that the seeds of hope in Iraq have not only been sown but are germinating?

**Mr. Straw:** Yes, of course I will, but I think that those people might be coming to that conclusion themselves.

**Hugh Robertson** (Faversham and Mid-Kent) (Con): The shadow Foreign Secretary mentioned that a number of foreign nationals had been detained in connection with offences against the election yesterday. What preliminary assessment has been received from our embassies in Damascus and Tehran of the reaction of the regimes in Syria and Iran to yesterday's election? How does the Foreign Office think that the election will affect relations between those two countries and Iraq?

**Mr. Straw:** I am afraid that I have not seen any preliminary assessments from our posts in Damascus and Tehran, but I will be happy to write to the hon. Gentleman when I have done so. The Iranian Government have been supportive of the process; it is a majority of the people we might call their compatriots, the Shi'a, who in one sense stand to gain the most from the elections. I am not clear about the position of the Damascus Government, but we have looked to both Governments to ensure that they do not interfere in the internal processes of Iraq.

**Mr. Tam Dalyell** (Linlithgow) (Lab): Is it not an awkward and unpalatable reality that Kurds went into the polling booths yesterday and voted in their tens of thousands for parties that had promised not a federal Kurdistan, let alone a Kurdistan integrated into Iraq, but a separate Kurdish state? What is the attitude of our Government towards possible demands for the break-up of the Iraqi nation, given the difficulties that might result if the Iraqi Kurds were to be associated with the Kurds in Turkey and Iran?

**Mr. Straw:** My hon. Friend is very experienced in having to deal with secessionist nationalist parties that have completely unrealistic objectives such as the break-up of a sovereign state. The way to deal with such a situation is the one that, sensibly, we have in this country.

I can reassure my hon. Friend about the way in which we are dealing with those secessionist tendencies. Like every previous relevant Security Council resolution, resolution 1546 reaffirms the territorial integrity of Iraq—its existing borders. Democracy is about giving people freedom—freedom to argue for any cause that they wish to support—and that is what these people have done. International borders, however, cannot be rewritten by any political party of any one country, and they will not be in this case. The future of Iraq's constitution must lie within the existing international borders.

**Jeremy Corbyn** (Islington, North) (Lab): I thank the Foreign Secretary for his statement. Obviously one wishes Iraq a peaceful future, and he rightly mentioned all the hundreds of thousands who died under the Ba'athist regime in the past. However, in answering the questions from my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews) and my right hon. Friend the Member for Gateshead, East and Washington, West (Joyce Quin), he did not make clear exactly what was the estimated number of casualties in Iraq since the invasion. How many died in Falluja? Indeed, how many tens of thousands of people who are resident in Falluja have been denied the right to return to their own city, and are living in camps under some form of control? Surely, if we are to have openness and transparency, we need to know what estimates his Department and the Ministry of Defence hold of exactly how many people have perished since the invasion.

**Mr. Straw:** I published a very detailed written ministerial statement in, I think, October, and I will send my hon. Friend a copy.

My hon. Friend speaks as if the casualties that have arisen since the end of the major military action in April 2003 had somehow just happened. The only reason they happened was action by the terrorists. I look forward to the moment when my hon. Friend decides to condemn those terrorists. They are the people who have been doing the killing, and in the many provinces where there has been no terrorism there has been no killing. I think the moral of that is very clear.

**Mr. Colin Challen** (Morley and Rothwell) (Lab): The process of the election has indeed been very successful, and I think we can all welcome that, but whether the election has been successful per se is for history to judge, perhaps three or four years down the line.

Does my right hon. Friend agree that transparency must be at the heart of this? We want to avoid suggestions like those that were made after the Ukrainian elections, when it was said—perhaps erroneously—that western political participation funds had been used in a very partisan way. Should not the way in which the £5 million that the Government contributed to the Iraqi political participation fund was disbursed be published, so that everyone can see that it was given out fairly?

**Mr. Straw:** All the political parties in Iraq were operating under the Iraqi election law, and under the auspices of the Independent Electoral Commission for Iraq.

*[Mr. Straw]*

I am afraid that we must make a judgment about the elections not in three or four years' time but, as we make judgments about our own elections, when the results appear and, in this case, when the observers' findings appear. What we know now is that the turnout was much higher than expected, and the evidence so far suggests that the incidence of electoral abuse was much lower than expected. The legitimacy of the elections is therefore likely to be much greater than expected, and that should be a cause for great celebration.

**Ms Karen Buck** (Regent's Park and Kensington, North) (Lab): Will my right hon. Friend also pay tribute to the Iraqis in Britain who took part in the election activity over the weekend? Admittedly they did not have to demonstrate their physical courage like millions of Iraqis in Iraq, but they demonstrated their courage over decades, in many ways, when they were persecuted into exile by Saddam Hussein. Friends of mine were working on the election over the weekend, and I can testify to their passionate commitment to the democratic process.

Does my right hon. Friend agree that the politics of the diaspora are important here, as elsewhere? Will he do what he can to build on the connections, and ensure that Britain's Iraqi community feel able to be involved, in whatever way possible, in building and deepening democracy in Iraq?

**Mr. Straw:** Yes to the first question, and yes, very much, to the second.

**Mr. Kevan Jones** (North Durham) (Lab): Does my right hon. Friend agree that an important task for us all now is to support the brave men and women who were elected to the Assembly yesterday? When I visited Basra in December with other members of the Defence Committee, one of the points made by the provincial governor and council was that to travel to the United Kingdom they had to journey to Baghdad for travel documents. Will my right hon. Friend look at providing further facilities to our excellent consulate in Basra, where Simon Collis is consul-general, so that individuals who want to come to this country do not have to travel to Baghdad to get the documents and can have them issued in Basra?

**Mr. Straw:** My hon. Friend raises a fair point and I will certainly look at it.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): We will have to wait only a short while before the new Iraqi Government and the new Iraqi Parliament express their views about the withdrawal of troops. I hope that, however uncomfortable their decision is, considered from different points of view, it is accepted and acted upon because it will be a democratic decision.

Is my right hon. Friend aware that many commentators are saying that this is the most democratic election in Iraq for 50 years? I was there 50 years ago and it was a feudal monarchical regime that merely had a democratic cover. These are the most democratic elections that have ever been held in the history of Iraq, imperfect as they are and despite all the difficulties that are associated with them. That is an extra reason why we should accept the decisions made by the new Iraqi Government and the new Iraqi Parliament.

**Mr. Straw:** My hon. Friend's intervention speaks for itself and shows the wisdom of his age and of British national service.

**Harry Cohen** (Leyton and Wanstead) (Lab): While the people were courageous, is not the reality that this was an election but not as we know it? No press were allowed, for example, in Falluja. The Independent Electoral Commission of Iraq was not independent. It was appointed not by Iraqis but by Paul Bremer. However, if the election does have legitimacy, as the Secretary of State says, and if the coalition around Ayatollah Ali Sistani wins, as is expected, will not most Iraqis have voted for a timetable for the foreign troops to leave? If so, should not those foreign countries, us and the United States, respect that decision in the name of freedom and democracy and set that timetable to leave?

**Mr. Straw:** I say gently to my hon. Friend that I am surprised at his discomfort about the excellent result of the election. I have already spelt out that there is widespread acknowledgment that it has gone much better than expected. It is simply untrue that the Independent Electoral Commission of Iraq was appointed by Paul Bremer. It was endorsed by the United Nations and is working under the auspices of the United Nations special representative in respect of elections, Carlos Valenzuela, and the authority laid down in resolution 1546. The degree of scrutiny and external supervision of the elections, including 55,000 internal observers in Iraq and 120 foreign observers, indicates the quality of the elections in the special and very difficult circumstances of Iraq itself.

## Constitutional Reform Bill *[Lords]* (Programme) (No. 2)

4.28 pm

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. Christopher Leslie):** I beg to move,

That the Programme Order of 17th January 2005 in relation to the Constitutional Reform Bill [*Lords*] be amended as follows:

1. For paragraphs 1, 2 and 3(1) there shall be substituted the following—

'1. The Bill shall be committed to a Committee of the whole House.

2. Proceedings in the Committee, any proceedings on consideration and proceedings on Third Reading shall be completed in three days.

3.—(1) The following shall apply to proceedings in the Committee.'

2. In the Table, at the end there shall be inserted—

| *Proceedings* | *Time for conclusion of proceedings* |
|---|---|
| *Third day* | |
| Clauses Nos. 8 to 10, Schedule No. 1, Clause No. 11, Schedule No. 2, Clause No. 12, Schedule No. 3, Clause No. 13, Schedule No. 4, Clauses Nos. 14 and 15, Schedule No. 5, Clause No. 16, Schedule No. 6, Clauses Nos. 17 to 19, any remaining new Clauses relating to Part 2, any new Schedules relating to Part 2, Clauses Nos. 22 and 23, Schedule No. 7, Clauses Nos. 24 to 36 and 38 to 53, Schedule No. 9, Clause No. 54, any remaining new Clauses relating to Part 3, any new Schedules relating to Part 3, Clause No. 55, Schedule No. 10, Clause No. 56, Schedule No. 11, Clauses Nos. 57 to 74, Schedule No. 12, Clauses Nos. 75 to 93 and 96 to 104, any new Clauses relating to Part 4, any new Schedules relating to Part 4, Clause No. 110, Schedule No. 13, Clauses Nos. 111 to 117, Schedule No. 14, Clause No. 118, Schedule No. 15, Clauses Nos. 119 to 121, remaining new Clauses, remaining new Schedules, remaining proceedings on the Bill | Five hours after the commencement of proceedings on the Bill' |

3. For paragraphs 4 to 7 there shall be substituted—

'4.—(1) This paragraph applies to any proceedings on consideration and proceedings on Third Reading (together referred to as "remaining proceedings").

(2) Remaining proceedings shall (so far as not previously concluded) be brought to a conclusion—

(a) at the moment of interruption on the third day, or

(b) one and a half hours after the commencement of remaining proceedings,

whichever is the later.'

Following the comments made by some hon. Members during the Second Reading debate on the Bill on 17 January, the Government and Opposition have had further discussions through the usual channels and agreed to change the programming of the Bill. The motion will allow the entire Committee stage to take place on the Floor of the House, rather than some of the Bill's constituent parts being debated upstairs in Committee. The third day will now consist of the remaining proceedings in Committee, followed by proceedings on consideration and Third Reading. Many hon. Members expressed the view that that was a more appropriate arrangement. They prefer to see this constitutional matter taken through completely on the Floor of the House.

I am happy to compromise and make that change and I hope that we can move on to the debate proper.

4.29 pm

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): I thank the Minister, as I did the Leader of the House, for agreeing that all stages of this Bill, which is of high importance, should take place on the Floor of the House. I am glad that it has been possible to reach agreement. It is an important convention of the House that goes back to 1945. Its genesis lies in the comments of Herbert Morrison to the Procedure Committee. In those circumstances, I am pleased that the convention will continue and that this important Bill will be debated on the Floor of the House.

**Mr. Paul Tyler** (North Cornwall) (LD): We, too, welcome the Government's change of heart; it would be churlish not to do so. On both sides of the House, we recognise that the Bill is an important measure and I believe that there is a now a broad sweep of agreement on many of its provisions, but that is not to deny the fact that it is useful, on constitutional matters, to decide the issues on the Floor of the House in line with the convention. I am not a particularly conventional Member and I hope that we can make speedy progress on the Bill. The sooner it reaches the statute book, the better.

4.30 pm

**Sir Patrick Cormack** (South Staffordshire) (Con): I briefly add my thanks as one of the Members who was particularly angry that the Bill was not to be taken on the Floor of the House. I would say to the Minister, in the same spirit of constructive conciliation, that it is a pretty tight timetable—today, tomorrow and on the third day. I hope that the Government will take note of that and, if necessary, introduce a supplementary motion.

4.31 pm

**Mr. William Cash** (Stone) (Con): Although I am glad that we are taking these proceedings on the Floor of the House, I have to say that the time allotted is absurd, given the depth of the issues involved. I believe that we will end up finding it increasingly difficult to get to the bottom of many of the issues of constitutional supremacy, which many people would like to be buried at the bottom of the sea.

4.32 pm

**Mr. Edward Garnier** (Harborough) (Con): I am delighted that the Government have granted a third day on the Floor of the House, but I regret the fact that, with a Bill of such importance, only three days have been provided. It is a large Bill and it carries with it huge implications for the future of our country. I hope that the Government will allow further days of debate on the Bill; if we do not do a proper job here, it will have to be considered at greater length in the House of Lords.

**Mr. Leslie:** I hear what hon. Members are saying. We have moved a great deal on the main principle of the

*[Mr. Leslie]*

Committee stage, which has been widely welcomed. Only after we start the debate and find out how much progress is being made will we be in a position to judge whether the time allotted—always a matter of contention—was adequate for all hon. Members. The broad consensus is, I think, that it will be.

*Question put and agreed to.*

# Orders of the Day

## Constitutional Reform Bill *[Lords]*

1ST ALLOTTED DAY

(Clauses Nos. 1 to 7, 20, 21, 37, 94, 95 and 105 to 109, Schedule No. 8, any new Clauses amending section 12 of the Justice (Northern Ireland) Act 2002, and any new Clauses relating to matters connected with the Supreme Court of the United Kingdom as reserved or excepted matters under the Northern Ireland Act 1998).

*[Relevant Documents: First Report from the Constitutional Affairs Committee, Session 2003–04, HC 48 I and 48 II, on Judicial appointments and a Supreme Court (court of final appeal), and the Government's response thereto, Cm 6150; and the Third Report, Session 2004–05, HC 275 I and 275 II, on the Constitutional Reform Bill [Lords]: the Government's proposals]*

*Considered in Committee.*

[SIR ALAN HASELHURST *in the Chair.*]

### Clause 1

THE RULE OF LAW

4.33 pm

**Mr. William Cash** (Stone) (Con): I beg to move amendment No. 364, in clause 1, page 1, line 7, at end add—

'(2) In this section "the rule of law" means in particular the sovereignty of the Queen in Parliament in making the law and the sovereignty of the Queen's courts in interpreting and applying both that law and the common law.'.

**The Chairman of Ways and Means:** With this it will be convenient to discuss new clause 8—*The rule of law (No. 2)*—

'(1) Together with the sovereignty of Parliament, the rule of law shall continue to be a central principle of our constitution.

(2) The Lord Chancellor must use his best endeavours to ensure that the rule of law is respected.

(3) Nothing in this section shall make the duty of the Lord Chancellor under subsection (2) enforceable by law if it would not otherwise be so enforceable.'.

**Mr. Cash:** These are very deep issues. In fact, we can say with confidence that the Constitutional Reform Bill, which opens "Part 1, Clause 1, The Rule of Law", is not an insignificant matter, to say the least.

In dealing with clause 1, I have tried to achieve a definition of the rule of law. The Bill establishes duties and obligations, boldly asserting:

"This Act does not adversely affect... the existing constitutional principle of the rule of law, or... the Lord Chancellor's existing constitutional role in relation to that principle".

Bearing in mind the fact that there must be some profound reason behind the Government wanting to

achieve this, I believe that we must have a proper definition of what the rule of law actually means. I have suggested that it should be defined as meaning

"in particular the sovereignty of the Queen in Parliament in making the law and the sovereignty of the Queen's courts in interpreting and applying both that law and the common law."

I have chosen the words carefully because of a House of Lords case in which Lord Bridge made an important judgment on what we can call the Grampian case. The wording that he gave and the wording that I have used vary slightly for a specific reason. He said that the rule of law was

"the sovereignty of the Queen in Parliament in making law and the sovereignty of the Queen's courts in interpreting and applying the law".

Far be it from me to do more than offer suggestions about how the definition might otherwise be worded, but I am moving the amendment because at the heart of the question of the interpretation of the sovereignty of the Queen in Parliament is the fundamental fact that it is down to judges to give effect to the statutes that are passed in the House. By using the words, "that law", and referring them back to statutes passed by the Queen in Parliament, I am saying that doing that is the prime duty of judges.

There are rather esoteric cases about which it is said that judges might be given a jurisdiction in respect to the prerogative, but I disregard that for practical purposes. There is absolutely no doubt that the sovereignty of the Queen's courts extends to the common law. However, when we consider the interpretation of treaties, the key point is that only treaties that have been given statutory effect would fall under the parameters of my amendment.

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Does my hon. Friend accept that in his attempt to define the rule of law, he is defining an element of it, rather than the complete territory covered by the expression? For example, the rule of law says that there should not be arbitrary use of power and that discretion should be conferred on a Government in a limited manner. Does he agree that he is attempting to define an important aspect of the rule of law?

**Mr. Cash:** That is why the amendment includes the words, "in particular". My hon. Friend refers to the arbitrary use of power, but that would of course be dealt with under the rubric of the common law because that is the arena in which the judiciary rightly have not only sovereignty, but the right to intervene. One can immediately think of a series of common law remedies. With respect, I disagree with my hon. Friend's interpretation of my amendment because it does not leave anything out—it is inclusive. I am saying, however, that the specific reference to the words, "that law", refers back to treaties to which statute has given effect. We all know that treaties do not have any effect in domestic law unless they are implemented by statute, and the Bill would be greatly improved if it made that clear.

**Mr. John Redwood** (Wokingham) (Con): Does my hon. Friend accept that directly acting European law, such as a European regulation that did not require the express consent of, or translation by, Parliament, would still be covered by his doctrine, because it would emanate originally from the European Communities Act 1972?

**Mr. Cash:** Absolutely. That is where we enter extremely deep territory. We shall come on to those questions a little later.

The fact is that it is open to the UK Parliament, where it is prepared to do so, as a matter of political will that I think is well overdue, to express itself by statute inconsistently with the European Communities Act 1972. In McCarthy's *v.* Smith, Lord Denning, and in the case of the metric martyrs, Lord Justice Laws, made it crystal clear that judges are under an obligation to give effect to the latest, subsequent, inconsistent, clear and unambiguous enactment of the House.

For reasons that I shall not go into at this point in the debate, serious doubts arise both in the context of the European constitution and also in relation to the question of judicial drift, where it is becoming increasingly clear that judges tend to regard a separate body of law as being somehow superior to that which is enacted in the House. Not only must that be stopped, it must be clearly dealt with in relation to Bills such as this. Indeed, I have tabled new clauses entitled "Supremacy of Parliament" in relation to both the European Communities Act 1972 and the Human Rights Act 1998.

It is well established not only in McCarthys *v.* Smith and in the metric martyrs case that subsequent legislation passed by the House must be given effect by the judges but also in the context of the Human Rights Act, which I suspect is a matter of considerable concern to the Government at present. By passing that Act, despite my dire warnings and those of others as to what would happen, the Government have in fact found themselves in a considerable judicial or jurisdictional mess. Indeed, in the cases of Simms and O'Brien, as I said when I occupied my previous position on the Opposition Front Bench, Lord Hoffmann unequivocally stated that it was open to the British Parliament to legislate inconsistently with, or even to repeal, the Human Rights Act 1998. He said that if the Government did so, they would have to bear the political cost, but the bottom line is that it is open to Parliament to legislate, as I said in my previous capacity, with respect to both the European Communities Act 1972 and the Human Rights Act 1998, inconsistently with those enactments. It is the duty of judges to give effect to enactments providing that the enactments in question are clear and unambiguous.

That is what I mean by the words "that law" in my amendment. The rule of law means the rule of law exercised by judges in interpreting statute law and the common law. It is unnecessary for me to go into further detail on that question, as I have made my position abundantly clear.

**Mr. Edward Garnier** (Harborough) (Con): How does my hon. Friend's proposal in amendment No. 364, and the wording that he has been explaining, alter the current position?

*[Mr. Cash]*

**Mr. Cash:** It is a clear statement of what is in my view the current position, with a proviso, although I would not want to appear pedantic. In the Grampian case, Lord Bridge stated the same proposition in slightly different wording. As I said when I moved the amendment, he has said that the rule of law means

"the sovereignty of the Queen in Parliament in making law and the sovereignty of the Queen's courts in interpreting and applying the law".

I say with the greatest respect to such a noble and learned judge that it might have been preferable to have made it clear that the law that was being applied was both that made by Parliament in statute and the common law. For reasons that we have discussed, that would have been a little more precise. I do not want to criticise anyone for having made a slightly shortened version of what I was saying, but I think that the amendment is an improvement.

The question of the prerogative is separate. It is a matter of concern that treaties are made by prerogative and that there is an increasing tendency for those treaties, by judicial drift, to be given a greater status than they have in the context of the making of statute law. Treaties, including of course the European Community's treaties and other agreements such as the European convention on human rights, can have full effect in domestic law only if they are supported and enacted by statute.

4.45 pm

**Mr. Garnier:** A moment ago, my hon. Friend said that it would be open to the House to repeal the Human Rights Act 1998, which would simply remove the ability of English courts to try European convention points in the courts of England and Wales. Decisions would have to go to the European Court of Human Rights to be justiciable. What would my hon. Friend say if this Parliament not only repealed the Human Rights Act, but passed an Act removing us from the European convention? How would courts under his definition of the rule of law deal with that? Presumably, our membership of the European convention on human rights is a treaty matter and dealt with by the prerogative, and therefore not within the power of this House or this Parliament to affect.

**Mr. Cash:** I do not agree with that at all. I suspect that my hon. Friend the Member for Aldridge-Brownhills (Mr. Shepherd) is about to leap to his feet. We had an interesting and quite heated exchange with the Foreign Secretary on this question on 16 September two years ago, when I was on the Front Bench, when he asserted that international treaties have primacy over statute. Of course, that is complete nonsense. After much further questioning over the following year, both written and oral, he eventually conceded that that was wrong.

I refer my hon. and learned Friend to the Commissioners for Revenue and Customs case and to the judgment of Lord Diplock in—I think—1967, in which he unequivocally stated that it is open to any statute to break a treaty. I paraphrase, but I have the full text in front of me if my hon. and learned Friend is interested. The bottom line is that this is very important territory and that is why I am so concerned that there are those who would like to bury the question of the supremacy of Parliament and would rather that it was not given the coverage that I would prefer.

**Keith Vaz** (Leicester, East) (Lab): The hon. Gentleman will know that the Second Reading of the European Union Bill will be taking place next week, so I am sure that we will have more of this in that debate. Can he think of an example in recent history of a Lord Chancellor acting contrary to the principles set out in clause 1(b) of this Bill?

**Mr. Cash:** I can say unequivocally that we have seen a serious invasion of the principles on which our constitution has been constructed, since 1688 at any rate—over and over again. That problem has worsened. It is extremely disturbing that that tendency has been perpetuated and entrenched by the Government, who have behaved wantonly with regard to the rights and principles on which our constitution is based. We could be here all day discussing that.

**Mr. Richard Shepherd** (Aldridge-Brownhills) (Con): I am not a lawyer, but there is a simple but important constitutional principle at stake. It has been adumbrated by parliamentary Committees, and it deals with the relationship of treaties to law. Treaties that exercise a prerogative power are subordinate to the legislative process. The European Communities Act 1972 has the force of law in Britain only because Parliament has thus legislated. Similarly, the European Court of Human Rights is subject to detailed legislation, so one can say that it meets the constitutional test. Other treaties, however, are pure exercises in prerogative power, and are therefore gainsaid by any direct reference in British law that is contrary to any of their provisions.

**Mr. Cash:** I am grateful to my hon. Friend for that explanation and the reaffirmation of the position. It is important to consider what a constitution is. In the United Kingdom, we understand it to be the whole system of government and collection of rules, which would effectively be translated into a justiciable statute, as the courts would have the power to interpret the provisions of the Bill. That raises the stakes considerably. Parliament is involved, but only to a limited extent, in the making of treaties, which are laid before the House for 21 days under the Ponsonby rule. In a 2002 All Souls lecture, Lord Steyn said that

"the supremacy of Parliament is the paramount principle".

I wish to reassert that principle, and it is a matter of grave concern that it has been subject to continuing erosion by judicial drift. The cases of McCarthy's *v.* Smith, the metric martyrs and so on demonstrate that the European Union has assumed a legal personality, so we are in extremely dubious and difficult territory. In the 1964 case of Costa *v.* ENEL, and also in the Simmenthal and Internationale Handelsgesellshaft cases, the European Court of Justice has asserted its supremacy and superiority of jurisdiction not only over the laws of member states but over their constitutions. We acknowledged its primacy in the European Communities Act 1972, but only in respect of laws that had been enacted and functions conferred at that time.

The whole thing has got completely out of control, and we now have a deepening to the point where the European constitution could effectively become the rule of law for the United Kingdom. Under article I.6, it is clear that the European constitution—through the European Court of Justice, with the revocation of the treaties, and the reassertion of primacy over the new treaty, which is completely new—would have the effect of subordinating the will of the legislators in the House to decisions that were taken by the European Court of Justice.

In other words, the rule of law and the principles contained in the E.U. would subordinate the people of this country in their choices in general elections to the jurisdiction of the European Court of Justice in relation to all the matters in respect of which powers were conferred under the European Union Bill, which we are about to consider. Perhaps I can leave things at that for this purpose—although this is a very serious and deep question, we need to consider other matters today—but the bottom line is that this matter ought to be clarified, and the amendment is one way to achieve that.

**Mr. Heald:** In our constitution, there is no true separation of the powers of the three main institutions of the state: the legislature, the Executive and the courts. Although we have three such bodies, their powers are mixed and mingled. The Executive come from the legislature, but each is supported by an interdependent civil service, and in the case of Parliament, by the House authorities. The courts are independent in their judgments, but the senior judge is a member of the Cabinet as Lord Chancellor, and the courts are run by the civil service, which is part of the Executive.

In such a constitution, strength comes from being part of the mixture and having a place at the table where power is exercised—in Cabinet. The Executive are stronger by being part of the legislature and by having a majority there. Parliament can benefit from holding Ministers to account in a very direct way, using questions, statements, debates and Select Committees. The post of Leader of the House is a senior Cabinet appointment. The courts benefit from having a senior Cabinet Minister—the Lord Chancellor—at the seat of power, arguing for judicial independence and being the Prime Minister's conscience by advocating the importance of the rule of law.

It is a sad reflection that the Prime Minister did not appreciate any of those important considerations when he set about abolishing the post of Lord Chancellor on the back of a reshuffle. It was a back-of-the-envelope job, decided at short notice, without even consulting the Lord Chief Justice, and done in the cosy atmosphere of the chums around the sofa at No. 10—of course, by that time the chums no longer included the then Lord Chancellor.

Lord Butler has expressed his concerns about the way in which the Prime Minister conducts his business, and particularly about the fact that the advice of senior civil servants is often not considered. We now learn from documents released under the Freedom of Information Act 2000 as a result of my requests that the most senior civil servant in the Department advised against dismantling the Lord Chancellor's role very strongly indeed. He said:

"My advice is that the Lord Chancellor should resist all proposals to dismantle his office . . . the fact that the Lord Chancellor is also a senior Minister is a particular advantage".

The Prime Minister made the changes without even considering such advice. He may well feel in retrospect that it would be better never to have started the process of abolishing such an important post; it has brought him nothing but trouble and hasty backtracking.

Clause 1 recognises the constitutional principle of the rule of law and the Lord Chancellor's role in that context, and that the clause itself need not be justiciable. However, the clause does not go far enough. The Bill does not recognise the twin principles of the rule of law and parliamentary sovereignty. It does not urge the Lord Chancellor to use his best endeavours to ensure respect for the rule of law, which is a key role for him to act with other Ministers and in Cabinet. The rule of the law is not explained in any detailed measure in our constitution, and we agree with the Government that to make it justiciable would give judges too wide a scope to determine our constitutional law.

5 pm

At its simplest, "the rule of law" is used to denote that law rules, that all a Government's powers are derived from statute or the royal prerogative, and that individual rights cannot be infringed without the authority of one or other source of power. However, it goes further in asserting that where discretionary power is given to the Executive, it should not be arbitrary power, and that society is entitled to expect established principles of fairness and justice from its ruler.

Taking a wide interpretation of that principle, there are respectable arguments that certain provisions in anti-terrorist legislation could be regarded as infringing the rule of law, and provisions limiting the rights of terrorist suspects might be said to fall within that category. The Government do not accept that analysis, but the Lord Chancellor's role is to air such concerns in Cabinet, if only to explain why he does not agree.

The doctrine of the sovereignty of Parliament is a doctrine of the courts: Parliament is sovereign only because the courts say that it should be. Until the middle of the 18th century, common law judges generally held the view that the sovereignty of Parliament was subordinate to the wisdom of the common law. That doctrine fell away in the 19th century, and now we all readily admit that Parliament is sovereign. Nevertheless, that sovereignty is an expression of the courts, not of Parliament.

**Mr. Shepherd:** In one way or another, I am listening to a rewriting of our constitution. Many of us say that the sovereignty of Parliament is a valid constitutional concept because it represents the sovereignty of the people, which is inalienable. My difficulty with my hon. Friend's argument is that we are discussing very big constitutional themes. I do not know how the rule of law is defined, who defines it, how it is a constitutional document and how we can safeguard it. Perhaps my hon. Friend will point out where the rule of law is satisfactorily defined in the Bill so that we, the people—let us use the language of constitutions—can determine whether the Bill is consonant with the rule of law.

**Mr. Heald:** The answer might be that academics identify various categories of the rule of law, which

*[Mr. Heald]*

cover everything from the simple statement that "the law rules", to examining issues involving arbitrary power and discretion. The term can be used very widely.

I agree with my hon. Friend the Member for Stone (Mr. Cash) that a case exists for placing parliamentary sovereignty at the core of the definition of the rule of law and including it in clause 1. My method, new clause 8, involves recognising a separate principle concerning the sovereignty of Parliament in clause 1. Clause 1 is included in the Bill because of the proposed abolition of the role of the Lord Chancellor, and it defines exactly what his roles have been in the past, given that his current role is being changed. The original proposal was to abolish him completely, but we have made a little progress on that point.

New clause 8(2) would require the Lord Chancellor to

"use his best endeavours to ensure that the rule of law is respected"

by Ministers other than himself, which is our understanding of what a Lord Chancellor does in Cabinet. If a Minister proposes a draft legislative measure that, in the Lord Chancellor's opinion, is about to impinge on the rule of law, it is his constitutional duty to speak up in Cabinet and say so, which is what new clause 8(2) would allow. That point should be made clear on the face of the Bill.

**Keith Vaz:** I return to the point that I made to the hon. Member for Stone (Mr. Cash): can the hon. Member for North-East Hertfordshire (Mr. Heald) think of an example of a Lord Chancellor in the present Administration or the previous Administration who has not discharged his functions according to clause 1(b)?

**Mr. Heald:** It is because we believe that the proud tradition of the role of Lord Chancellor is to uphold the principles of the rule of law that we are so anxious to have such a provision on respecting the rule of law added to the Bill.

**Mr. Shepherd:** How can we possibly know? I presume that the Lord Chancellor's advice is given in confidence to the Cabinet. We will not know one way or the other. That is part of the reason why one wants to tickle out what these provisions mean.

**Mr. Heald:** I agree that we want to add to the Bill that part of the Lord Chancellor's duty should be to speak up in Cabinet for the principle of the sovereignty of Parliament. Of course we do not know exactly what happens in Cabinet until the memoirs are written, and the 30-year rule no longer applies. It is my impression, however, with which I hope that my hon. Friend might agree, that successive Lord Chancellors—senior figures in their own right, legally qualified, and towards the end of their career—have been prepared to stand up for the independence of the judiciary, the rule of law and the important role of the sovereignty of our Parliament. We would like to preserve the Lord Chancellor's existing duties in respect of the rule of law, and to ensure that the change in the more general duties of the office of Lord Chancellor does not alter the important duty to bring to the attention of other members of the Government any proposed action that may offend against the rule of law.

**Vera Baird** (Redcar) (Lab): I follow what the hon. Gentleman is saying, but I am concerned about the way in which he has chosen to try to do it. First, if he accepts that the Lord Chancellor's existing constitutional role is to protect the rule of law, why is he concerned? Clause 1(b) expressly says that

"the Lord Chancellor's existing constitutional role in relation to that principle"

must survive. He is therefore just repeating an existing provision. It concerns me that, in fact, his new clause 8 would erode that duty, because all that new clause 8(2) would require the Lord Chancellor to do is to

"use his best endeavours to ensure that the rule of law is respected".

New clause 8(1) separates the two, saying,

"Together with the sovereignty of Parliament, the rule of law shall continue to be a central principle",

but requires the Lord Chancellor to protect only the second, not the first.

**Mr. Heald:** That is exactly the point made by my hon. Friend the Member for Stone—that the rule of law comprises the sovereignty of Parliament and the courts, and that it is therefore wrong to describe the sovereignty of Parliament as separate from the rule of law. My view is that both are true. The sovereignty of Parliament is a separate principle, but it is on that that the most important parts of the rule of law are based—that the courts in this country implement laws passed by Parliament, and that the sovereignty of that Parliament is implicit in that principle. I fully accept that that is arguable. The key difference now is that for the first time we are seeking to set that out in statute.

The hon. and learned Member for Redcar (Vera Baird) says, as did the Lord Chancellor in the other place, that the provision that the existing constitutional role is not adversely affected is adequate. Given that part 1 of the Bill is designed to have a declaratory effect, however, we want to go one stage further and include the reference to respect and best endeavours. We feel that that takes the provision a little further and improves it.

**Sir Patrick Cormack** (South Staffordshire) (Con): Is not this House at something of a disadvantage? I do not wish to make any disparaging or facetious comments about the Under-Secretary of State for Constitutional Affairs, the hon. Member for Shipley (Mr. Leslie), who is extremely diligent and tries extremely hard, but it is a great pity that a Cabinet Minister is not dealing with this issue. Is it not also a pity that, because the Attorney-General is not a Member of this House, and the Solicitor-General, a Law Officer of the Crown who is a Member of this House, is not present, we are at a disadvantage because of the way in which the Government are treating this House in that context?

**Mr. Heald:** I do not want the Lord Chancellor to end up in the House of Commons. I like the fact that he is in the House of Lords. We will debate that later. I am somewhat surprised that the Solicitor-General has not seen fit to come here today, but there are doubtless reasons for that.

**Keith Vaz** *rose*—

**Mr. Heald:** I want to deal with the issues raised by my hon. Friend the Member for Stone, who seeks to define the rule of law as including the sovereignty of the Queen in Parliament and of the courts. In my view, they are indeed part of the rule of law and are at the heart of the statement of the rule of law, which is that "law rules". He also seeks to clarify the law in an area of academic contention. He wants to establish whether the UK Parliament and courts are sovereign, so that Parliament can pass an Act that effectively disapplies the European Communities Act 1972 or the Human Rights Act 1998 on a case-by-case basis, given that such Acts were passed to recognise international obligations, and expressed themselves as affecting future obligations as well as past.

Section 2(1) of the 1972 Act incorporated all existing EC legislation into UK law and

"All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties".

Section 2(4) of the 1972 Act provides that past or future laws shall be construed, and shall have effect, subject to the provisions of section 2. The effect is to give primacy to EU law—as it now is—in certain areas of competence. As was explained as early as 1967, in the White Paper entitled "Legal and Constitutional Implications of UK Membership of the European Communities":

"The Community law having direct internal effect is designed to take precedence over the domestic law of the Member States. From this it follows that the legislation of the Parliament of the United Kingdom giving effect to that law would have to do so in such a way as to override existing national law so far as inconsistent with it . . . It would also follow that within the fields occupied by the Community law, Parliament would have to refrain from passing fresh legislation inconsistent with that law as for the time being in force. This would not involve any constitutional innovation. Many of our treaty obligations already impose such restraints—for example, the Charter of the United Nations"

**Mr. Cash** *rose*—

**Mr. Shepherd** *rose*—

**Mr. Heald:** May I just finish this point?

This issue came into focus during the Factortame case, which concerned the UK's obligation under EC law to allow Spanish fishermen to fish in UK waters within prescribed quotas. The UK enacted laws in 1988 under which, to be entitled to fish UK waters, a vessel would have to register as British. Some 94 boat owners took the UK to court, claiming that those laws were incompatible with the relevant EC treaty and the common fisheries policy. Their case ultimately proved successful in the European Court, and UK law had to be changed.

However, the interesting point came when an application for interim relief was made, in the first instance, to the UK divisional court. The court granted relief, but the decision was overturned on appeal and the Court of Appeal's ruling was upheld in the House of Lords. When the matter came before the European Court, the UK argued that Community law did not oblige or enable a national court to grant interim relief suspending the application of a national measure. The European Court ruled that where a national court would have granted interim relief to protect directly effective Community law rights but for the national measure, it must set aside the national measure. The full effectiveness of Community law would be impaired, it said, if a jurisdictional rule in the law of a member state prevented its national courts from granting interim relief.

The House of Lords was under a Community law obligation to give effect to the European Court ruling, because it was automatically brought into English law by operation of section 2(1) of the 1972 Act. Since then, many have argued that if the law changing the fishing registration arrangements had expressly disapplied the 1972 Act, it would have been incumbent on UK courts to uphold the UK law, because of the sovereignty of Parliament.

There has also been debate about the extent to which the decision on interim jurisdiction would affect situations where a different jurisdictional rule is involved, and about the extent to which the sovereignty of Parliament might be affected. It is clear that the old rule that a new Act takes precedence over an old one, and that any inconsistency is resolved by the doctrine of implied repeal, has been modified by the 1972 Act and by the Human Rights Act. Express disapplication of these provisions would be required in order to make an effective change in the law, if such a change conflicted with EU law. My hon. Friend the Member for Stone asked whether even that would be enough, and whether, if Parliament expressly disapplied the 1972 Act in respect of a particular Act, that would be effective in UK courts.

5.15 pm

Some argue that the European constitution takes this a step further, making citizens directly bound by the legal supremacy of Union institutions. My hon. Friend the Member for Stone has pursued these issues with Ministers, as has my hon. Friend the Member for Aldridge-Brownhills (Mr. Shepherd), and the answer to a written question reflects what they wished to establish. The Minister stated:

"The ultimate guarantee of parliamentary sovereignty lies in the power of Parliament to repeal all or any of the Acts which give effect to the EU treaties in this country. It is within Parliament's power to legislate contrary to the UK's treaty obligations. This of course includes legislation that might impact on the effective implementation of Article I-10(1)—

that is, of the proposed European constitution. The Minister's reply continued:

"The result of so doing, however, would be to place the UK in breach of its treaty obligations." —[*Official Report*, 15 December 2003, Vol. 415, c. 732W.]

What my hon. Friend the Member for Stone seeks to add to the Bill would, in his view, place that principle of parliamentary sovereignty firmly on the face of the Bill.

*[Mr. Heald]*

It seems hard for the Government to deny him. The Minister may say that that is unnecessary, but that argument might apply equally to clause 1 itself, yet the Government accept the necessity of the declaratory effect.

As the then Minister for Trade and Investment, who is now the Minister for Energy and E-Commerce, said in answer to a debate initiated by my hon. Friend on 24 March 2004:

"our position has been entirely clear, and we have held it throughout. Parliament already has the power to legislate contrary to our treaty obligations" —[*Official Report, Westminster Hall*, 24 March 2004; Vol. 419, c. 317WH.]

He went on to cite Lord Denning, who said in the case already mentioned, Macarthy's Ltd. v. Smith, that it is always within Parliament's power to legislate contrary to the UK's treaty obligations. The Minister went on to point out that this would cause a good deal of trouble. It would certainly lead to serious discussions within the EU, but the question before us is not whether to have such an argument, but whether we are able to pass such a law, if we choose to do so, in a way that is effective in the UK courts. I believe that we are entitled to do that. Ministers seem to agree, so there is no reason not to add the words contended for by my hon. Friend.

It is right to make it clear that the issue is of concern more widely than just to UK Conservatives. In both Germany and Denmark there is the belief that certain aspects of their constitutional law take precedence over EU law. That was asserted by the German constitutional court in the Maastricht judgment in 1994. It was hoped that there would be no conflict, but the judgment asserted the German court's right to disapply an inconsistent EU law. In Poland, senior academics argue that EU law has no primacy over the country's constitution.

The most recent statement of the law in this area in the UK came from Lord Justice Laws in the so-called metric martyrs case, Thoburn v. Sunderland city council. After describing a hierarchy of statutes and identifying the European Communities Act and the Human Rights Act as "constitutional statutes", he went on to say:

"Ordinary statutes may be impliedly repealed. Constitutional statutes may not."

That is controversial. He continued, less controversially:

"For the repeal of a constitutional Act or the abrogation of a fundamental right to be effective by statute, the Court would apply this test: is it shown that the legislature's actual—not imputed, constructive or presumed—intention was to effect the repeal or abrogation? I think the test could only be met by express words in the later statute, or by words so specific that the inference of an actual determination to effect the result contended for was irresistible."

He stated that what is required are

"unambiguous words on the face of the later statute".

My hon. Friend wishes to have parliamentary sovereignty written into the Bill, and there is no reason not to do that. He may disagree with the EU more than some—probably including me—but the provision is not about an argument with the EU. It is about the powers of Parliament and the courts, and I believe it reflects the current state of the law.

**Mr. Paul Tyler** (North Cornwall) (LD): I shall be brief, as I am agog to hear how the Minister will respond to the interesting discussion between two Conservative Members, one on the Front Bench and one on the Back Bench. From what the hon. Member for North-East Hertfordshire (Mr. Heald) said, I am not clear whether he prefers his new clause or the amendment tabled by the hon. Member for Stone (Mr. Cash).

**Mr. Heald:** I said the new clause and the amendment were not inconsistent. I hope to have a separate Division on new clause 8 in due course.

**Mr. Tyler:** I understand that point, which is very interesting, but as I read it, the amendment and the new clause could not be included in the Bill together, so there is a potential conflict of interests.

I pay tribute to our briefing from the Select Committee on Constitutional Affairs on the Bill and on the amendment. I hope to see that innovation more often from Select Committees. My right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith), the Chairman of that Committee, ensured that its third report of the 2004–05 Session set out an interesting and useful analysis of the way in which the Bill started its life in the House of Lords, referred to the concordat, to which much reference has been made—no doubt more will be made this evening—and included a helpful clause-by-clause comparison. The Minister may now be regretting that his colleagues in the other place decided to include clause 1, thus enabling us to have this sort of discussion. It might have been easier if it had been left out.

Nevertheless, we welcome the clause, and we want to be sure that it will be sufficient as it stands. That is surely what our business is. As a non-lawyer with some experience of the law as a recipient, I have always inclined to the view that the simpler the law can be, the less it can be misunderstood and misinterpreted. I start from the basis that the Bill as it stands, which is very simple and straightforward, is preferable to either of the alternatives that we are considering.

I understand the concern of the hon. Members for North-East Hertfordshire and for Stone about providing further definition and exploring issues of enforceability. I fear that I lost the drift—that is probably the right word—of the argument of the hon. Member for Stone. He said—I hope that I am quoting him correctly—that his amendment would ensure that there was a clear statement of the current position, but he then paused and said that he had a proviso. His comments about the proviso went on for two or three more minutes, so the clarity of the position that he was describing was rather lost. It was curious that he then stepped further into the future and sought to anticipate the effect of the European constitution, which is not even before the House yet. As I understood it, his position is that he is not in favour of it, so it was curious that he tried to anticipate it.

**Keith Vaz:** Does the hon. Gentleman agree that the phrase "best endeavours" in new clause 8 would weaken the effect of clause 1(b)?

**Mr. Tyler:** I understand that point. The hon. Member for Stone was asked about the enforcement of the provision, given the fact that the Cabinet and its Committees sit in private. How could such provision ever be enforced? I think that it could be interpreted as weakening the Bill as it stands.

I am afraid that I am very much with the hon. and learned Member for Redcar (Vera Baird), in that I do not understand the necessity of the further definition. If anything, it would dilute and reduce the impact of clause 1 as it stands. The most interesting point about the argument of the hon. Member for North-East Hertfordshire is that he is obviously edging towards a complete and comprehensive written constitution. That happens to be the position of my right hon. Friend the Member for Berwick-upon-Tweed, myself and our party. As far as I am aware, such a position does not represent the views of the Conservative party. Surely, a constitution is needed precisely to define and codify to avoid overlap, lacunae and turf wars. That is, after all, the basic argument for a European constitution, and it will be interesting to hear whether that argument will be put from the Conservative Front Bench.

**Mr. Cash:** Will the hon. Gentleman give way?

**Mr. Tyler:** I am just about to conclude.

My point for the Minister is that I find it difficult to understand what would be added if the amendment or the new clause were included in the Bill, when as I see it, we already have a very clear statement of the rule of law. It seems to me that that is all we should be seeking to achieve.

**Mr. Redwood:** I support my hon. Friends the Members for North-East Hertfordshire (Mr. Heald) and for Stone (Mr. Cash) in saying that the sovereignty of Parliament should be clearly recognised as an important principle in the Bill and in clause 1. I do not see how the Government can, in fairness, reject that plea, although I am sure that they will find ways of doing so that are unfair. In fairness, if they think that their Bill requires an assertion that the Lord Chancellor must uphold and work for the rule of law, it is surely important to recognise the fundamental principle of our legal system that all statute law emanates from the power of the people expressed through their Parliament.

As my hon. Friend the Member for Aldridge-Brownhills (Mr. Shepherd) reminded us, power ultimately comes from the people, who entrust it for a period of years to their elected representatives until it returns to the people when a new Parliament has to be elected. It used to be a fundamental principle of our excellent British constitution, as recorded in a variety of documents over the years, that no Parliament could bind its successors. That principle is crucial if the people are to have power over their legislators and to be able to choose different legislators at the date of dissolution and subsequent election if the previous legislators have not suited their will and purposes. That is why some of us have been worried by the issue that bedevilled the early part of the discussion on this big Bill: whether European law can now effectively bind future Parliaments, and whether treaty law can do what statute law cannot do and thwart the will of the British people should they change their minds about things done in their name by previous Parliaments through the European Union.

Therefore, it is welcome to discover, as my hon. Friend the Member for North-East Hertfordshire pointed out with some extremely well chosen quotations, that the two Front Benches—the official Opposition and the Government—are united in upholding the view that, ultimately, the sovereignty of Parliament is still intact, that the powers of the European Union emanate from the European Communities Act 1972, and that what Parliament can create it can amend or remove. There is strong disagreement in our country about whether it would ever be wise or desirable to test that point by passing suitable legislation in this House to amend the 1972 Act, but it is welcome to know that the main interests in the House agree that that can be done legally under our system, in which the Queen in Parliament is sovereign. It would therefore be welcome if that principle were written clearly into this grand, declaratory Bill, which begins with the wide-ranging and high-flown clause that we are debating.

Another issue to which the Minister should respond is how far the request for, or requirement on, the Lord Chancellor goes to observe the rule of law as we understand and define it. That would not be difficult were the Lord Chancellor a happy inheritor of the tradition of our rule of law and common law, but it would be less comfortable for a Lord Chancellor who was a moderniser and reformer and who wanted to make fundamental changes in the way in which the rule of law is understood and enforced. For example, does the Minister believe that any Lord Chancellor could take any action that he or she liked as regards how future jury trials should be conducted, or whether juries should be involved? Under clause 1, can any Lord Chancellor take whatever view he or she wants to take on imprisonment without trial or without identifying an offence or charge, or does there come a point at which the Lord Chancellor is acting beyond his or her remit because the rule of law is defined by our common law and traditions, and by the many fine words and judgments that have gone before?

The debate is interesting and apposite and I look forward to assurances from the Minister that the intention is to create limits on how far a Lord Chancellor can go in wrecking, destroying or undermining the liberties and rights of subjects under the common law.

**Mr. Cash:** Does my right hon. Friend acknowledge that had the Merchant Shipping Act 1988, which gave rise to the difficult decision in the Factortame case, started with the words, "Notwithstanding the European Communities Act 1972", as I suggested back in those days, we would not have got ourselves into this judicial mess as regards our internal constitutional position? Will my right hon. Friend note that, on 12 January, Professor Alan Dashwood stated that in the context of a Bill that began with the words, "Notwithstanding the European Communities Act 1972", whether

> "there has been a shift of ground law or not with an unwritten constitution like we have, you can only wait and see how the judges would react to that Act of Parliament."

That is matter of concern, and it is why I have been pressing the point. Does he agree that we must pursue that?

5.30 pm

**Mr. Redwood:** I have already said that I fully agree with my hon. Friend and also my hon. Friend the Member for North-East Hertfordshire that it is a good idea to identify the sovereignty of Parliament as central in the first clause of such an important constitutional Bill. Should some future Parliament contain a majority that wished, for example, to disapply some Community law or change Community arrangements without a new treaty having been negotiated, it would be a prudent precaution to begin the legislation with an express repeal or amendment of the part of the 1972 Act that Parliament wished to alter. I am sure that the judges of our country would understand, under the rule of the sovereignty of Parliament, that it was good law that should be enforced.

**Vera Baird:** If the right hon. Gentleman wants to guarantee that the Lord Chancellor supports the sovereignty of Parliament above all else, why does he support new clause 8, which does not give the Lord Chancellor a duty to do that? It separates the rule of law from the sovereignty of Parliament and gives him a duty to support only the second and not the first, whereas clause 1 clearly gives the Lord Chancellor a duty to support both.

**Mr. Redwood:** Clause 1 does not expressly state that the sovereignty of Parliament is crucial. As I understand new clause 8, the principle of the sovereignty of Parliament would be above all others. Clause 1, as amended, would therefore bind not only the Lord Chancellor, but everyone else in the judicial process. That would be welcome. It is a suitable point at which to sit down in the hope that the Under-Secretary will rise soon to reassure us on those matters.

**Mr. A. J. Beith** (Berwick-upon-Tweed) (LD): The remarks of my hon. Friend the Member for North Cornwall (Mr. Tyler) about the Select Committee report were kind and much appreciated. I hope that it proves useful to hon. Members in identifying the issues that have not yet been resolved.

Considerable changes have been made to the Bill, many of which respond to issues that the Committee raised and were subsequently raised in the Lords. I am pleased about that, but the Bill has never appeared to me either to make, or purport to make, changes to the sovereignty of Parliament. Indeed, it does not purport to make changes in the rule of law. A question therefore arises about the necessity of the clause and any amendments to it.

I welcome clause 1 because it became clear in Committee and in the other place that there was much concern among the judiciary and more widely that the future Secretary of State for Constitutional Affairs—as he was then to be—would not have or recognise the same duty to assert the rule of law in Cabinet discussions as was previously assumed to be the case. That was based on a rather rosy view of what happened in previous Cabinets, especially if we look back to some earlier, very political Lord Chancellors.

More recently, we have had senior Lord Chancellors of different parties, of the sort that the Committee hoped we would get in future—people who had reached the end of their political career, were not looking for further office and did not have ambitions for other Cabinet posts. We believed that a model had been developed in which the Lord Chancellor upheld the rule of law. Perhaps an even more pressing reason for our support for that model was that the moment that the Lord Chancellor stopped sitting as a judge, it became inappropriate for him to take the judicial oath. Alternative provision was eventually included in the Bill, but the disappearance of his swearing the judicial oath was viewed as yet another way in which his commitment to the rule of law might be undermined.

Even in recent times, one can make speculative comparisons about how far different Lord Chancellors would impress on their colleagues the importance of the rule of law. I remember Lord Irvine publicly dressing down a Minister on the independence of the judiciary, but I challenged the current Lord Chancellor because I could not find an example of his doing the same. I made suggestions about when he might have done so, for example, when the then Home Secretary, addressing the Police Federation, said, "We want only judges who help us to do our job." That obviously seemed to him to be an entirely innocent statement, but to me and others it seemed to represent a contradiction of the principle that judges are there to reinforce the rule of law, and not to do what happens to be convenient for the Government. The presence of this provision in the Bill is therefore welcome, as it addresses precisely those concerns.

**Mr. John Taylor** (Solihull) (Con): Before the right hon. Gentleman leaves that important point, does he agree that the ultimate supremacy of the judiciary is essential, because it is always open to an affected party to take a member of the Executive before the court on judicial review? That is why his remarks on this subject are so very important.

**Mr. Beith:** That is so. Most people take the term "rule of law" to mean that nobody—including Governments and Ministers—is above the law. We see the rule of law being threatened in certain countries when people start to behave as though they are above the law. In Zimbabwe today, for example, we see the judiciary struggling to maintain the rule of law while the Executive are determined to ignore its actions or to override them in various ways. That is a classic example of the dangers that can result when those in power cease to recognise the rule of law. Such people often have at their disposal the physical means to contravene the rule of law, whatever the courts might do to insist that they recognise it.

**Mr. Shepherd:** When lawyers, including our top lawyers, are presented with an Act of Parliament that abrogates what the right hon. Gentleman and I think of as the rule of law, they are bound to accept it. That is why a layman such as me needs the rule of law to be clarified and defined, and not simply through reference to that vague hinterland of Dicey or to judges' ruminations on the matter. The right hon. Gentleman was right to remind us of what the then Home Secretary said.

**Mr. Beith:** There is a lot to be said for Dicey and his definitions in this field.

The trouble with placing a definition in statute is that it is inclined to narrow rather than to widen. The judiciary has a very good record of using to the maximum the breadth of statute law for the protection of the individual, and I would not want to undermine that by an excessively tight definition, or by a definition that seemed to point us in one direction rather than another. I fully understand, however, the various reasons that have been introduced in support of the amendment. It has been worth introducing them because they have opened up the opportunity for a debate on the issue. Some of the arguments will be able to be considered on another day and in another context, especially those relating to the supremacy of Parliament, which the Bill does not attempt or purport to change.

**Mr. Cash:** Does the right hon. Gentleman accept that the issue at the heart of this debate is not the rule of law, but the rule of which law? In the context of the European debate, there are competing assertions as to which law is superior. When we talk about the rule of law, therefore, the necessity to get this right is dependent on the question that gives rise to it. In other words, we need to arrive at a definition that asserts the sovereignty of this Parliament, precisely because the European Court of Justice asserts that the constitution of Europe, or the existing treaties, have priority over our own laws, and, in the case of the constitution, over our constitutional arrangements in this Parliament as well.

**Mr. Beith:** I understand the point that the hon. Gentleman is making. It is one that he has been determined to make on many occasions. However, this part of the Bill addresses the duty of the Lord Chancellor and asks whether he has the express duty to uphold the rule of law. It does not ask in what areas the rule of law presents dilemmas or problems relating to the state of the law, or to which part of the law has superiority. International law issues come into that question, and they are important issues. They are not, however, what this clause seeks to define. Perhaps we are getting back to the Gilbertian expression by a Lord Chancellor:

"The Law is the true embodiment of everything that's excellent . . . and I, my Lords, embody the Law."

That is quite a good description of the way in which Lord Chancellors of the time viewed the matter, but we have moved on since then.

The Bill needs to ensure that the person who holds the office that is, quite usefully, still going to be known as Lord Chancellor, despite its substantially changed character, should recognise that it is part of his duty to remind his fellow Cabinet Ministers of their obligation to the rule of law, and that they should not even appear to want to threaten or compromise it. He should have the authority of statute when he does so.

**Mr. Shepherd:** I am very attracted to the arguments of the right hon. Member for Berwick-upon-Tweed (Mr. Beith), the distinguished Chairman of the Speaker's Committee on the Electoral Commission. He addressed himself to what he took as a rough guide to what the rule of law is: no one is above the law. But the rule of law has to be more than that, does it not? Does it not have anything to do with the process of law or the nature of the law? We can all be equal under a tyranny that manufactures laws to imprison us. That is why some of us are very nervous about a Bill that begins with clause 1, "The rule of law". I ask the right hon. Gentleman this: is it the Dicey definition? Is it protected by the conventions that form it, or as judges have advanced it into the 21st century?

These are probing questions. I want to be given some of the answers, with the certainty that I expect from able and competent lawyers—a certainty that I do not have, as a mere representative of Aldridge-Brownhills. What constitutes this concept? We observe the judges seizing a principle of which, when I was a child, we had little cognisance: judicial review. This whole development is outside statute law. Do I object to that? Not necessarily. I puzzle over it sometimes, but I know that between some point in my youth and now the law has changed when it comes to how Governments are held to account.

I do not want to make a meal of it, but these are terribly deep and important principles that inform our freedoms and liberties. My hon. Friends on the Front Bench want to safeguard a concept of the rule of law, and, in all fairness, I do not doubt that the Government do as well. However, the Bill refers to

"the existing constitutional principle of the rule of law".

I return to my original question: what is that? No authority that is a constitutional authority states unchallenged, "This is the principle". We debate the concept and we argue about it. The intention of the Bill, and of clause 1 in particular, however, is to reassure us that the independence and the integrity of the judiciary are safeguarded.

I am struggling to decide whether the Bill is in fact more sinister than the Minister attractively suggested. Indeed, he suggested that it was not sinister at all. I do believe in the principle of the rule of law, but it is a Shepherd principle. Each of us probably has a principle of the rule of law, but as often as not it is half Dicey, half the development of judicial activism. It is how we think it ought to be if it is to secure our liberty and freedom. That is the difficulty with measures such as this, which touch on constitutional principles.

I am glad to observe that the Liberal Democrats have come in behind Shepherd and want a written constitution. That would set out such matters clearly. I know, however, that my hon. Friends on the Front Bench and my hon. Friend the Member for Stone (Mr. Cash) are trying to establish a protection for us all. That is why we talk about the primacy of Parliament or, as I should like it to be called, the primacy of the people. In the end, all these Bills and Acts are constructed only through the authority of the people who send us here on our temporary mission as Members of Parliament.

5.45 pm

**Mr. Heald:** I strongly agree with my hon. Friend on his last point. He fairly made the point that the rule of law means a range of things to different people. My hon. Friend the Member for Stone (Mr. Cash) is not seeking to define the whole of what the rule of law may mean. He is trying to home in on one aspect. I believe that defining what the rule of law should mean for this purpose is well worth doing.

**Mr. Shepherd:** I accept that, but we will come to clause 4 presently. Again, that which it directs judges to consider as sources of law is way beyond anything that we presently acknowledge as having direct effect in British law. That is why, when I think about what the rule of law means in the context of the wider Bill, I am not dismissive of the sovereignty of Parliament. I have no doubt that that is the most fundamental authority for this country and its constitution. However, that constitution is not enacted. It has been developed and accepted by the courts across a period of time. We could say that it is part of the rule of law, but we saw the assault on what a judge seemed to deem constitutional Acts. We are not sure in our own minds, and our courts are not sure, what constitutes a constitutional Act. Even when a judge mentions the special category of constitutional law—these are particular pieces of legislation or statute that we should look at very carefully—it is contradicted by others.

Therefore, there is no certainty as to what this means. I want all the protections for our traditional freedoms—the first in the continent of Europe. That is why the Bill is important. I accept the Government's arguments on that. I understand the purpose behind the Bill, some of which I have no difficulty with, but when we come to this clause and to clause 4, the significance of which I will not go into now, I am very diffident. Therefore, I will support the new clause and the amendment, which is a probing and interesting amendment that, as we all understand, has wider connotations than just the European Communities (Amendment) Act. Because of clause 4, it can touch on tribunals and a number of things, all of which are important. Therefore, I will support the amendment.

**Mr. Garnier:** These are mighty issues and I feel even more diffident than the good Shepherd, my hon. Friend the Member for Aldridge-Brownhills, in discussing them, but I shall try to join the discussion to this extent.

My hon. Friends the Members for North-East Hertfordshire (Mr. Heald) and for Stone (Mr. Cash) seek to amend clause 1. Clause 1 is fundamentally intellectually dishonest, because it says:

"This Act does not adversely affect",

and it sets out what it does not adversely affect in subsections (a) and (b), but hanging like a ghost in the background is the implication that some other Act, either existing or, more likely, a future Act, may well do so.

The clause seems to fall into the category of an early-day motion set into legislation. In my view, Acts of Parliament should not set out wishes or declarations, but should deal with concrete issues. I am not convinced that

"This Act does not adversely affect . . . the Lord Chancellor's existing constitutional role"

in relation to

"the existing constitutional principle of the rule of law",

not least because it is difficult to define what the rule of law is. The Opposition side had an interesting exchange about that. I am doubtful that the Bill will not change—and change quite radically—the Lord Chancellor's existing constitutional role, so I am wholly sceptical about clause 1.

I am glad that my hon. Friends have spoken in support of their amending provisions, because they have enabled us to have a useful debate, but I am not sure that the two respective sets of arguments—both where they coincide and where they differ—answered the problems effectively.

**Mr. Cash:** That happened because we were each seeking a solution to a problem that we viewed in common. Unfortunately, we did not come together to discuss the wording. Had we done so, we probably would have arrived at something slightly different on both counts. That does not alter the powerful reason for seeking to elucidate the deep questions that lie at the heart of the clause.

**Mr. Garnier:** I do not know whether that is an explanation or an excuse, but it does not get us much further.

**Mr. Cash:** It is a plea in mitigation.

**Mr. Garnier:** I am grateful to my hon. Friend for putting forward that plea.

I believe that the strength of our constitution depends on the mutual respect and understanding of the powers and duties pertaining to each part of our constitution. There seems to me to be a growing gap between parliamentarians and the law, and between practitioners and academics on the legal side, and they increasingly seem to inhabit a different country. We no longer speak the same language or seem able to communicate in terms of mutual understanding. That is why we often hear speeches in the House that attack the judgments of judges and also why, thank goodness, we hear Lord Chancellors, as in the case of Lord Irvine, criticising the Home Secretary for intemperate remarks about the judiciary. If Lord Irvine did not understand the finer art of diplomacy, he certainly understood the difference between these two aspects of the constitution—the respective roles of the Executive and the judiciary. Such understanding seems to be dying rapidly and it is cured neither by clause 1 nor, I fear, by the amendment and new clause that my hon. Friends have proposed. That worries me.

**Mr. Heald:** Does my hon. and learned Friend accept that one advantage of new clause 8 is that it places a duty on the Lord Chancellor to do something specific—namely, to

"use his best endeavours to ensure that the rule of law is respected"—

and, I would add in parenthesis, to do so in the Cabinet? At least the conscience role of the Lord Chancellor is clearly set out there beyond peradventure. Is that not something worth doing?

**Mr. Garnier:** It might be if I thought that it would be effective, but how is it to be enforced? How do I know, as a citizen or even as a Member of Parliament, whether the Lord Chancellor is using his best endeavours in the Cabinet to ensure that the rule of law is respected? I do not know. I have to trust the Lord Chancellor to do so. I can trust the Lord Chancellor if I respect both the man or woman who occupies that office and the office itself, but the problem is that the Bill undermines the office. The Government want less authoritative and respected holders of that office, so my faith in the Lord Chancellor's ability to ensure that the rule of law and the different roles of the Executive and the judiciary are respected is diminished to that extent.

When the late Lord Hailsham of St. Marylebone was Lord Chancellor, he said that it was his duty to defend the independence of the judiciary "to his final breath". He was not interested in "best endeavours". Although I understand that that expression is used day in, day out in court undertakings and consent orders, it is not what I expect to find in an Act of Parliament describing the duties of a Lord Chancellor. It sounds a bit wimpish and I view it as utterly unsuitable for an Act of Parliament. I am not even convinced that, if the phrase were to be included in the Bill, it would be enforceable. It would not, so why are we writing yet another early-day motion sort of provision into a piece of legislation?

**Mr. Cash:** I would like to help my hon. and learned Friend in respect of his concern about the origin of the definitions and the amendment's attempts to deal with the definition of the rule of law. I refer him and the House to the case of X *v.* Morgan-Grampian of 1991 and the judgment of Lord Bridge. For practical purposes, I modelled my wording precisely on what he said, although I adjusted it slightly to take account of the European dimension of the problem. I hope that it helps my hon. and learned Friend to know that my amendment was based on the judgment of a very senior Law Lord.

**Mr. Garnier:** I have no doubt at all that my hon. Friend spent a considerable time studying law reports and legal textbooks. I am also sure that the expressions used in his amendment are well sourced, in so far as they emanate from eminent judges. What I am concerned about, however, are the practical consequences of placing his provisions into an Act of Parliament. I am worried that playing the Government's game by amending the Bill, rather than striking out clause 1 entirely, might be falling into the trap that the Government have set for us.

The rule of law will not be protected one bit more by clause 1—still less, I am afraid, by new clause 8 or amendment No. 364. I understand all the arguments advanced by my hon. Friend the Member for Stone, in particular that our government and law-making systems have been internationalised over the past 20, 30 or 40 years. He and I have fears about further internationalisation of our domestic government system in the forthcoming year. I also understand that, as that happens, competition for influence and the demands of others to influence us will grow.

That is a real concern for my hon. Friend, for myself and, I hope, for every Member in the House. We face a vast and, in many ways, unwelcome cultural change in respect of how this country is run. Power is seeping away from this Chamber and this Parliament, as is the ability of our courts to uphold the rule of law, whether it be the common law as revealed by the courts or statute law as interpreted by the courts. All that is seeping away to other places. As both Members of the House and citizens of this country, we need to be wary of that, to debate it and to do our best to protect against it.

What really concerns me is that new clause 8, amendment No. 364 and clause 1 amount to nothing more than a lot of writing. They have enabled us to conduct this interesting discussion, but they do not protect our constituents or underpin the office of the Lord Chancellor, which the Bill as a whole fundamentally destroys.

**Mr. Leslie:** The Government are and remain strongly committed to the principle of the rule of law. Both sides of the debate so far agree that the Lord Chancellor has and will continue to have a vital role in ensuring that the rule of law is upheld. In my view, however, we must be careful not inadvertently to disturb other crucial arrangements of our constitution in the process of framing statute law. The issue of how best to make provision for the rule of law in the Bill was extensively debated in the other place, with various amendments tabled and discussed. There, and to a certain extent in our debate today, two points have been commonly agreed: first, the Lord Chancellor has always had a role connected to the rule of law that we would not wish to lose or diminish; and, secondly, the duty of the Lord Chancellor is in general political, rather than a duty to be enforced in the courts. Clause 1 meets both those concerns by acknowledging that the Lord Chancellor has a duty in respect of the rule of law and that that duty is not cognisable as a matter of law.

6 pm

Clause 1 preserves and reinforces the status of the rule of law as a principle of the constitution—uniquely, incidentally, in statutory language in this country—and is thus a powerful statement of our commitment to that principle. I think that the hon. Member for North Cornwall (Mr. Tyler) agreed with that point. It will ensure that the reformed office of Lord Chancellor will continue to have deliberations informed by that principle in the same way as the current office of Lord Chancellor, but in a manner that will not have wider or unintended effects.

I wish to address the arguments surrounding new clause 8 and amendment No. 364. New clause 8 is almost identical to a provision moved and subsequently withdrawn by the Opposition on Report in the House of Lords. The Government oppose it for broadly the same reasons as we outlined at that time. Including the question of parliamentary sovereignty in the same clause as the rule of law raises difficult questions about the relationship between those two principles, and that between them and other principles that are not

*[Mr. Leslie]*

mentioned in the Bill, such as collective responsibility, ministerial accountability to Parliament and the proper scope of judicial review. That problem is exacerbated by the reference in new clause 8 to the rule of law being a "central principle", which tends to imply that some sort of ranking of different constitutional principles is occurring.

Additionally, we, like the hon. and learned Member for Harborough (Mr. Garnier), are worried about the precise meaning of the phrase "best endeavours" in the new clause, and concerned not only about how the Lord Chancellor's best endeavours might be measured, but about how they might interact with other constitutional conventions, such as the Lord Chancellor's role as a Cabinet Minister subject to normal collective responsibilities.

**Mr. Heald:** Of course that is deliberate. Does the Minister accept that the rule of law is an overarching principle that comprises the various other points that he raised?

**Mr. Leslie:** We are in danger of becoming a theoretical academic institution instead of focusing precisely on the provisions that should be included in the Bill. Clause 1 says that nothing in the Bill will adversely affect the rule of law, although I understand that there are different interpretations and definitions of that. When I respond to the points made by the hon. Member for Stone (Mr. Cash), I shall explain why it would be neither helpful nor useful to go into definitions of the rule of law, not least for the reasons outlined by the right hon. Member for Berwick-upon-Tweed (Mr. Beith), who said that statute tends to narrow definitions rather than widening them usefully.

Subsection (2) of new clause 8 places an emphasis on ensuring respect for the rule of law. That could be taken as implying that the Lord Chancellor has a current duty to enforce the law against others, but that has never been his responsibility. Furthermore, there is some confusion about the meaning of subsection (3) of new clause 8. For example, would it mean that no judicial remedy would lie against the Lord Chancellor for a breach of duty if it did not lie there before? Could a court henceforth take the existence of a duty into account when deciding a question before it, and if so, how? Although I would not wish to pick too many holes in the drafting of the provision, we would be embarking on difficult territory if we started to set different worthy constitutional principles alongside each other or rank them in such a manner that they became judicially enforceable in different ways.

Subsection (3) of new clause 8 implies that the Lord Chancellor might have existing duties in relation to the rule of law that are currently enforceable via judicial remedy, but we do not agree with that proposition. There are specific duties enforceable on Ministers that could be said to be part of the rule of law, such as those under the Human Rights Act 1998, but there are no duties in relation to the rule of law as a whole.

**Mr. Cash:** Is not the Minister somewhat hoist by his own petard? The problem that he is describing arises due to the fact that the Government have taken all the conventions, rules and assumptions that the courts have developed for centuries and attempted to compress them into the Bill, especially into clause 1. They have thus created the problem. We did not want to have to define the rule of law in itself because we thought that it was already well established. The Government have created a problem by attempting to put that in statute, which will be subject to administrative review.

**Mr. Leslie:** The inclusion of the clause was not wholly an Executive-determined move. It was the product of much debate and extensive discussion in the other place. In fact, I am glad to say that the Liberal Democrats, who still support clause 1, recognised that the wording of the clause was broadly adequate because it confined itself to the Bill and stated that nothing in the Bill adversely affected the established rule of law. The shadow Lord Chancellor, Lord Kingsland, reasonably and decently withdrew the amendment that he moved in the other place. He said that the debate was

> "a good example of constructive thinking between the Government, the Liberal Democrats and ourselves. We are entirely content with the outcome."—[*Official Report, House of Lords*, 20 December 2004; Vol. 667, c. 1540.]

What a shame that the hon. Member for North-East Hertfordshire (Mr. Heald) is taking a slight step back from the more rational approach of his shadow ministerial colleagues in the other place.

Amendment No. 364 would define parliamentary sovereignty as an aspect of the rule of law. As I said, we know that the rule of law is a complex principle and that many eminent legal minds and constitutional thinkers have failed to agree precisely what it entails and where it begins and ends. That is why I agree with the right hon. Member for Berwick-upon-Tweed, the Chairman of the Constitutional Affairs Committee, that including a definition of it in the Bill would be not only unnecessary, but perhaps a little dangerous.

I cannot agree that even the apparently simple definition in the amendment is either adequate or sufficient. Even if we were to agree that a definition of the rule of law was desirable in statute, it is debatable as to whether parliamentary sovereignty would be referred to within that definition or set out separately as a free-standing principle. Again, the problem is that the amendment tries to bring the two principles together without explaining the relationship between them. When the matter was debated in the other place, it was accepted that picking out specific aspects could lead to the undesirable listing of differently ranked constitutional principles.

**Mr. Cash:** On the ranking of principles, does the Minister deny that there is uncertainty in judicial and academic circles about the question that I put to the right hon. Member for Berwick-upon-Tweed (Mr. Beith) on competing claims as to which law is superior? When Professor Alan Dashwood, the professor of European law at Cambridge, gave evidence to the European Scrutiny Committee, he made it clear that it is down to judges to decide that. If that is the case, it is most unsatisfactory from the point of view of asserting parliamentary sovereignty—I understand that the Government now agree with me on that.

**Mr. Leslie:** I have said it before and I shall say it again: I see parliamentary sovereignty as absolutely prime in our constitutional settlement. I am slightly loth to embark on a discussion with the hon. Gentleman about treaties and how they interact with, or impinge upon, parliamentary sovereignty; suffice it to say that I do not think that anything in the Bill undermines parliamentary sovereignty. On the contrary, the Bill helps to enhance our constitutional settlement by making the different functions of the legislature, the judiciary and the Executive clearer. For those reasons, and for the reasons that I gave in comments on both the amendment and new clause 8, it would not be wise to include those provisions.

Clause 1 adequately and judiciously hits the mark in helping to placate those who may feel that in some way the change in the office of Lord Chancellor is diminishing that officeholder's role, and in defending the existing principle of the rule of law. That is why clause 1 is in the Bill and I urge hon. Members to withdraw their amendments.

**Mr. Heald:** After hearing the Minister's comments, I remain convinced that not only the rule of law but the sovereignty of Parliament should be referred to in the first declaratory clause—clause 1. In due course—it will be much later on—I shall want a separate vote on new clause 8.

The amendment proposed by my hon. Friend the Member for Stone (Mr. Cash) can be divided on immediately, so if he wants to press the matter I shall support him. The sovereignty of Parliament and the rule of law should be defined in the Bill, and my hon. Friend is right to say that the sovereignty of Parliament is the basis of the rule of law, and to define the rule of law as involving in part—he uses the words "in particular"—the sovereignty of Parliament and the courts.

**Mr. Cash:** It is unnecessary to add to what I have said already. I certainly want to press the amendment to a Division.

*Question put,* That the amendment be made:—

*The Committee divided:* Ayes 127, Noes 283.

**Division No. 56]** **[6.11 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Barker, Gregory
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burnside, David
Burt, Alistair
Cameron, David
Campbell, Gregory *(E Lond'y)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Fabricant, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Hawkins, Nick
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Randall, John
Redwood, rh John
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spicer, Sir Michael
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. David Ruffley and**
**Mr. Peter Atkinson**

**NOES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Beard, Nigel
Begg, Miss Anne
Beith, rh A. J.
Benn, rh Hilary
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Borrow, David
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brooke, Mrs Annette L.
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burstow, Paul
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Campbell, Alan *(Tynemouth)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Carmichael, Alistair
Casale, Roger
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chidgey, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*

Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Corston, rh Jean
Cox, Tom *(Tooting)*
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Dalyell, Tam
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, Don *(Bath)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Griffiths, Jane *(Reading E)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hamilton, David *(Midlothian)*
Hanson, David
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hinchliffe, David
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keen, Ann *(Brentford)*
Keetch, Paul
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
McFall, rh John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
Mactaggart, Fiona
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moore, Michael
Morris, rh Estelle
Mountford, Kali
Munn, Ms Meg
Naysmith, Dr. Doug
Oaten, Mark *(Winchester)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
O'Neill, Martin
Opik, Lembit
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stunell, Andrew
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, Matthew *(Truro)*
Thomas, Gareth *(Clwyd W)*
Thomas, Simon *(Ceredigion)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'tonSE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Whitehead, Dr. Alan
Wicks, Malcolm
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Noes:**
**James Purnell and**
**Jim Fitzpatrick**

*Question accordingly negatived.*

*Clause 1 ordered to stand part of the Bill.*

## Clause 4

GUARANTEE OF CONTINUED JUDICIAL INDEPENDENCE

**Mr. Leslie:** I beg to move amendment No. 18, page 2, line 24, leave out '("the Minister")'.

**The Chairman of Ways and Means:** With this it will be convenient to discuss Government amendments Nos. 19 to 324.

**Mr. Leslie:** These amendments are purely matters of drafting improvement and consistency and do not affect policy. After one sentence, I give way.

**Sir Patrick Cormack:** The Minister is unfailingly courteous and always tries to help. I wanted to intervene at this stage because I have a point not of order but of substance, which I want the Minister to address. We have spent two hours of the first three hours allocated and have discussed one amendment. There has clearly been no filibustering; many Members have not taken part because they have felt that they should leave matters to those who are leading on the issue. We now have less than an hour to complete consideration of the first group of clauses. Some very important subjects will clearly not be debated. Will the Minister discuss with the Leader of the House and others responsible for deciding the programme whether we can have a fourth day on this Bill? It is absurd that whole chunks of a Bill of this magnitude, which has come to this House having been thoroughly discussed in another place, will be dispatched without anybody saying anything about them.

**Mr. Leslie:** We have not debated just one amendment; we have debated two separate amendments on a very big issue. What can be much bigger than the issue of the rule of law? I am not surprised that we took some time on that. However, having listened to the hope expressed by the hon. Gentleman, I shall try to be briefer so that we can make as much progress as possible. Perhaps we shall even finish consideration ahead of schedule, leaving time for other matters.

**Mrs. Gwyneth Dunwoody** (Crewe and Nantwich) (Lab): I have been sitting quietly trying to listen to the debate. This Bill is important to those of us who are not lawyers and who are trying madly to find a way through much of the provision, which impinges fundamentally on parliamentary privilege. The point made by the hon. Member for South Staffordshire (Sir Patrick Cormack) is not about the content of individual amendments; it goes rather deeper. If such a Bill is programmed—as this one is—the House will not debate it. My hon. Friend has called in aid debates in another place, not once but several times. It is bizarre that in seeking to amend a House of Lords Bill the House of Commons is praying in aid the House of Lords. We should be debating the Bill here.

**Mr. Leslie:** Indeed we are debating it here. We are at the beginning of our extensive debates on these matters. I say to my hon. Friend that I will try to be as brief as possible to allow as wide a debate as possible.

The amendments replace references to "Minister" with "Lord Chancellor" throughout the Bill. The Bill as introduced into the Lords last year sought to abolish the office of Lord Chancellor and therefore set down many functions as the responsibility of the "Minister". Since then, we have listened to concerns about abolition, expressed here and in the other place. The Government accept the decision of the House of Lords to retain the title and formal office of Lord Chancellor. Whether the post holder is called "Secretary of State for Constitutional Affairs", "Lord Chancellor", or has both titles, is not of great significance.

As I said on Second Reading, what matters most is the substance of the post, the nature of the job, and whether it is reformed so that the post holder no longer has conflicting duties. If the role of the head of the judiciary can pass to the Lord Chief Justice, and with it many of the judicial functions that are incompatible with the political functions of a Cabinet Minister, the office of Lord Chancellor can continue in that substantially reformed way. The Bill therefore retains the office of Lord Chancellor, but in a significantly altered and more appropriate form. To ensure that the Bill's terminology is consistent, the Government amendments replace references to the Minister with references to the Lord Chancellor. They ensure that it is immediately clear to everyone who reads the Bill that the Lord Chancellor is the Minister responsible for exercising those functions, so they do not need to cross-refer to another part of the Bill. That follows the precedent that functions vested in the Lord Chancellor in statute are, for the sake of clarity and ease of understanding, vested specifically in that office rather than in "the Minister".

6.30 pm

**Mr. Heald:** As I have already mentioned, the decision to abolish the post of Lord Chancellor was misconceived. It was a back-of-the-envelope decision made on the back of a reshuffle by cosy chums sitting around in No. 10, without the usual safeguards of consultation and measured consideration in Cabinet. It was clearly wrong to try to abolish such a pivotal role in that way, and the amendments represent recognition by the Government that the Prime Minister got it wrong. Conservatives and Members in the other place were right to battle hard to restore the Lord Chancellor's role and ensure that that ancient but important post was not abolished as planned. I therefore welcome the fact that in numerous instances throughout the Bill the word "Minister"—the Lord Chancellor would simply have been a Constitutional Affairs Minister—has been replaced with the words "Lord Chancellor", which reflects the success of my noble Friends in another place.

**Mr. Tyler:** I, too, welcome the clarification in the Bill, which reflects the views of Members from all parts of the other place and puts into effect the requirements of the concordat between the Government and the higher judiciary. I have some sympathy with the view expressed by Shakespeare that a rose

"By any other name would smell as sweet."

I am not sure how we would apply that to the post of Lord Chancellor, but the semantic significance of the amendments goes beyond the title given to his particular functions. On Second Reading, my hon. Friend the Member for Somerton and Frome (Mr. Heath) was concerned that by retaining the title of Lord Chancellor we were sending the message that there was not any change in his functions within the Executive and the hierarchy of the judicial system. That is not the case, so I regret that it has not been possible to find a better title. Indeed, my hon. Friend and others have argued that the Bill provided an opportunity to look at the boundary between the Department for Constitutional Affairs—Decaff, as it is commonly known, because it is said to be all froth and no substance—and the Home Office. This could have been the time to look more substantially and strategically at they way in which those two Departments interrelate. Logic, however, now dictates that references to the Minister throughout the Bill should be replaced with references to the Lord Chancellor. That is the settled will of Members from all

*[Mr. Tyler]*

parts of the other place and, I suspect, of Members of the Commons. I hope that we will now progress as fast as possible to the more substantial issues before us.

**Sir Patrick Cormack:** I support the Government amendments, and I am delighted that the Government have seen sense and conceded the power of our arguments. References to the Lord Chancellor now appear in the Bill, but I think that the Minister would agree that it is important that people outside should not be confused. There is nothing confusing about changing some of the Lord Chancellor's responsibilities. That has happened before—in the middle ages, the Lord Chancellor was frequently a bishop or senior cleric—but if he has a dual title, as at present, people will get mixed up. We should not have a dual title for the man or woman who fulfils the role of Lord Chancellor. I should be delighted if a woman became Lord Chancellor—that would be a very good idea if we chose the right person—but whoever bears that important title, it should not be subsumed by another title

**Mr. Jonathan Djanogly** (Huntingdon) (Con): My hon. Friend has made an important point about the confusion that has been engendered. That is not helped by the fact that the Government did not include these proposals in either their 1997 or 2001 manifesto.

**Sir Patrick Cormack:** Indeed, that is the case, and the events that led to the introduction of the proposals have been rehearsed many times. The Prime Minister was suddenly confronted with what turned out to be the temporary retirement of the right hon. Member for Darlington (Mr. Milburn). He also had some sort of altercation with the then Lord Chancellor—one day, when memoirs are written, perhaps we will know precisely what did, or did not, happen. The proposals, however, were introduced without proper consideration or deliberation. As we said on Second Reading, the substance of the Bill should have been the subject of a White Paper and preferably a Green Paper and draft legislation as well. All that, however, is history.

**Mr. Heald:** Does my hon. Friend agree that that is particularly important, as it has emerged that Sir Thomas Legg, the permanent secretary in 2000, warned against dismantling the role of Lord Chancellor, and pointed to the numerous difficulties that that would create?

**Sir Patrick Cormack:** Sir Thomas Legg has a reputation for wisdom, which is not shared by many members of the Government. We do not, I emphasise, want confusion. I am delighted that the Minister, in his winsome and emollient manner, moved the amendment. I just hope that he accepts the logic of the changes to the wording of the Bill, and will pass the message on to No. 10 that we do not want confusion visited upon us in future by having two titles for one Minister.

**Mr. Shepherd:** I support the arguments made by my hon. Friends the Members for North-East Hertfordshire (Mr. Heald) and for Huntingdon (Mr. Djanogly), as well as by the hon. Member for North Cornwall (Mr. Tyler). I appreciate the fact that the Government have removed the words "the Minister" and re-emphasised the role of the Lord Chancellor. I would like to address amendments Nos. 7 and 8, but principally amendment No. 7, which asks for the deletion—

**The First Deputy Chairman of Ways and Means (Sylvia Heal):** Order. We are discussing Government amendment No. 18.

**Mr. Shepherd:** I see, we are on a separate group. Forgive me, Madam Deputy Speaker.

**Mr. Garnier:** While there is a hiatus, may I reinforce the point made by my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack)? I accept that the Minister is part of the Department for Constitutional Affairs, but we live in a strange country. The ministerial head of the Department could easily be called Lord Chancellor. I presume that, once the Bill is enacted, the title of Lord Chancellor will disappear for the transitional period, although that sounds very strange. Once that transitional period ends, however, let us celebrate our illogicality and have a Lord Chancellor who heads a Department with a different name.

**Mr. Leslie:** There is not much further to add now, other than to say that I am glad that there seems to be a consensus that it is right to include these amendments and then move on to other more substantial parts of the Bill.

*Amendment agreed to.*

**Mr. Cash:** I beg to move amendment No. 7, in clause 4, page 2, leave out lines 35 to 42.

**The First Deputy Chairman of Ways and Means:** With this it will be convenient to discuss amendment No. 8, in clause 5, page 3, leave out lines 24 to 31.

**Mr. Cash:** Clauses 4 and 5 will impose a duty on the Lord Chancellor and Ministers to uphold the independence of the judiciary. Of course, as I mentioned earlier in relation to the whole Bill, that duty would be enforceable by the judiciary itself as a matter of statute in terms of judicial review. In this context, I would assert that that in itself represents a radical gear change in the interpretation of statute law and, indeed, in the principles to which I shall refer in a moment. Yes, of course, there must be judicial independence—I would not want anyone to suppose that amendments Nos. 7 and 8 would affect that principle in any way—but there is also the Oath of Allegiance and salaries, to which are connected security of tenure and other matters, including the role of judges as embedded in the Act of Settlement 1700. In fact, as we well know, a range of conventions, rules and principles have been enunciated over the past several hundred years and are accumulated in the current state of the rule of law and in the specific question of judicial independence.

Clause 4(7) goes too far, and the same applies under amendment No. 8, with respect to Northern Ireland, where much the same sort of thing obtains, although I have no doubt that Northern Ireland Members will

want to make their own contribution on its application to Northern Ireland itself. I will therefore confine my remarks primarily to the issues that apply to the United Kingdom, rather than to Northern Ireland.

Scotland is mentioned in clause 4(2), which states:

"Subsection (1)"—

on the duty of the Lord Chancellor and others to uphold the continued independence of the judiciary—

"does not impose any duty which it would be within the legislative competence of the Scottish Parliament to impose."

Again, I would prefer to leave those matters to any Scottish Member who may wish to intervene—I see that the Advocate-General for Scotland is here—but subsection (2) must be considered in relation to the background of the supremacy of the United Kingdom Parliament. It is well established that the Scotland Act 1998 is ultimately subject to the question of whether or not the United Kingdom Parliament might decide to amend or repeal any part or all of the Scotland Act 1998 itself. That may be a matter of great contention in Scotland, but I believe that it represents good constitutional law in so far as the United Kingdom Parliament is concerned.

Clause 4(7) and the definition contained in subsection (8) go too far, because they would confer judicial independent in respect of international treaties. I believe that that would be to make radical, new law and entrench it in statue, given that those provisions would apply to treaties irrespective of whether they were endorsed by statute. Indeed, as I have mentioned already, we must remember that Lord Diplock made it clear in the commissioner of Excise case of 1967 that statute can, in fact, break treaties.

6.45 pm

I shall now address the question of what the words mean. Subsection (7) says:

"In this section 'the judiciary' includes the judiciary of any of the following"—

of course it lists the Supreme Court, but it then refers to

"any other court established under the law of any of the United Kingdom".

I do not seek to knock out those words, for obvious reasons, although I have the gravest reservations about their necessity in the light of the development of our constitutional position. I have a certain sympathy, to say the least, with what my hon. and learned Friend the Member for Harborough (Mr. Garnier) said with regard to clause 1. Attempting to include all these things in statute and making them subject to judicial review is, in itself, an extremely unfortunate and dangerous course. However, that raises a particular question in respect of judicial independence: quis custodiet ipsos custodes? After all, the judges will be the ones who determine the question of judicial independence under the duty imposed by clause 4. What are we to do, therefore, about the reference to "any international court" in subsection (7)(c)?

Subsection (8) says:

"In subsection (7) 'international court'"—

here is the definition—

"means the International Court of Justice or any other court or tribunal which exercises jurisdiction, or performs functions of judicial nature, in pursuance of . . . an agreement to which the United Kingdom or Her Majesty's Government in the United Kingdom is a party, or . . . a resolution of the Security Council or General Assembly of the United Nations."

I find that a radical departure from the existing state of affairs. Indeed, it is clear that the European Court of Justice and/or the European Court of Human Rights at Strasbourg are included in subsection (8), given the absence of any words to exclude them. In fact, subsection (8) does not refer to the International Criminal Court, and I rather think that that will be included, too. I find it astonishing that subsection (8) refers to a

"court or tribunal which exercises jurisdiction, or performs functions of a judicial nature, in pursuance of . . . a resolution of the Security Council or General Assembly of the United Nations."

I look forward to hearing what the Minister has to say by way of justification.

**Sir Patrick Cormack:** I am following my hon. Friend's comments with great interest and I can understand where he is coming from when we look at subsection (8)(a), but is he seriously suggesting that this country should flout Security Council resolutions when so much of what we have done in international affairs recently has been based on adhering to them?

**Mr. Cash:** In a sense, that is my point. Indeed, in so far as it is clear that our existing arrangements respect those international tribunals, that is one thing, but it is quite another thing to impose the duty on the Lord Chancellor and other Ministers of the Crown as a matter of statute law to uphold the continued independence that arises in that context. It is a step change, which troubles me. If we, as a nation, decided that we did not support a particular Security Council resolution in relation to an international court, aspects of it might be applicable to us in the United Kingdom, in which case we might find that we are not prepared to accept the setting-up of that tribunal, still less the deliberations, conclusions and judgments passed by that court.

**Mr. Garnier:** Clause 4 is another example of clumsily drafted legislation, and the fact that my hon. Friend the Member for Stone has had to pose those questions through his amendment exemplifies that point. Clause 4 could be intended to prevent the Lord Chancellor—under the Government's regime, the Lord Chancellor will not necessarily be a senior lawyer, still less a Member of the House of Lords, but could be a highly political Minister on the make—and other political Ministers from seeking to influence British-appointed members of international courts or courts set up on an ad hoc basis under a United Nations resolution, such as the courts in Sierra Leone or Rwanda. In that case, the Lord Chancellor, who will not be a Member of the Lords or a member of the judiciary, would be inhibited by statute from ringing up Mr. Justice Somebody-or-Other and saying, "Look, we would find it politically convenient if you were to reach this particular conclusion in this international court." That

*[Mr. Garnier]*

is the most charitable explanation that I can provide for clause 4, but my hon. Friend the Member for Stone might have a more or less charitable explanation.

**The First Deputy Chairman of Ways and Means:** Order. I hope that future interventions will be shorter than that one.

**Mr. Cash:** That question should be addressed to the Minister, and I am also puzzled for the same reasons.

Clause 4(5) states:

"The Lord Chancellor and . . . Ministers . . . must not seek to influence particular judicial decisions thorough . . . special access to the judiciary".

That is not the same as how the judiciary—I am thinking of the European Court of Justice—interpret a law under which they claim a superior jurisdiction to not only our courts, but our laws and constitutions. A severe danger exists that that wording could leave open the probability that upholding the continued independence of the judiciary—in that case, the ECJ—and dovetailing it with the European Union Bill, which we are about to consider, could lead us into some extremely dangerous constitutional situations.

The Bill will probably displace the assumption that the judiciary in this country are obliged to give effect to the latest enactment of the European Communities Act 1972, if, as I put it to the Prime Minister the other day, the European constitution were turned down in a referendum and it were necessary to repeal the European Bill, as enacted.

In a nutshell, if my amendment were accepted, it would not change the existing situation. I have no idea why clause 4, which will take us into extremely deep and dangerous waters, has been included in the Bill, and I look forward to hearing what the Minister has to say. The Minister owes it to the House of Commons to be entirely candid as to why clause 4 has been included, because in my opinion it would be better if it were removed.

**Mr. Heald:** My hon. and learned Friend the Member for Harborough (Mr. Garnier) has already expressed my concerns better than I will.

My hon. Friend the Member for Stone (Mr. Cash) is concentrating on a situation in which conflict occurs between courts. I appreciate that he seeks to avoid a situation in which the Lord Chancellor, other Ministers or judges are expected to uphold the independence of an international court at the expense of a local court.

The aim of clause 4 is to ensure that each of the courts listed in subsection (7) is not subject to improper ministerial influence or denied the support that it requires in order to function. This part of the concordat, as expressed in the Bill, is designed to militate against the sort of scenario set out by my hon. and learned Friend the Member for Harborough.

**Mr. Garnier:** My hon. Friend may correct me on this point, because he has studied the Bill at greater length than me: am I right in thinking that the judicial appointments commission will not appoint judges to the International Criminal Court or to the other international judicial bodies to which we send judges, and that a non-legal Lord Chancellor could therefore require his politically convenient appointees to go only to those international bodies? Is my hon. Friend worried that the reason why the Government included that provision is that they fear that an ignorant Lord Chancellor will attempt to do precisely that at some future date?

**Mr. Heald:** I agree with my hon. and learned Friend about the mischief, which is our concern. If the Lord Chancellor is a politician on the make rather than a senior figure reaching the end of their career, if they sit not in the other place but here, if they are not a lawyer and if they are very different from a traditional Lord Chancellor, such concerns will emerge.

**Sir Patrick Cormack:** Have we not been placed in this position because of the peculiar programming? Clause 4 is a logical consequence of clause 3, which demands that the Lord Chancellor be legally qualified. The person with whom we are dealing in clause 4 is therefore legally qualified, but we will debate clause 3 later, which makes nonsense of the whole Bill.

**Mr. Heald:** It is hard to argue with my hon. Friend's point. Perhaps he will take it up with the Minister in due course.

Our Ministers and judges should uphold the independence of all those categories of courts. As a country, we have a proud tradition of supporting the independence of the judiciary in international tribunals and courts, of which there are many examples, some of which were mentioned by my hon. Friend the Member for Stone. Given the history and importance of our involvement in a range of courts and tribunals, it would be wrong to do anything that suggests that we do not want to uphold the independence of those courts and that those courts are open to ministerial interference or interference through the non-provision of the necessary logistical support.

On this occasion, I find it difficult to support the amendment moved by my hon. Friend the Member for Stone. I do not want to derogate from the argument that I made earlier—the UK Parliament is sovereign and should be sovereign, and our courts should interpret our laws accordingly. I hope that my hon. Friend will consider his amendment and perhaps seek to find other ways in which to achieve his laudable intentions.

7 pm

**Mr. Tyler:** I am glad to hear the hon. Gentleman's comments, as I, too, feel that clause 4 is critical to the whole Bill, and the amendments would dilute it. It is important to recall the context of clause 4 and the specific requirements placed on the Lord Chancellor, which it is extremely important for us to reiterate this evening.

The clause has two such requirements, extending to subsection (8), to which I shall refer in a moment. The first is the insistence that no opportunity of special access to exert pressure on any elements of the judiciary should be used. I take the point made by the hon. and learned Member for Harborough (Mr. Garnier) that one can imagine circumstances in which an appointee to

ome international body or tribunal who will not go hrough the normal judicial process could be under ome form of influence or obligation to a political Minister. It is important that we recognise that.

It seems to me that the hon. Member for Stone (Mr. Cash) has tabled one of his bogeyman mendments, in which there is always somebody in Brussels, or some devilish foreigner, whom we must do down and keep in their place. He is making a mountain out of molehill, if one can do that with a bogeyman. He s trying to imply that there is some sort of inflated ecognition in the subsection for the non-domestic court process. I do not read it like that—I simply read it, as the hon. and learned Member for Harborough said, in the terms that it is a proper precaution to be placed in the Bill, to ensure that the Minister does not have special access. We are advised that that need not in any way impede the way in which he operates to make sure that the public interest in matters relating to the judiciary, at any level of the administration of justice, is properly represented. That seems to me to be a perfectly proper approach.

If there is a problem with the wording, that is down to the Minister, and no doubt he will defend it—I hope that he will do so in a moment. I see some practical advantage, however, in making it clear in the Bill that we will not tolerate political interference with the judicial process, wherever that may lie.

**Mr. David Heathcoat-Amory** (Wells) (Con): Clause 4 seeks to give statutory form to the important principle of judicial independence, and who could possibly be against that? In fact, I have misgivings about the entire Bill, because taken as a whole, it will have the effect over time of politicising the judiciary, particularly allied to the advance of international human rights legislation. When judges are called on to make difficult and sensitive decisions about the right to life, to freedom of expression or to privacy, they are drawn down a political road. We have seen that in the United States, where appointments to the Supreme Court are matters of great partisan political interest. I hope that we can avoid that in this country, but the Bill does nothing positive to entrench what until now we have understood to be the independence of the British judiciary.

My support for amendments Nos. 7 and 8 is based on a narrower consideration. It seems to me that the definition of an international court includes the European Court of Justice. If not, the Minister must stop me now—if it is somehow excluded, the rest of my remarks fall. I take it that the definition in the clause of an "international court"—

"a court or tribunal which exercises jurisdiction, or performs functions of a judicial nature, in pursuance of . . . an agreement to which the United Kingdom . . . is a party"—

obviously includes the European Court of Justice.

The problem about the independence of that Court is that it will be undermined by the European constitution. I draw the attention of the Committee to article I-18, which lists the institutions of the European Union, including the Court of Justice of the European Union, as the ECJ will become known, the Council of Ministers and the European Commission—the executive branch of the European Union. The provision then states:

"The Institutions shall practise full mutual cooperation"

Therefore, the executive branch of the EU is to practise full mutual co-operation with the judicial branch. That is a fairly startling defiance of the principle of separation of powers, because it also applies in reverse: the European Court will have to practise full mutual co-operation with the executive.

I am a member of the European Scrutiny Committee, and we are currently taking evidence about the European constitution. A number of witnesses of great renown have come before us: people of judicial training, both in constitutional and international law, from more than one European country. We have asked them what they understand by that clause and those words. They are very worried; some of them are baffled. It is not an accident, however—those words were slightly changed during the negotiations in the Convention on the Future of Europe, which I witnessed. They are therefore deliberate. They are not permissive—they do not say that the European Court of Justice "may" co-operate with the executive but that it "shall". It is therefore a mandatory instruction. Our witnesses could give no other example in the world of a constitution that apparently undermines the independence of a court so dramatically.

**Mrs. Dunwoody:** I would find this a lot more horrifying were I not already convinced that the European Court of Justice is a wholly political organisation. All the appointments during my time in the European Parliament were made on the assumption that the judge concerned was of a particular political colour. I therefore find it difficult to accept that this has suddenly become a problem; it has been so since the creation of that entirely political court.

**Mr. Heathcoat-Amory:** The hon. Lady is right. It is an activist court, which takes as one of its duties the upholding of the European ideal and the advancement of European integration. I therefore accept what she says.

The European constitution, however, provided an opportunity to entrench a different doctrine of true independence, along the lines of the separation of powers, as we have discussed in our consideration of the Bill. That makes it all the more worrying to have written into the constitution a provision that obviously undermines that independence. The relevance for the Bill is obvious. We are giving the Lord Chancellor, and future Lord Chancellors, a duty to defend the independence of foreign courts and judges in those courts, yet the Government have signed a European constitution that breaches that independence. Therefore, my question to the Minister is: what will happen? Why are we giving the Lord Chancellor a duty to be independent, and why have we signed a constitution that undermines that independence?

**Mr. Garnier:** Has the European Scrutiny Committee, in its evidence sessions, heard any evidence about the meaning of the expression "full mutual co-operation"? I understand my right hon. Friend's argument that that could mean "do as you're told", but it might also mean that the two respect each other's separate roles. I am not

*[Mr. Garnier]*

sure whether we are just having a semantic argument, or whether there is some evidential basis for the concerns, which I can well understand.

**Mr. Heathcoat-Amory:** I am not a lawyer, but I can read English and I do understand—I think—the following sentence:

"The institutions shall practise full mutual co-operation".

That would appear to mean that the judiciary must co-operate with the executive, but is that not a breach of the separation of powers, as understood by my hon. Friend the Member for Stone (Mr. Cash)? There may be an innocent explanation, but such an explanation was not advanced by the expert witnesses who came before the European Scrutiny Committee—quite the reverse. They said that either this was indeed a serious breach, or that hopefully—as one witness put it—the provision will simply be ignored. Well, I am not quite so innocent as that. When a provision is written into a constitution that shall have primacy over the law of all member states, we must take it seriously.

I am not being excessively mischievous or pessimistic in seeing—let me put it no higher than this—a problem, and the problem for us this evening is that this provision conflicts with the Bill. As I have said, although I am not a lawyer I can read, and we are about to pass into law a duty for the Lord Chancellor "to defend" judicial independence. More than that, the judiciary—in this instance, the European Court of Justice—will

"have the support necessary to enable them to exercise their functions",

so the necessary resources will have to be provided. In every way, therefore, we are supporting an independence denied by the European constitution.

**Sir Patrick Cormack:** Of course we do not yet have the European constitution—and if my right hon. Friend and I have anything to do with it, we will not have it. The arguments that he is advancing this evening are added ammunition in the battle against that pernicious document—but putting that to one side, does he agree that clause 4 is not as damaging as my hon. Friend the Member for Stone (Mr. Cash) suggested in his speech?

**Mr. Heathcoat-Amory:** I will be marching with my hon. Friend to secure a no vote on that pernicious document. He is right to suggest that the best way to prevent this conflict is to take out the European constitution, but the only means at my disposal this evening is removing the relevant words from the Bill. This House should not legislate to contradict itself.

**Mr. Heald:** Surely the Bill provides the good bit. Obviously, one can have many objections to the Bill, but clause 4 states that the Lord Chancellor should stick up for the independence of the judiciary and take the sort of steps for which my right hon. Friend is arguing.

**Mr. Heathcoat-Amory:** I do not altogether accept my hon. Friend's assurances. To echo what my hon. Friend the Member for Stone said, we can envisage future conflict between different judicial systems, and in that case, I would rather uphold the independence of our domestic courts than put them on an equal footing with international courts.

The main purpose of my brief remarks has been to find out from the Minister how he intends to resolve this problem. He and his Government are in favour of the wording both in the Bill and in the European constitution, and that conflict needs to be resolved this evening.

**Mr. Andrew Hunter** (Basingstoke) (DUP): I will be very brief. I have some sympathy for the amendments tabled by my hon. Friend the Member for Stone (Mr. Cash) and the arguments that he advanced in support of them, but in reaching a conclusion on them, it might be helpful if the Minister answered the following two points. First, can he explain why the list of office holders in clauses 4(1) and 5(1) is so limited? Why does the Bill not impose a duty to guarantee the continued independence of the judiciary on other executive officers? Secondly, I am somewhat confused by the phrase "special access". For example, what special access do the First Minister and Deputy First Minister in Northern Ireland have to international courts that might so undermine their independence that lines 24 to 31 in clause 5 are needed? The right hon. Member for Upper Bann (Mr. Trimble) might like to comment on that.

7.15 pm

**Mr. David Trimble** (Upper Bann) (UUP): While I was First Minister I had no special access to any member of the judiciary—at home or abroad. What puzzles me about this provision is its stating that one must not misuse special access. What about normal access?

**Several hon. Members** *rose—*

**The First Deputy Chairman of Ways and Means:** I call Sir Patrick Cormack.

**Sir Patrick Cormack:** I was not quite sure whether that was an intervention or a speech. We have heard two very brief speeches, and I shall try to make a third, because I want to hear what the Minister has to say.

I want to revert to the narrow but important point that I made in an intervention. I am tolerably comfortable with the clause, but only if the holder of the office—on whom enormously onerous responsibilities will be placed, by implication and by direct injunction in the clause—is sufficiently well versed in the law to be able to understand all these matters. That underlines the point that the Lord Chancellor should indeed be removed from the hurly-burly of everyday politics—to me, that means sitting in the other place—and should be a lawyer of considerable experience and distinction. I am baffled as to why we are going to deal with that issue, which is addressed in clause 3, after considering clause 4. I want the Minister briefly to acknowledge the importance of the point that I am making when he responds to those made by others.

**Mr. Shepherd:** I, too, have difficulty with this provision. I am not sure in what way the Lord Chancellor can uphold the continued independence of

the members of any international court—a point that applies, as has been said, to the putative European Court of Justice as defined in the European constitution, but also to the European Court of Human Rights. The Lord Chancellor has no role in the appointment of the overall judiciary of that court, yet it will give judgment directly on many of the issues confronting this nation. I am therefore very nervous about the inclusion of such a provision.

Of course many such courts, the validity of which it is difficult to recognise, are set up by prerogative power; their nature has not been established through the legislative process. I have a list of them, but I shall not read it out, given the lack of time and the need for the Minister to explain the reasoning behind the provision. In what way will the Lord Chancellor, or any Minister, affect the appointments to those international courts, and why are we using prerogative power through the back door to sign up to them? There is a further, wider principle, which the hon. and learned Member for Redcar (Vera Baird) and I have often discussed. Should not many of these treaties, which contain within them a legislative process, be legislated for through this House, so that we know what powers we are giving and to whom?

**Mr. Leslie:** We have covered a number of different points, although I am not entirely convinced that all of them related to clauses 4 and 5, the latter of which deals with the provision as it affects Northern Ireland. That said, the points made were, of course, in order. The clauses set out clearly the responsibility of the Lord Chancellor and other Ministers of the Crown to uphold the continued independence of the judiciary. In answer to the hon. Member for Basingstoke (Mr. Hunter), all Ministers of the Crown are covered in that context. As the hon. Member for South Staffordshire (Sir Patrick Cormack) and Conservative Front Benchers have said, that is a pretty unobjectionable goal; indeed, it is a wholly admirable ambition.

Amendments Nos. 7 and 8 would limit that duty by removing international courts from the definition of "the judiciary". I shall explain briefly why that would not be appropriate. The removal of those subsections ould not affect in any way the UK's participation in any agreement with any international courts that have been established, or alter in any way their jurisdiction over the United Kingdom. Even if that was the intention of the hon. Member for Stone when he tabled the amendments, they would not achieve it. There is no sound justification for limiting our respect for the international judiciary in that way. Just as Ministers should uphold judicial independence in this country, so they should uphold the independence of judges in properly constituted international courts and tribunals, wherever they may be. The judges of both types of court should be treated in the same way.

**Mr. Tyler:** I understand the point that the Minister is making, but is the position not even worse than that? The hon. Member for Aldridge-Brownhills (Mr. Shepherd) is right to say that those who are appointed as British representatives in any court may be appointed by royal prerogative rather than through the judicial system, so they may be more susceptible to pressure. If we removed the provision, the implication would be that it was acceptable to exert pressure on them.

**Mr. Leslie:** Exactly. It would be perverse to argue that we should respect the judicial independence of judges in this country, but that Ministers should be free to undermine the independence of judges in international courts elsewhere.

**Mr. Garnier:** The Minister almost persuaded me that he had an argument, but he ruined it with that terrible answer to the hon. Member for North Cornwall (Mr. Tyler). Until now, nobody ever thought a Lord Chancellor would seek to influence a particular judge, in this country or elsewhere, in the making of a judgment or by use of special or normal access. The clause must go into the Bill because the Government intend to do something different to the nature of the relationship between the appointers of judges and the judiciary. The Minister should not argue that by removing the clause we would be doing something bad. Lord Chancellors have not sought to misconduct themselves in relation to judicial independence—

**The First Deputy Chairman:** Order. Once again, I remind the hon. and learned Gentleman that interventions are meant to be brief.

**Mr. Leslie:** The hon. and learned Gentleman's argument is ridiculous. The purpose of the clause is to enshrine the protection of judicial independence. I pointed out, as did the hon. Member for North Cornwall (Mr. Tyler), that it would be perverse to remove the provision and leave a gaping hole in respect of judges in international courts. I am sure that even the hon. and learned Member for Harborough (Mr. Garnier) can see that.

To answer an earlier point, in some cases British judges sit on international courts. Are they to have their independence protected when sitting in the UK, but not when sitting on an international court? The credibility of clauses 4 and 5 depends on their covering all judicial decisions affecting the United Kingdom. The same standard needs to apply to the treatment of all judges, regardless of which forum they sit in. It makes no sense to afford less protection to some judges than to others.

The right hon. Member for Wells (Mr. Heathcoat-Amory) spoke about how we might in future be able to reconcile concepts of mutual co-operation with concepts such as judicial independence and separation of powers. I do not see any inconsistency between concepts of co-operation and concepts of independence in other legislation.

**Mr. Cash:** Is the Minister prepared to say that as he understands it, the positive duty being imposed on Ministers would in no way create a situation in which there was any granting of an assumption that those who were adjudicating in international courts, including the European Court at Strasbourg and the one in Luxembourg—the European Court of Justice—in the interpretation that they place on legislation in the framework of the European Union and the European convention on human rights? Can the Minister give me satisfaction on that point?

**Mr. Leslie:** In so far as I follow the point, it would be for UK legislation to give the legal basis for judicial decisions affecting domestic law, independent of which court was making those decisions. I do not understand the point that the hon. Gentleman is making.

**Mr. Heathcoat-Amory:** The Minister presumably would not dream of placing an obligation on a British court to co-operate fully with the Government if that court were deciding on a case in which the British Government were a party, so how can he place such an obligation on the European Court of Justice?

**Mr. Leslie:** I do not have the draft European constitution before me, but I am not sure that there are requirements for particular co-operation in specific individual cases. It may be possible for the judiciary, the legislature and the Executive to co-operate in partnership, as we do in this country. We signed up in the concordat to the idea that partnership does not exclude independent judicial decision-making in particular cases. That is the fundamental point.

**Mr. Trimble:** Is it not the case that clauses 4 and 5 impose a duty to uphold the continuing independence of judges individually? That presupposes that judges already are independent. The clauses do not impose a duty to pretend that they are independent if they are not. Therefore, if some international tribunal is clearly not independent in terms of appointments to it, its independence cannot be upheld.

**Mr. Leslie:** Indeed. Clause 4(8) specifies that any international court established by treaty to which the United Kingdom is a party, or by other organisations in which the United Kingdom takes part, is to be independent. Such courts and tribunals are referred to in the Bill as legitimately organised and established. It would be wrong to allow the amendments to remove respect for and protection of judicial independence in international courts, as set out in the Bill. I hope the Committee will reject the two amendments.

**Mr. Cash:** In the light of the discussions that we have had and the arguments that I have heard from the Opposition Benches, I still have grave concerns about the drafting of the clause. However, after careful consideration I have decided that we may be able to fight this battle another day, so I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Question proposed,* That the clause, as amended, stand part of the Bill.

**Mr. Djanogly:** I am pleased to have the opportunity, albeit a brief one, to discuss the guarantee of continued judicial independence in the context of the Lord Chancellor's role, and I start with a quote:

"The Lord Chancellor provides a counter-balance to the judicial branch against the centralised power of government and Parliament. At the same time he is removed to the House of Lords, away from the full force of party politics. The Lord Chancellor is always a senior lawyer or judge, and therefore comes to government imbued with a full understanding of legal culture and the rule of law. His tripartite role enables him to act as both a link and bulwark between the judiciary and the executive and the legislature."

Those were not the words of a Conservative commentator or an excerpt from an outspoken critic of the Bill. The Minister was trying to remember where they came from—they were the words of the Government when they defended the office of the Lord Chancellor before the Council of Europe in 2002.

While giving evidence to the Select Committee on the Lord Chancellor's Department a year later, the then Lord Chancellor, Lord Irvine, said that

"there is a bit of uniqueness about the Lord Chancellor's Department, which is that its business is dealing with an arm of the state called the judiciary. It is part of the separation of powers. We deal with, as I say, an arm of the state within the separation of the powers and this arm of the state values, and rightly, its judicial independence above all else. It does not want to be bullied by the executive. It believes that its function is to stand between the citizen and the state and to be absolutely robust in deciding when the state has acted contrary to the law."

Yet now, the Government wish abruptly to change the position on the office of Lord Chancellor—albeit that, grudgingly, they will not now change the name—and toss a long-standing part of our Government into the dustbin of history.

7.30 pm

It is my belief that the position is too important to be restructured on the basis of a purely political premise masqueraded by the Government under the name of constitutional reform. The position of Lord Chancellor is an ancient one. Some of the most important statesmen in our history have served as Lord Chancellor. Under the Bill, it is now proposed that there will be no requirement that the Lord Chancellor will be a lawyer or have any law experience. Supposedly, according to the Government, a layman has more ability to advise a Prime Minister on legal affairs than a judge who has sat on cases and has training in the law. The Lord Chancellor's unique role in all three branches—Executive, judicial and legislative—gives him a unique opportunity to serve independently and non-politically.

**Sir Patrick Cormack:** In the Bill as it stands, there is a requirement that the Lord Chancellor should be a lawyer, as set out in clause 3. Is it not therefore all the more important, in view of the sensible remarks that my hon. Friend is making, that clause 3 does indeed stand part of the Bill?

**Mr. Djanogly:** My hon. Friend makes a very important and pertinent point. I have been attempting to lay the ground for a discussion of clause 3 later.

In the short time that remains, I wish to mention that, in addition to clause 3, if there is a single action that could virtually guarantee the independent status of the role of Lord Chancellor it would be the disqualification of the Lord Chancellor from holding any other ministerial office. Perhaps we can deal with that issue when we come to clause 3.

I consider that the Government have paid too little attention to the need to guarantee judicial independence. We will return to these issues when we debate clauses 2 and 3.

**Mr. Leslie:** The hon. Member for Huntingdon (Mr. Djanogly) has given good reasons why the clause should stand part of the Bill. It is a point of mutual agreement in all parts of the Committee that we want to provide an unequivocal guarantee of continued judicial independence. That guarantee is binding on all Ministers of the Crown and all those with responsibility for matters relating to the judiciary or the administration of justice. Through the clause, we are seeking to embed in statute the principle of judicial independence, which all in the Committee rightly regard as being of paramount importance in our constitution. Clause 4 does exactly that, and it also imposes particular duties for the purpose of upholding continued judicial independence. First, Ministers of the Crown must not seek to influence particular judicial decisions through any special access. Secondly, the Lord Chancellor must consider the need to defend continued independence throughout.

**Mr. Garnier:** I just want to record that it is a shame—indeed, it is more than a shame—

*It being three hours after the commencement of proceedings on the Bill,* THE CHAIRMAN *put the Question already proposed from the Chair, pursuant to Order [this day].*

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

THE CHAIRMAN *then proceeded to put forthwith the Questions necessary for the disposal of business to be concluded at that hour.*

## Clause 6

REPRESENTATIONS TO PARLIAMENT

*Amendments made:* No. 1, in line 41, leave out 'But'.

No. 2, in line 43, at end insert—

'(3) In relation to Northern Ireland those matters do not include transferred matters within the legislative competence of the Northern Ireland Assembly, unless they are matters to which a Bill for an Act of Parliament relates.

(4) In subsection (3) the reference to transferred matters has the meaning given by section 4(1) of the Northern Ireland Act 1998 (c. 47).'.—*[Mr. Leslie.]*

*Clause 6, as amended, ordered to stand part of the Bill.*

## Clause 7

PRESIDENT OF THE COURTS OF ENGLAND AND WALES

*Amendments made:* No. 19, in page 4, line 10, leave out 'Minister' and insert 'Lord Chancellor'.

No. 20, in page 4, line 13, leave out 'Minister' and insert 'Lord Chancellor'.—*[Mr. Leslie.]*

*Clause 7, as amended, ordered to stand part of the Bill.*

**Sir Patrick Cormack:** On a point of order, Mrs. Heal. My hon. and learned Friend the Member for Harborough (Mr. Garnier) just said in an extremely brief speech that something was a shame. To quote my favourite entertainer, Stanley Holloway, it is a shame and a sin that this Committee has not had the opportunity to discuss clauses 6 or 7 in the first three hours allowed for the Bill. I realise that you can do nothing about this matter tonight but could you, on behalf of the House, speak to Sir Alan and Mr. Speaker and see whether any representations can be made to those who draw up programmes to ensure that there can be some built-in flexibility, so that when the House is faced with a major constitutional Bill of this nature, it does not end up without any opportunity to discuss significant parts of it?

**Mr. Garnier:** Further to that point of order, Mrs. Heal. I wish to explain to you that what I thought was a shame was precisely what my hon. Friend has just said. Vast sections of this important Bill will never be discussed by the House. What is the point of the House if it is not allowed to discuss anything that the Government wish to impose on the people of this country?

**The First Deputy Chairman:** The remarks that have been made are now on the record, but as has been suggested, I have no authority to make any such changes.

**Mr. Heald:** On a point of order, Mrs. Heal. The role of the Master of the Rolls and the effect of the provisions on his role in the courts of England and Wales has not been mentioned. Perhaps it would be possible for the Minister to consider whether, in commenting on some of the other clauses that deal with judicial matters, he might reflect on the position of the Master of the Rolls.

## Clause 5

GUARANTEE OF CONTINUED JUDICIAL INDEPENDENCE: NORTHERN IRELAND

**Mr. Leslie:** I beg to move, That the clause stand part of the Bill.

Clause 5 substitutes a new section for section 1 of the Justice (Northern Ireland) Act 2002, to ensure that provision made by that Act in relation to Northern Ireland is consistent with provision made in clause 4. Section 1 of the 2002 Act has not yet been commenced, and it already contains provision designed to place those with responsibility for the administration of justice in Northern Ireland under a duty to uphold the continued independence of the judiciary.

New section 1 specifies and extends the range of persons on whom the duty is imposed. Under the provision, the First Minister and the Deputy First Minister, Northern Ireland Ministers, and anybody with responsibility for the judiciary or administration of justice specific to Northern Ireland will be subject to a duty to uphold continued judicial independence. New section 1 also provides that, in upholding judicial independence, Ministers must not seek to influence particular judicial decisions through any special access to the judiciary. As I said earlier, we concluded that the term "special access" is essential to ensure that Northern Ireland Ministers remain free to seek to influence a particular judicial decision when appearing as a party to a court case. That answered the points raised by the right hon. Member for Upper Bann (Mr. Trimble), the former First Minister, who asked about the normal access arrangements. We need to ensure that the

*[Mr. Leslie]*

Administration would quite properly be able to make its own representations in a normal case in the normal way, if it were involved as a party to the case.

**Mr. Trimble:** I appreciate that the Minister is trying to respond to the point that I made, which I was going to repeat. What he is saying, however, seems rather strange. He is referring to enabling the First Minister or other Ministers to make representations if they are parties to an action, but that is not access. I think that the word "access" has a different meaning. There is still a problem in using the term "special access", because it must be special in contradistinction to other things. Representation is quite different from access.

**Mr. Leslie:** Even then, representation in a court is also access to it. We hope that the phrase "special access" strikes the correct balance between Ministers' legitimate activities while protecting the independence of the judiciary and ensuring that when there are special circumstances in the course of their duties requiring access to Ministers, those cannot be abused. Moreover, by virtue of clause 5(2), the new duties imposed by new section 1 to the 2002 Act have UK-wide territorial extent, so protection extends to the judiciary throughout the United Kingdom.

**Mr. Trimble:** I welcome new clause 1(1), particularly its reference to the First Minister, the Deputy First Minister and Northern Ireland Ministers. It is particularly desirable to put clearly on the record the duty of Northern Ireland Ministers generally to uphold the continuing independence of the judiciary. I merely reflect that this underlines, too, how crazy it would be to have certain persons who were so closely linked with the greatest bank robbery in British history as Ministers.

**Mr. Nigel Dodds** (Belfast, North) (DUP): Some of the points that arise on the clause arose in the debate on clause 4. No one can argue with the general principle of the guarantee of continued judicial independence in Northern Ireland, but I am slightly concerned and puzzled as to why it should be thought necessary to have a reference in new section 1(4)(c) to "international court" when the provision refers to Northern Ireland Ministers and the judiciary. That point was raised by my hon. Friend the Member for Basingstoke (Mr. Hunter) during the previous debate.

More generally, I come to some of the issues that arose during the previous debate about European law and its impact on domestic law. In Northern Ireland, some of the implications of that have been to our detriment. Section 24 of the Northern Ireland Act 1998 states:

"A Minister or Northern Ireland department has no power to . . . do any act"

which

"is incompatible with any of the . . . rights"

in the European convention on human rights or within Community law.

At the moment, there is a considerable threat to planning law in Northern Ireland from a number of European directives and that has raised a number of concerns. We would strongly resist anything that increased that threat or undermined domestic law and jurisdiction of the courts.

More generally on judicial independence, in the light of our experience since the Anglo-Irish agreement of 1985, the notion of a duty on the First Minister and Deputy First Minister to uphold the continued independence of the judiciary in Northern Ireland is worth mentioning. Since that agreement, it seems to many people that it has been commonplace for the Government of the Irish Republic to have a say in the process of judicial nominations in Northern Ireland. Indeed, it is widely accepted that on at least one occasion, the Republic's view that someone should not be nominated prevailed. Viewed in that light, the concept of an independent judiciary seems somewhat abstract. If and when the Northern Ireland Assembly returns, it is unlikely that the process would be any less contentious or political because although removing the power from the Lord Chancellor more generally might make the process more transparent, only time will tell what the longer-term implications are.

**Mr. Leslie:** During my earlier comments, I explained the broader principles of why we advocate clause 5 as part of the Bill, and nothing that I said was undermined by the comments of the hon. Member for Belfast, North (Mr. Dodds). Far be it from me to become too deeply involved in some of the points that he raised. They are on the record and my ministerial colleagues will see them. I stand by my assertion that clause 5 should stand part of the Bill.

*Question put and agreed to.*

*Clause 5 ordered to stand part of the Bill.*

**New Clause 1A**

LORD CHIEF JUSTICE OF NORTHERN IRELAND

"(1) For subsection (1) of section 12 of the Justice (Northern Ireland) Act 2002 (role of the Lord Chief Justice) substitute—

"(1A) The Lord Chief Justice holds the office of President of the Courts of Northern Ireland and is Head of the Judiciary of Northern Ireland.

(1B) As President of the Courts of Northern Ireland he is responsible—

(a) for representing the views of the judiciary of Northern Ireland to Parliament, the Lord Chancellor and Ministers of the Crown generally;

(b) for representing the views of the judiciary of Northern Ireland to the Northern Ireland Assembly, the First Minister and deputy First Minister and Northern Ireland Ministers;

(c) for the maintenance of appropriate arrangements for the welfare, training and guidance of the judiciary of Northern Ireland within the resources made available by the Lord Chancellor;

(d) for the maintenance of appropriate arrangements for the deployment of the judiciary of Northern Ireland and the allocatio t of the Courts of Northern Ireland is president of the courts listed in subsection (1D) and is entitled n of work within courts.

(1C) The President to sit in any of those courts.

(1D) The courts are—

the Court of Appeal

the High Court

the Crown Court

the county courts

the magistrates' courts."—*[Mr. Leslie.]*

*Brought up, and read the First time.*

7.45 pm

**Mr. Leslie:** I beg to move, That the clause be read a Second time. New clause 1A makes provision for a new statutory office and title of President of the Courts of Northern Ireland, which will be assumed by the Lord Chief Justice of Northern Ireland. The new clause sets out the responsibilities of the President of the Courts of Northern Ireland and the courts to which the presidency applies. His responsibilities, which are similar to those already provided for in respect of the Lord Chief Justice of England and Wales, include representing the views of the Northern Ireland judiciary to Parliament, the Lord Chancellor and Ministers of the Crown generally and, when the Northern Ireland Assembly is restored, to the Assembly, the First Minister, the Deputy First Minister and Northern Ireland Ministers.

The new clause also provides that the Lord Chief Justice of Northern Ireland will be head of the judiciary in Northern Ireland—a post that is, by convention, held by the Lord Chancellor. The Lord Chancellor will of course continue to have ministerial functions in respect of courts administration on a broadly similar basis to that for England and Wales.

The new clause is straightforward and mirrors many of the existing provisions for the consequential changes to the post of head of the judiciary in England and Wales by virtue of the reforms of the office of the Lord Chancellor.

**Mr. Trimble:** I welcome the new clause, which, as the Minister said, mirrors provisions elsewhere in the Bill. It leaves just one question in my mind: why was not the clause in the Bill to begin with?

**Mr. Hunter:** I have two brief questions for the Minister. First, on paragraph (b), will he explain the mechanisms whereby the President of the Courts of Northern Ireland can represent the views of the judiciary to the Assembly? I am advised that there are no established mechanisms for that, and it would be helpful if the Minister would explain the practicalities of that dimension.

Secondly, on paragraph (c), some confusion and bewilderment has been expressed about the inclusion of the concept of the welfare of the judiciary of Northern Ireland. What do the Government have in mind as regards the inclusion of the word "welfare"?

**Mr. Leslie:** In reply to the points made by the hon. Member for Basingstoke (Mr. Hunter), other clauses relate to representations to Parliament and, similarly, to the Northern Ireland Assembly. They would be written representations, the nature and extent of which would be as prescribed in those other clauses.

On respecting and advocating the welfare of the judiciary, those are general phrases found elsewhere in legislation covering the role of the head of the judiciary in ensuring that proper facilities and arrangements are made for its work in the normal course of its duties.

The right hon. Member for Upper Bann (Mr. Trimble) asked why the provision was not included earlier. I do not have the whole history of the genesis of the Bill in front of me, but suffice it to say that I am glad that the provision is here now and that we can make it complete and perfectly formed in the way that we propose.

*Question put and agreed to.*

*Clause read a Second time, and added to the Bill.*

## Clause 2

REQUIREMENT OF MEMBERSHIP OF THE HOUSE OF LORDS

*Question proposed,* That the clause stand part of the Bill.

**Mr. Leslie:** I believe that the clause should not stand part of the Bill and I therefore urge my hon. Friends to vote against it. It was included in the other place and we wish it to be removed. I shall explain why the Government take that view.

We oppose the concept, although we understand why their lordships would prefer to keep the reformed office of Lord Chancellor in their Chamber. However, they are wrong and I hope that we can delete the clause. They have fundamentally misunderstood the changed nature of the ministerial post. The title of Lord Chancellor may remain, but gone are the duties to select the judiciary on his own and the power to sit as a judge.

If the Lord Chancellor is no longer solely responsible for selecting the judiciary, can no longer sit as a judge and is no longer head of the judiciary, there remains no reason to be inherently distant from public accountability or parliamentary scrutiny. Of course, we propose nothing that would prevent the Lord Chancellor from being a Member of the House of Lords, but there is no good reason for the clause explicitly to prevent someone's appointment simply because they happen to be an elected representative.

It would be odd if a Prime Minister could appoint anyone except someone who happened to be elected. Deliberately to exclude an individual who was chosen to sit in Parliament by democratic means would appear perverse to most people.

**Mr. Heald** *rose*

**Mr. Leslie:** Including, I hope, the hon. Gentleman.

**Mr. Heald:** Certainly not. Is not it obvious that the other place has a far less partisan manner of debate and that it is far better for the sort of figure who upholds the independence of the judiciary to come from such an environment, be approaching the end of a career but have the necessary great seniority rather than being some young politician who is starting in the Cabinet, has ambition and wants perhaps to make a name for himself?

**Mr. Leslie:** The hon. Gentleman is clearly talking about himself again. I wish he would not indulge in relating his personal ambitions, but I am sure he will go a long way in politics. There is nothing to stop a

*[Mr. Leslie]*

Member of the House of Lords being a young person, perhaps with less experience and knowledge of the world than the hon. Gentleman expects. We are therefore focusing on clause 2, which suggests that membership of the House of Lords is inexorably connected with the nature of the reformed ministerial post. It is different from the former office of Lord Chancellor because of the other changes that the Bill makes. It would be perverse to suggest that anyone could be appointed to the post of Lord Chancellor by virtue of a peerage and being put in the House of Lords but not if they were elected, even if an elected person was, by common consent, the best person for the job. It is nonsense.

The person who fulfils the reformed office of Lord Chancellor will be a Minister of Cabinet rank, responsible for more than £3 billion of taxpayers' money. Why prevent for ever the possibility of taxpayers holding to account, through this Chamber, that individual who is responsible for spending their money? Junior Ministers, who answer to the Lord Chancellor, can try their best to account to the elected House, but should not at least the option exist of having the responsible Cabinet Minister account to elected representatives? It would be strange for the House to accept the proposition of the hon. Member for North-East Hertfordshire (Mr. Heald) that any future Lord Chancellor must always be protected from the full force of politics while accepting that his junior Ministers should not be so protected.

In agreeing the concordat that is associated with the Lord Chancellor's reformed functions, the Lord Chief Justice said in evidence to the Select Committee:

"My firm support for the Concordat reflects the fact that I see no difficulty with a Government Minister exercising any of the functions assigned to the Secretary of State for Constitutional Affairs by the Concordat. I do not consider that such a Minister requires any enhanced status or particular title to enable him or her to exercise those functions."

That helps to underline why membership of the House of Lords is an unnecessary qualification for being appointed as Lord Chancellor.

Like many other Ministers in the House of Commons, for example Ministers with perhaps quasi-judicial decision-making responsibilities under the Town and Country Planning Acts, the Lord Chancellor will have to act with neutrality and impartiality in some functions. That should not prevent a Lord Chancellor from being chosen by a Prime Minister from either House of Parliament.

Times change and change is now necessary. Until the 14th century, the Lord Chancellor was always a cleric. Does that mean that we have broken a cardinal rule by departing from that practice? Are we worse off because the Lord Chancellor's duties have evolved since the days when he was primarily a secretary to the King? I do not believe so.

The post of Lord Chancellor has evolved and continues to evolve. It is now time to end the unnecessary qualification that that Minister must be unelected. We should accept the possibility that, one day, the right person for the post might be a Member of the House of Commons. The Lord Chancellor should simply be the best person for the job, sometimes drawn from outside the ranks of elected representatives and sometimes not.

I urge hon. Members to remove clause 2 from the Bill.

**Mr. Djanogly:** Lord Lloyd of Berwick successfully moved an amendment on Report in the other place to require the Lord Chancellor to be a Member of the House of Lords. He made various comments that are worth repeating. He said:

"The issue was, I would submit, very clear: whether the job that I have described, and which was agreed, should be performed by the Lord Chancellor in this House, or whether it could be performed by a Minister in the House of Commons. That was what the debate was actually about.

Yet, the Lord Chancellor now says that all that was in issue was a name, a shell without the kernel, so that the Lord Chancellor would become just another name like the Lord President of the Council and the Lord Privy Seal. I cannot accept that as a fair reading of the debate that took place in Committee."

He continued:

"I therefore come to the fourth and last argument that has been advanced. It is said that the Prime Minister should be free to appoint whoever he wants to run the courts—free to appoint a Member of the other place who is not a lawyer and could be quite junior in Cabinet ranking. That is the real difference between the two sides in this debate. In my view, the task of defending judicial independence in the Cabinet is of such critical importance that it should be given to a senior judge or lawyer who is a Member of this House and not to a politician on his way up the greasy pole."—[*Official Report, House of Lords*, 7 December 2004; Vol. 667, c. 750-51.]

**Peter Bottomley** (Worthing, West) (Con): Is not that point illustrated by the fact that, during the few hours when there was no Lord Chancellor in the botched Cabinet reshuffle, the Government decided to make major changes to the judiciary? That emphasises why we should always have someone around who will say to the Prime Minister and his modernisers, "Don't go so fast with our independent judiciary."

**Mr. Djanogly:** My hon. Friend makes a good point. That strange moment in history was especially bizarre because the Lord Chancellor appeared to say that there was a need to modernise at a time when the constitution was working well rather than waiting until it had become weak. When something does not work and is weak, such as—dare I say it?—the dome, not much appears to be done about it.

**Vera Baird:** Will the hon. Gentleman explain how putting the Lord Chancellor in the Lords provides greater protection if the person who is appointed is a young and ambitious peer who hopes to get on in politics?

8 pm

**Mr. Djanogly:** I shall come to that in a moment. A package of issues is involved here, the conclusion of which is the part of the Bill that we are now defending, and we have to look at those issues in context.

Lord Lloyd of Berwick surmised that the evidence given in Select Committee was almost overwhelmingly in favour of his amendment, citing

"the views expressed by the Law Society; those expressed very firmly by the House of Commons Constitutional Affairs Committee; the views expressed by the noble and learned Lord, Lord Bingham, on many occasions . . . when he was Lord Chief Justice; and in the Law Lords' evidence to the Select Committee, and so on." —[*Official Report, House of Lords*, 7 December 2004; Vol. 667, c. 753.]

That position is widely held.

**Mr. Beith:** The Committee strongly asserted its view that the occupant of the post should be a senior person who is not looking for further political office. However, not everyone in the House of Lords fits that description, and not everyone in the House of Commons would be disqualified on those grounds.

**Mr. Djanogly:** I thank the right hon. Gentleman for making that point. I shall come to his Committee's recommendation in a moment, and he might wish to comment further then.

**Vera Baird:** I am sorry that the hon. Gentleman has said what he just did, because the House of Lords Select Committee did not recommend that the Lord Chancellor should be a peer. Opinion was divided on that issue. Neither did the Committee on which the right hon. Member for Berwick-upon-Tweed (Mr. Beith) serves say whether the Lord Chancellor should be a peer or not. In fact, it expressly stated that it found no compelling argument that he should be. The hon. Member for Huntingdon (Mr. Djanogly) should be careful to ensure that he is right when he says that he is giving the overwhelming view of all sides.

**Mr. Djanogly:** I shall not dispute what the hon. and learned Lady has said. I was quoting from *Hansard*, and it is on the record. She has made her point and I thank her for that.

The requirement for the Lord Chancellor to be a senior lawyer is part of a package that is represented in clauses 2, 3 and 4. In respect of clause 4, we are saying that, for judicial independence to work, the Lord Chancellor needs to be a Member of the House of Lords and to be a senior lawyer. In effect, we are saying that the Lord Chancellor should not just be a full-time politician like any other running a Department; he should be slightly removed from the intensity of political pressure, in order to fulfil the Lord Chancellor's important historic role of acting as guardian of the rule of law and representative of the judiciary.

That would best be achieved by his being a Member of the House of Lords, because the atmosphere in the other place is less political. Furthermore, a peer would be likely to be a senior individual who had reached the latter stages of his or her career, and would therefore be less likely to be swayed towards unquestioning support for the Government on the basis of a promise of political advancement. Lord Howe of Aberavon said:

"Secretaries of State do not always realise it, but their functions can be shuffled around at will. Secretaries of State are relatively small beer compared with the importance of the Lord Chancellor's position." —[*Official Report, House of Lords*, 7 December 2004; Vol.667, c. 764.]

That is indeed a sobering thought for the average Secretary of State.

The House of Commons Select Committee on Constitutional Affairs published its report on 25 January 2005. It states:

"Assuming that the House retains the Bill to an extent in the format in which it arrived from the House of Lords, on balance we prefer to keep the office of the Lord Chancellor and its distinctive status, different from that of all other members of the Cabinet, because as we said in our earlier report when contrasting the role of the Lord Chancellor with other ministers, the Lord Chancellor 'has a special constitutional importance enjoyed by no other member of the Cabinet and . . . is usually at the end of his career (and thus without the temptations associated with possible advancement)'."

The report goes on to say:

"Although it may be more likely that someone in the House of Lords as at present constituted has the seniority and lack of aspiration towards further office which we considered desirable, it is by no means certain, and there will be suitable candidates for the post in both Houses."

I take the point that the Committee makes there. However, that is surely overcome to some extent by the flexibility of the other place to appoint people in a faster and more direct way than exists in this House.

The Lord Chancellor should be a politician at the end of his career, not a junior politician on the make. The Lord Chancellor is the guarantor of judicial independence, and the Government's proposals to open the position to a Member of the House of Commons who might be relatively junior and need not have a legal background would weaken the Lord Chancellor's ability to defend judicial independence against more powerful colleagues. The Bill as it stands will help to ensure that the Lord Chancellor's position as the guarantor of judicial independence is maintained. It would strengthen the office, and the Government should leave this clause alone.

**Mr. Tyler:** My colleagues and I would like to support the Government in rejecting this requirement and to insist that it is much more important to retain flexibility. Frankly, the arguments adduced by the hon. Member for Huntingdon (Mr. Djanogly) were very dubious indeed.

**Mr. Heald:** Will the hon. Gentleman give way?

**Mr. Tyler:** Not at this stage; I have hardly started. Let me advance my argument first, then we can see what the hon. Gentleman has to say.

The hon. Member for Huntingdon did not refer to the fact that the concordat, which is extremely important, now accepts that this flexibility would be useful. Furthermore, I reject the selective way in which he quoted from the Select Committee chaired by my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith). It was absolutely outrageous. He left out the vital sentence at the end of the recommendation. He led up to it perfectly properly, by saying:

"Although it may be more likely that someone in the House of Lords as at present constituted has the seniority and lack of aspiration towards further office which we considered desirable, it is by no means certain, and there will be suitable candidates for the post in both Houses."

*[Mr. Tyler]*

He did not, however, go on:

"There does not, therefore, seem to be a compelling argument for insisting that the Lord Chancellor must be a member of the Upper House."

**Mr. Heald:** The hon. Gentleman has quoted the concordat. Is he aware that Lord Woolf said of the Judges Council that

"the council considered it preferable, but not vital, that the Lord Chancellor should be a Member of this House."—[*Official Report, House of Lords*, 7 December 2004; Vol. 667, c. 758.]?

So both the Constitutional Affairs Committee and the Lord Chief Justice believe that that is preferable.

**Mr. Tyler:** That is not what was said. It was not thought to be essential; even the hon. Member for Huntingdon knows that.

**Mr. Djanogly:** Will the hon. Gentleman give way?

**Mr. Tyler:** Let me just advance this argument a bit further. Let us see whether the hon. Gentleman can quibble with this. First and foremost—

**Mr. Djanogly:** Will the hon. Gentleman give way?

**Mr. Tyler:** Oh, come on then.

**Mr. Djanogly:** I thank the hon. Gentleman for giving way. He attacked what I said earlier, and it is only fair that I should be allowed to answer him. The point is that I questioned the very conclusion that he has reached. No, I did not quote the whole report, but I addressed the issue to which he has referred, and I questioned it. He might wish to answer the questions that I posed.

**Mr. Tyler:** I would like to do so, but first and foremost, the hon. Gentleman should recognise that the Select Committee took evidence and thought very carefully indeed about this issue. Hon. Members on both sides of the House are members of that Committee. Its report stated very clearly that its recommendation was that it was not essential for the Lord Chancellor to be a Member of the House of Lords. That was a balanced judgment from an all-party Select Committee reporting back to the House in very good time so that we could take account of hon. Member's views in our debate this evening. The Select Committee also said:

"The size and budget of the DCA (now over £3 billion) has grown considerably in recent years and it might be thought desirable that its Minister be answerable to the House which controls supply."

Perhaps the hon. Gentleman is about to say that the House of Lords should in future have a role in determining the Supply issue, which has always been an important function of this House. We have always said that the other place should not be able to intervene on issues of that kind, so unless he wants to change the constitution in that way, I am afraid that his argument simply collapses.

That is not the only anomaly in the Conservatives' argument. It is also extraordinary that they think it preferable that this very important post should be filled by someone who is basically an appointee of the Prime Minister of the day, rather than that he or she should have a mandate from the electorate. This House provides every single one of us with a responsibility not only to Parliament and to our party, but to our constituents and to the electorate at large. It is curious, as my hon. Friend the Member for Somerton and Frome (Mr. Heath) said on Second Reading, that anyone should

"want to institutionalise that arrangement, so that every future Lord Chancellor—every future Secretary of State for Constitutional Affairs—had to be a crony of the Prime Minister of the day, because only by that patronage does anyone appear in the other place".—[*Official Report*, 17 January 2005, Vol. 429, c. 597.]

The Conservative party, my party and, I hope, the Labour party are absolutely determined to make the other place an elected House in due course. I think that the hon. Gentleman's party is still signed up to making a majority of those in the other place elected—I believe that 80 per cent. was the last proposal. My party is also committed to the election of a majority of those in the other place. I am not sure about the hon. Gentleman's views, but a substantial number of his colleagues in both Houses—including their leader in the Lords, and the Lord Chancellor himself—are committed to making the other place more democratic and more representative. That, after all, was what all Labour Members of Parliament were committed to at two general elections, and what they had a mandate to implement. It has not happened yet, and I suppose we should not hold our breath.

The hon. Gentleman referred to an anomaly. He assumes a continuation in the other place of appointees of the Prime Minister of the day. If he is now resiling from the policy of his own party, let him say so.

**Mr. Djanogly** *rose*—

**Mr. Heald** *rose*—

**Mr. Tyler:** I will respond to an intervention from whichever hon. Member wishes to speak.

**Mr. Djanogly:** The hon. Gentleman is kicking the ball way out of the baseball park—*[Laughter]*—or even the football ground. How can he pre-empt the form of a future elected upper Chamber? If there happened to be a list system, which his party would presumably propose, a certain number of advocates could be stuck on the list—whoever his party wished.

**Mr. Tyler:** You would probably call me to order, Mrs Heal, if I spoke at length about the proportional representation system that I—along with members of the hon. Gentleman's party and members of the governing party—hope to include in a draft Bill in a couple of weeks; but it will not be a list system.

This Bill, we hope, will ensure that the Lord Chancellor of the future is the best person for the job. We would wish to ensure not just that that person was accountable to the Prime Minister and Cabinet of the day, in terms of collective responsibility, but that he or she was accountable to the nation at large through Parliament. We accept the argument that the best way to achieve that is to prevent any discrimination against any individual holding the post.

I find extraordinary the way in which members of the Conservative party so patronisingly describe all those in the other place as being at the end of their careers—on the verge of their dotage, according to the hon. Member for Huntingdon. We believe that the occupant of this important post, responsible for a considerable budget for a very important Department, should be answerable, in the best possible way, to whichever House of Parliament of which he or she is a Member, and through Parliament to the people of this country. It would be absurd to prevent that improvement from being made by the Bill simply because of an assumption that the current Prime Minister will always block real reform of the other place.

We will support the Government in a Division to remove prescription and discrimination that we consider unnecessary and undesirable. We accept the view of the Select Committee, which has thought about the matter very carefully, that on balance it would be best to dispose of this proposal now.

**Vera Baird:** It strikes me as absurd that it should be suggested that in a democratic society in the 21st century we should legislate to ensure that a Minister of the Crown with a budget of £3 billion is never to be answerable to the House of Commons. That is an utter democratic absurdity, completely inconsistent with the democratic state that we have reached.

**Mr. Heald:** The hon. and learned Lady appears before judges all the time. The Judges Council says that that would be preferable, because it is looking for someone who is not particularly partisan and party political to do the important job of upholding judges' independence. What is wrong with that?

**Vera Baird:** Let me make two corrections. First, I do not appear before judges all the time. Unlike several of the hon. Gentleman's colleagues, I am a full-time professional Member of Parliament who does not see this as a part-time job to come to in the evenings. Secondly, Lord Woolf may have mentioned that the Judges Council had thought it preferable, but what he eventually said was this:

"I see no difficulty with a Government Minister exercising any of the functions assigned to the Secretary of State for Constitutional Affairs by the concordat. I do not consider that such a Minister requires any enhanced status or any particular title to enable him to exercise those functions."

8.15 pm

I am sure I have made my point firmly enough, but let me repeat it. What other democratic institution anywhere in this century will legislate to remove from democratic control a Minister of the Crown with a budget of £3 billion? The short answer is none. I want to be able to ask, on behalf of my constituents, questions about the organisation of the courts; questions about the use of the legal aid fund; questions about the quantum of the legal aid fund—and that is exactly the right way for politics to be carried out. I should have the Minister in question answerable to me in the House of Commons. The Opposition would legislate to make that utterly impossible, and to emasculate—I wish there were a feminine term—a Member of Parliament, preventing that Member from performing a very important function. That is a democratic absurdity.

What do the Opposition say? They say that even if a Member of the House of Commons is 60 or 70 years old, intent on retiring at the next election with no wish for further advancement, having already shown himself to be a great statesperson who everyone agrees could do the job, he shall be stopped from doing it unless he gives up his constituency, which he may be very happy to serve and which may be very happy for him to serve it. That applies to Members on both sides of the House. The best person for the job, who all in this House may agree is the best person for the job, will be excluded.

**Mr. Djanogly:** Does that extend to the Attorney-General's being in the House of Lords? While we are at it, does the hon. and learned Lady agree that the Attorney-General should be the Lord Chief Justice?

**Vera Baird:** Simultaneously or consecutively?

**Mr. Djanogly:** Consecutively.

**Vera Baird:** Frankly, it is not a matter to which I have given any thought, but the hon. Gentleman is welcome to intervene and tell me whether he thinks it is a good idea.

**Mr. Djanogly:** I think it is a very poor idea, but can we return to the first point? Does the hon. and learned Lady think that the Attorney-General should be in the Lords?

**Vera Baird:** I think it is a moot point. I am very puzzled by the other suggestion, that he should become the Lord Chief Justice: I am not sure where that has come from. I have obviously missed a bit of gossip somewhere along the way. The hon. Gentleman can update me on where he read that.

Shall we stick to the point? Why is it necessary to oust the Lord Chancellor, whoever he may be, from the House of Commons? First, he is no longer to be a judge at all. The Tories were very happy when the Lord Chancellor was a political appointee who appointed the judiciary. That seems to be to be a much more dangerous position than anything currently proposed in the Bill. Indeed, the Bill remedies that. Now, however, the Lord Chancellor will not do that either. He will not appoint the judiciary: as is now, I think, commonly approved, the judiciary will be appointed by a judicial appointments commission, quite separate from the Lord Chancellor. The recommendations will certainly be given to him, but the transparency of the process, and the limitations of his role in that process, make it very clear that he has less potential to intervene in judicial independence and less potential to appoint cronies—not that anyone has ever really suggested that that is what a Lord Chancellor has done. He is not a judge, so why do we need him to be a peer? He does not appoint the judges. Why do we need him not to be in the House of Commons? He is not in charge of discipline for the judges any more. He is not in charge of removal any more, on his own. It is all hedged around with qualifications and limitations. Very little of his role is to be applied to judges. So why is it now necessary to remove him to the House of Lords, when his role in the judiciary is much smaller? It is not necessary to do that to protect the judiciary. If that is why the Opposition say that that should be done, it is incomprehensible in context.

*[Vera Baird]*

On the concordat with the Lord Chief Justice, he pronounces himself satisfied that there is no threat to judicial independence from anywhere. I have just quoted him. He says that he is perfectly happy that the person should be in either House. He feels that being a peer would make no measurable difference and would not improve the situation. He speaks on behalf of the judiciary. If the judiciary is not concerned that that figure, who will still have an important though much reduced role, should be in the Commons, surely no one has a leg to stand on. Those are the very people whom the Opposition are pretending are likely to be threatened by the presence of the Lord Chancellor in the political hurly-burly.

The Lord Chief Justice himself, who must have been negotiating now for over a year on the issue and gone through it in extraordinary detail, has pronounced himself utterly satisfied that this measure is completely unnecessary. One just gropes around for the reason for the proposal. I cannot find one. It is easily demonstrated that there is much less control over the judiciary now with this official, and therefore less reason to be concerned about his presence in what I call the political hurly-burly without believing that it is worse in here than it is in the other place.

The hon. Member for Huntingdon (Mr. Djanogly) did not do fairly by the two Select Committees that have laboured mightily, reported properly and taken evidence on the issue. He did not say as clearly as he should have done that the House of Lords Select Committee, to which this Bill was, unusually, sent for very careful and long-term consideration, did not say that the Lord Chancellor should be a peer. It was divided on the issue. As has been made clear from the horse's mouth and from the horse's colleague, the Committee of the right hon. Member for Berwick-upon-Tweed (Mr. Beith) did not say anything of the sort either. The hon. Member for North-East Hertfordshire (Mr. Heald) is talking to me all the time about it being preferable. That is a very different thing from it being compulsory.

**Mr. Heald:** Of course, it is a different thing. I have never said anything else, but the point is that we want the best and what is preferable is obviously a lot better than what is not.

**Vera Baird:** We want the best Lord Chancellor and the best Lord Chancellor may be in this House. The hon. Gentleman will exclude the best person, if he or she is here, from being appointed to that office.

**Mr. Leslie:** The hon. Member for North-East Hertfordshire (Mr. Heald) has now begun to speak in riddles to justify his point. He talks about it being preferable but the clause that he is advocating reads:

"No person is qualified to be Lord Chancellor unless he is a member of the House of Lords."

It talks not about preference but about "must be". Will my hon. and learned Friend comment?

**Vera Baird:** I agree completely.

**Mr. Heald:** Is not the key point that, if the measure were passed, the preferable position would have been achieved?

**Vera Baird:** The preferable position is achievable now without the that measure. Surely that is not beyond the hon. Gentleman. Let me move on because I am satisfied that it is not beyond him. He is starting to have to talk in riddles because he has lost the rational basis for what he is putting forward. The testimony from all the interested parties, Committees of both Houses and the judiciary is that he is wrong and he is completely out of it, so he is starting to talk in riddles.

The purpose of the measure has nothing to do with judicial independence. Its purpose may be to avoid any suggestion of improper influence in the courts system because of too close control over the Lord Chancellor's appointment by the Prime Minister, perhaps—by any Prime Minister—or too much interference by other politicians. Of course, avoiding allegations of cronyism is very important but it must be said that the current Lord Chancellor is both a peer and a lawyer and that has not avoided such allegations against him. Indeed, on Second Reading, the hon. and learned Member for Harborough (Mr. Garnier) suggested that there was something wrong with the appointment of Lord Justice Potter as the president of the family division because he had been the pupil master of the Lord Chancellor.

**Mr. Garnier:** Since the hon. and learned Lady and I had a spat on the last occasion, I checked precisely what I did say. If she looks at the record, I said that there was something illogical about the Government advancing the arguments that they were advancing for a judicial appointments commission when their current Lord Chancellor was prepared to appoint judges in the way that he did. I had no criticism of the individual appointment. Lord Justice Potter will make a very good president of the family division. However, I do not want to get sidetracked. I have some better arguments to put to her in a minute.

**Vera Baird:** I doubt whether the hon. and learned Gentleman is going to muster very good arguments but I wait with bated breath for all of them. What he said was:

"The Minister says that the Government want to modernise the operation of the judicial appointments system and make it transparent. Why then did the Lord Chancellor for the transitional period, as he likes to call himself, appoint his pupil master as president of the family division?"—[*Official Report*, Monday 17 January 2005; Vol. 429, c. 557.]

If the complaint were about a lack of transparency in the current methodology, which is what I think the hon. and learned Gentleman is now suggesting, he could have mentioned the appointment of any judge over the last period after the institution of the Bill, but he did not choose to mention the appointment of Lady Hale, Mr. Justice Bean or Mrs. Justice Dobbs. He chose to mention the appointment of Lord Justice Potter, the pupil master as the president of the family division. It

seems that that was a slur. There would have been no point in mentioning that particular individual if it had not been intended to slur the Lord Chancellor. I regret to say that the consequence was that it became dangerously close to slurring Sir Mark Potter, who is an absolutely excellent appointment.

**Peter Bottomley:** My hon. and learned Friend the Member for Harborough (Mr. Garnier) just said that he was making the point that the present arrangements allowed the Lord Chancellor to pick the new head of the family division. It is a pity that the Committee has had to hear the hon. and learned Lady refer copiously to her notes, which must have been written before my hon. and learned Friend made his intervention, because what she said in the last two or three paragraphs paid no attention to what he said and to what the Committee heard.

**Vera Baird:** First, that is utterly incorrect and secondly I am not reading from my notes. I am reading from the *Hansard* of what the hon. and learned Gentleman said last time. Would the hon. Gentleman like to borrow it? I am happy to hand it across.

**Peter Bottomley:** I repeat, my hon. and learned Friend said that he was illustrating the present method of appointment. Everything that the hon. and learned Lady said after that ignored what he said and that may not be regarded as the greatest courtesy to the Committee.

**Vera Baird:** The hon. Gentleman is wrong yet again. I heard what the hon. and. learned Gentleman affected to have said last time. That is what he has tried to put right tonight. I have read what he did say last time and what he said last time was a calculated slur on the current Lord Chancellor for seeking to "appoint his pupil master". Otherwise, as I have said, if the complaint is about the lack of transparency, why not complain about that lack in the other 10 judicial appointments made over the last few months? The position is utterly clear. It does not matter how many times the hon. Member for Worthing, West (Peter Bottomley) rises, he cannot erase what was said in *Hansard*.

8.30 pm

The fact that the current Lord Chancellor is a peer has not stopped him from being slandered on the basis that he is somehow inappropriate and not independent because he was once the flatmate of the Prime Minister. That, too, has been said innumerable times by Conservative Members. Neither has being a peer or, indeed, a lawyer, protected him from the allegation that he is inappropriate because he did not stop the ouster clause from being placed in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, though, of course, that never happened. Scandalous and silly attacks against the current Lord Chancellor have been made and the fact that he is a peer has not protected him from them.

It is ironic that the very party that has tried to use the fact that the current Lord Chancellor is known to the Prime Minister and was appointed to the peerage to become Lord Chancellor by the person who was his flatmate when they were both lawyers as evidence that the system is somehow under threat from the Prime Minister's cronyism is the same party that is now saying that the way to protect the legal system from an inappropriate threat is to ensure that the next Lord Chancellor has exactly the same professional qualifications as a senior lawyer and exactly the same status as a peer as the current Lord Chancellor. Conservative Members repeatedly say the opposite of what they previously said from one week to the other, tying themselves in silly knots. The current Lord Chancellor is, incidentally, an absolutely excellent holder of that office—and he would be if he were in the House of Commons.

What protection are we to derive from the fact that the next Lord Chancellor must, if the Tories have their way, be a peer? Well, we would be so well protected that Lord Archer or anyone else in the peerage who had been convicted of a criminal offence could become Lord Chancellor. Such people are not debarred from holding their peerage. I guess, also, that the son of a son of a son of a son of a son of a notable peer, in whom the strain of high merit has grown a little thin over the years, could equally be appointed Lord Chancellor. By the skin of our teeth, we have just escaped the possibility that the Lord Chancellor could be someone convicted in South Africa of being involved in an attempted coup against the Government of Equatorial Guinea—the son of a former Prime Minister. Happily, he has only a hereditary baronetcy, but it is pretty close. *[Interruption.]* Some Conservative Members are acknowledged experts in the ranking of the hereditary peerage and have a degree of understanding way beyond my own in that respect.

That shows how much protection there is in ensuring that someone is a peer. It does not make the slightest bit of sense. It is clear that making the Lord Chancellor a peer provides no protection. It is the calibre of the person that matters, and the calibre can be high, irrespective of whether he or she is chosen from the House of Commons or the other place. The overwhelming case for him to be in the Commons centres on the answerability argument.

Let me now deal with the second proposal—that the Lord Chancellor should be a senior lawyer. It is not just a senior lawyer, though, but one with particular qualifications—

**The Temporary Chairman (Mr. George Stevenson):** Order. The hon. and learned Member will know that the issue of the Lord Chancellor being a lawyer is dealt with in clause 3, which we shall come to in a moment. We are currently debating the particular issue of membership of the House of Lords.

**Vera Baird:** I am grateful for that guidance. The hon. Member for Huntingdon in opening for the Opposition, referred to the two issues as a package, so it seemed right for me to deal with them in the same way, but I shall return to that matter later.

**Mr. Garnier:** I shall not follow the hon. and learned Lady down the somewhat acerbic and personalised route that she took, because doing so advances neither her own arguments nor the general tenor of the debate. She is, of course, perfectly entitled to make her remarks and deliver them in whatever tone she wishes. I would not want to prevent her from doing so.

*[Mr. Garnier]*

I would like to concentrate on some of the differences in the two sides of the argument, not because I believe that one side is necessarily right and the other necessarily wrong, but because I merely want to express my opinion. I am not saying that, if either or both of clauses 2 and 3 were removed from the Bill, civilisation as we have known it for the last 3,000 years would cease to exist. It is silly to put such arguments into our minds, but it is important to appoint the best person for the job of Lord Chancellor.

Given how the Bill has been amended and how the functions of the office of Lord Chancellor are to be radically changed, it would be more honest, in the end, to describe the Secretary of State for Constitutional Affairs—the head politician of the £3 billion a year public Department—as the Lord Chancellor. The person who will hold the title of Lord Chancellor after the Bill is enacted will not be a Lord Chancellor as we have all understood it for the past 30, 40, 50 or perhaps 100 years. He will still less be the same sort of Lord Chancellor who existed in the days of Henry II or even Henry VIII. We are dealing with the title "Lord Chancellor" differently from how Lord Irvine, Lord Gardiner, Lord Hailsham, Lord Kilmuir and any other relatively recent, but not extant, Lord Chancellor would have understood it.

I described the Bill and clause 1 as intellectually dishonest, and there is something intellectually dishonest about pretending that the Lord Chancellor will be anything but a politician who heads a spending Department. The title will be continued for political convenience and to prevent people from having hissy fits about its removal, but the job will not.

We must be clear about the situation. I am perfectly prepared to have a Lord Chancellor with functions and a remit that are much more restricted than those of the current holder of the office. In the 1950s, the Lord Chancellor's Department had a tiny number of civil servants and little spending power. Beyond his ceremonial role, the Lord Chancellor did little more than chair the House of Lords and deal with the appointment of the judiciary. The judiciary was taken only from the Bar of England and Wales in the 1950s. There were only between 2,000 and 3,000 barristers in those days—perhaps not even as many as that—so it was perfectly possible for the Lord Chancellor personally to know the candidates from the Bar of England and Wales who would be of suitable quality for high judicial office.

I understand that that is no longer possible. The Bar of England and Wales now numbers between 10,000 and 12,000 people and there are about 70,000 to 80,000 practising solicitors in England and Wales. Those people form the pool from which the judiciary may be selected, so the Lord Chancellor cannot possibly be expected to know all 80,000 to 95,000 lawyers who could be eligible for judicial office. The Lord Chancellor's job and functions are thus completely different from those in the 1950s and the early 1960s, but for all sorts of reasons—good and bad—we want the title to continue. As I said a moment ago, however, we are misleading ourselves if we think that the Lord Chancellor, as head of the Department for Constitutional Affairs, is doing anything like the job of the old Lord Chancellor.

We also fool ourselves and perhaps get into a bit of a muddle if we try to rely on the words of Lord Woolf as being for or against the argument. During the previous Parliament, the then Home Secretary—he is now the Foreign Secretary—thought it appropriate to rely on extracts of correspondence that he had had with the then Lord Chief Justice, Lord Bingham. He made the mistake, as others have done in court and perhaps in the Chamber, of reading only an extract. He cited the extract in support of the Government's policy to curtail jury trials, but if he had read the whole letter, he would have discovered that the then Lord Chief Justice's views on the matter were not as he hoped that the House would understand. Similarly, those who agree with the Government's view on clause 2 should not look for too much support for their position in what Lord Woolf has said, or is reported to have said. There are two reasons for that. First, I suspect that his views, as expressed publicly, are designed to lead to some sort of compromise and are not necessarily the views that he might express in private. I have not discussed the matter with him, so I have no way of proving that one way or the other. I merely caution Members against relying too much on extracts from letters or documents penned by the Lord Chief Justice in support of arguments that they want to make.

**Mr. Beith:** On the principle that the hon. and learned Gentleman is advancing, it is quite proper that anyone considering the views of the Lord Chief Justice or anyone else should look at them in their entirety and not misquote them, but to take the view that someone might possibly have said in private something that differs markedly from what they said in public is not a particularly good way of assessing their declared opinions.

**Mr. Garnier:** I accept that. That is why I said candidly a moment ago that I had no proof one way or the other; I merely caution Members against relying on the written words of Lords Chief Justice, especially when they are quoted out of context.

More to the point, and more interestingly, when people complain that the judiciary, or some members of the judiciary, are members of the House of Lords and thus members of the legislature, and that that confuses those two pillars of the constitution—namely, the legislature and the judiciary—and demand the setting up of a supreme court outside Parliament whose judges are not Members of Parliament, it strikes me as odd that, despite that, they rely on the views of Law Lords, or the Lord Chief Justice in this instance, to support their case. I make that criticism of both sides of the argument.

My hon. Friend the Member for Huntingdon (Mr. Djanogly) quoted at length from the speech of Lord Lloyd of Berwick. He is perfectly entitled to do that, but such quotation does not always assist; it is our arguments and views that are important when we discuss Bills in this place, although we should no doubt pay respect to the views of their lordships. Equally, if it be thought by the purists on the other side of the argument that there should be an obvious and clear separation of the judiciary from Parliament, surely we should not allow ourselves to be influenced in coming to our views by the views of members of the House of

Lords who are judges. We should respect the purity of their arguments by not paying too much attention to their views.

**Peter Bottomley:** The point that I have taken from this is that the word "concordat" means agreement and that the word "compromise", at its best, means agreement. It is clear that in the concordat the present Lord Chancellor has signed up to things with which he disagreed. He was willing to change his views, so the Committee can say that we should not take a single sentence from one part of the concordat to determine which way we would prefer to go ourselves.

**Mr. Garnier:** My hon. Friend anticipates me, because I do not think that we should legislate by concordat. We should legislate in this and the other place, and I am not sure that it is proper for a judge, no matter how eminent or senior, to reach agreements with a member of the Government, or with the Lord Chancellor, in such a way as to design the legislation that the Government intend to push through the House. I accept that the Government have a vast majority and that all the arguments we make against their legislation will soon be tested in the Lobby. It does not take great powers of anticipation to know what the verdict of the Division will be. None the less, there seems to be a huge inconsistency in the way in which we treat the opinions of members of the House of Lords who are also members of the judiciary.

We should be robust enough to put forward our own arguments. We may disagree; the hon. and learned Member for Redcar (Vera Baird) and I have had our disagreements. She is a passionate supporter of the supreme court and of the removal of the Law Lords from the House of Lords and their placement somewhere else. She is a passionate supporter of the reform of the office of Lord Chancellor. I happen to disagree with her, but that need not be a cause of a war or a spat. They are just two separate opinions, which we are entitled to express. If she wishes to express another, I would be delighted to let her.

8.45 pm

**Vera Baird:** I am concerned that the hon. and learned Gentleman seems to be suggesting that the Lord Chief Justice has signed up to something with which he does not agree. I do not know on what basis the hon. and learned Gentleman suggests that, nor do I understand on what basis his colleague, the hon. Member for Worthing, West (Peter Bottomley), expressed a similar view, trying—not for the first time—to expand or explain the point.

Will the hon. and learned Gentleman explain why he says that Lord Woolf may have signed up to a concordat with which he does not agree? Will he explain why he says that it is our views that count and that we should not be influenced by what Lord Woolf says, despite his having a representative role on behalf of the judiciary? Will he explain that particularly in the light of another quotation of Lord Woolf—this is *Hansard* and not letters from Lord Woolf—in which he says that the Bill is

"a piece of great reforming legislation … It will rank in importance with the great constitutional instruments of the past."—[*Official Report, House of Lords*, 7 December 2004; Vol. 667, c. 759.]

Does the hon. and learned Gentleman think that he meant it, or not?

**The Temporary Chairman:** Before the hon. and learned Gentleman gets to his feet again, I should say that I have not been in the Chair long but I am beginning to worry that we are drifting into matters that may not be sufficiently to do with membership of the House of Lords. I understand that these short clauses are a temptation to us all, and the concordat is relevant, but I would welcome a little more emphasis on the subject of membership of the House of Lords.

**Mr. Garnier:** I shall obey your constraints, Mr. Stevenson, and return to the requirement that the Lord Chancellor be a member of the House of Lords.

There is a perfectly respectable argument for leaving the Lord Chancellor where he is. As I said at the outset, what concerns me is that the Lord Chancellor's functions and job, from the enactment of this Bill, will be entirely different. We need a Lord Chancellor in the House of Lords who, as we shall discuss under clause 3, has a legal qualification or legal experience but deals with a Department that is much restricted and much more like the office of the Lord Chancellor in the 1950s. That would prevent much of the complaint of the purists who want an accountable Cabinet Minister in this House. I am not convinced that Ministers in the other House are unaccountable. The Government ought to be accountable to both Houses of Parliament.

I accept the point about Supply. In the scheme of things, I dare say that £3 billion in the Government's total expenditure is a small amount, but as one academic has recently said, the Department has become a leviathan, consuming taxes much more than it traditionally used to do. I come back to the traditional point that we should return the Lord Chancellor's office to its previous remit and then cut off a large part of its public expenditure aspects for some other Minister. Whether that Minister is in the Commons or in the Lords matters little to me; the ill-tempered arguments that have flowed across the Chamber this evening do not entirely hit the point. The point is that this Government have by stealth and intellectual dishonesty so altered the role of the Lord Chancellor that, effectively, his title, as attached to a Member of the House of Lords, will be meaningless. The decision on whether he is a Member of the House of Lords depends for its validity on the Lord Chancellor's being the office holder that he would have been 40 years ago and not the office holder that he would be next year or the year after.

We will come shortly to deal with clause 3, for which other but similar arguments may apply. However, neither the Prime Minister nor our constitution is disadvantaged by the appointment of a Lord Chancellor who is a Member of the House of Lords, as long his accountability function is dealt with by a Member of the Commons. I urge Members who are in the Chamber—I fear that Members who are not here will not have the benefit either of my argument or of opposing views—to pay attention to what the Opposition have said, because our arguments are not without merit.

**Mr. Beith:** I do not find the battle cry of "Let us return to the Lord Chancellors of the 1950s" very appealing. I am not terribly excited about the prospect of

*[Mr. Beith]*

resurrecting Sir David Maxwell Fyfe, later Lord Kilmuir, and his like. Indeed, there were more political Lord Chancellors in those days than has been the case in recent years. However, that is the basis on which we should try to resolve this matter.

Before I come on to the position of the Constitutional Affairs Committee, I should like to deal with the issue of making Ministers accountable to either the House of Commons or the House of Lords. Whether the officer holder is a Member of the Lords or the Commons, the other House will have the problem of not holding him accountable. I strongly support my party's long-held view that we should have more mechanisms for holding Ministers to account in the House of which they are not a Member. We already have some mechanisms, including the Select Committee. Indeed, I have tried to encourage the hon. and learned Member for Redcar (Vera Baird) to seek membership of that Committee so that she can pose questions to the Lord Chancellor. In general, however, a modern Parliament should have mechanisms allowing Ministers from either House to appear not just in Committee but even on the Floor of the House to answer for themselves.

That, however, is not the core of my argument. The Select Committee rightly recognised that there was a tension between the different functions of the office. The Lord Chancellor has ministerial responsibility for a large Government Department, which has just been accused of becoming a leviathan by the hon. and learned Member for Harborough (Mr. Garnier). If that is the case, it is because of the amount of money that we have to spend on legal aid to give people access to justice. The size of the Department's budget is directly related to that problem, and we must consider how we could contain that expenditure at a manageable level while securing access to justice for people who need it. However, the Department has a very big area of responsibility, which we recently increased by transferring to it, quite rightly, responsibility for tribunals, which should not be controlled by Departments with a direct interest in the outcome of their decision.

Understandably, Members of the Commons may wish to question the man in charge, the Lord Chancellor, about that big Department. We have tried to defuse hostility and uncertainty by arguing that the Lord Chancellor has a responsibility to defend the judiciary, the rule of law and judicial independence, and needs status to do so. That argument has generally been accepted. We expressed the widely held view that we do not want in that position a Minister who is seeking further promotion. We said that the Lord Chancellor

"has a special constitutional importance enjoyed by no other member of the cabinet and . . . is usually at the end of his career (and thus without the temptations associated with possible advancement)".

That principle should be applied so that we find the kind of person we want, but it is not affected by the question of which House the candidate belongs to. I can think of people who do, and do not, fit the category in both Houses. I am not entirely convinced that the present Lord Chancellor has eschewed further political appointment, despite his membership of the Lords. Nor does membership of the House of Lords necessarily imply that one is old, wise and senior.

Notable junior Ministers in the other place have enjoyed significant advancement. Until recently, for example, Baroness Scotland was a Minister in the Department for Constitutional Affairs. A shrewd man might put money on her obtaining further high office under a Government of her own party. A number of able people with aspirations to higher office have been Members of the House of Lords, but the Committee did not believe that they were the sort of people who would reassure the judiciary and other people concerned with the law that they would stand up to Home Secretaries and tell them that they are going too far and that their approach is not consistent with the Government's commitment to the rule of law and judicial independence.

Home Secretaries almost invariably think that their proposals are the only way to deal with the latest security problem and outweigh all civil liberties concerns. It takes someone with some strength and someone who is prepared to stand up to a Prime Minister who may want to back his Home Secretary to take on the post. Those qualities can be found in either House; they need not be sought only in the Lords. In looking at the tension between those considerations, we as a Select Committee certainly felt that there was no compelling argument to insist that the Lord Chancellor should be a member of the upper House.

**Mr. Tyler:** I congratulate the Select Committee on footnote 21, which deals with the relevant recommendation and states:

"Nothing in the use of the word "Lord" necessarily indicates membership of the House of Lords: eg Lord President of the Council and Lord Privy Seal have frequently been members of the House of Commons."

Clearly, the title is not important. My right hon. Friend's Committee may well recall that, when Mr. Edward Heath was a Minister in this House and Lord Privy Seal, it was said that he was neither a lord, nor a privy—nor a seal.

**Mr. Beith:** I think that my hon. Friend was determined that I should not forget to mention the footnotes to my Select Committee's report. Clearly, there are no formal obstacles to the holder of the office of Lord Chancellor being a Member of the House of Commons. Some hon. Members have expressed the belief that it is desirable that he should be a member of the House of Lords. I do not wholly share that belief—candidates can be found in both Houses—but it is in no way appropriate that we should write into legislation a disqualification like the old disqualification that the Lord Chancellor must not be a Roman Catholic. The case for disqualifying all who are not members of the House of Lords from holding the modified office has not been made out in any of the argument that we have heard tonight.

**Peter Bottomley:** I am glad to speak after the right hon. Member for Berwick-upon-Tweed (Mr. Beith), who has chaired the Select Committee on Constitutional Affairs effectively. It is a matter of record that the only formal votes in the Select Committee's report were on whether the Lord Chancellor had to lead the House of Lords and on the cost of the Government's new proposals.

The issue is whether it is possible for someone who sits in the House of Commons to be the Lord Chancellor. The answer is that it would be possible if clause 2 were taken out. The question is whether it is sufficiently desirable to make that possible or whether, as many hon. Members have argued, it is better, at least for some time in the future, to say that the Lord Chancellor should come from the partly unreformed House of Lords. That comes down to whether we seriously want to have a Lord Chancellor from the House of Commons. If the Lord Chancellor is someone who has been elected to the Commons for some time—let us assume that clause 3 remains as drafted—someone could be selected who is a good, experienced lawyer whose talents are spotted relatively early; but what happens to that person after they have been Lord Chancellor?

We could fall into the trap that was illustrated by the fact that, when there was no Lord Chancellor for a few hours, when the Prime Minister and his cohort—those involved were not cronies but a mistaken cohort—believed that he could abolish the Lord Chancellor by fiat or by administrative action, the changes were proposed to the Law Lords and the idea of establishing a supreme court arose, although it had not been thought through or consulted on and was not in the right form anyway. The concordat's existence confirms that the Government had to recognise their mistakes.

If we want to avoid that kind of thing happening in the future in relation to something rather more serious than where the Law Lords sit, there are good arguments for saying that we should not make all these changes and that we should prohibit the Prime Minister from picking a Lord Chancellor who is in the Commons. There is no difficulty in picking a Lord Chancellor from the Commons and, given some continuity in the unreformed House of Lords procedures, sending that person to the House of Lords. That was one of the reasons why the disqualification of Roman Catholics was changed so that Sir Peter Rawlinson could become Lord Chancellor. There is a lot to be said for saying that, if the person who has the most talent is currently in the Commons, what should happen to them is what happens to someone who has got the most talent and who is neither in the Commons nor the Lords: they get appointed to the Lords to become Lord Chancellor.

In fact, for all the occasional fuss about the previous Lord Chancellor, Derry Irvine, no one would accuse him of not being prepared to stand up to the Prime Minister or fellow Cabinet Ministers. There are times when the person who is fulfilling the functions of Lord Chancellor must say to the rest of the Cabinet, "No: this is wrong. You shouldn't do it. We shouldn't do it. It's not going to happen." I fear that if the Lord Chancellor were in the Commons, they would not say that, because they could and would be overruled.

9 pm

Although some of the things that the hon. and learned Member for Redcar (Vera Baird) has said may be correct, her arguments are not sufficiently great. Although hon. Members on both sides of the House, including the Committee Chairman, have properly quoted the Select Committee's conclusions, it is reasonable for the House to say, "Not now and not in this way—leave clause 2 in the Bill."

**Mr. Heald:** As far as the right hon. Member for Berwick-upon-Tweed (Mr. Beith), who chairs the Committee, is concerned, may I join in the tributes to the thorough way in which the Committee went about its business? He said that one must consider the balance of the argument and a decision must be made. When the Judges Council examined the matter, however, it concluded that although the matter is not vital, it is preferable for the Lord Chancellor to sit in the other place.

As my hon. Friend the Member for Worthing, West (Peter Bottomley) said a moment ago, standing up for the independence of the judiciary is not always an easy job, and requires a certain stature and seniority. I agree that, as far as I am aware, the recent incumbents of the office of Lord Chancellor have stood up for that essential independence.

The hon. and learned Member for Redcar feels that the Commons contains excellent candidates for the office—perhaps she is right—and she mentioned the Budget too. In making an overall decision, however, one should reflect on the point that the other place is a less partisan House, and that the sort of person who might be appointed there or who is already there is likely to be the sort of person whom we want—somebody who is coming towards the end of their career, who has sufficient seniority and who is a lawyer. If it is preferable, and I believe that it is, to appoint a Lord Chancellor who is a peer, a lawyer and so on, this House should take the bull by the horns and make a decision—a point reflected in clause 2.

My hon. and learned Friend the Member for Harborough (Mr. Garnier) pointed out that once the Bill is passed, the Lord Chancellor will not be the person he was. He will be tied down, regulated and controlled by concordat, because the judges are frightened that somebody who is not committed to judicial independence will be appointed. Such a person might be a young politician on the make, who might have less seniority and less common sense than previous incumbents, and who might not be a lawyer.

We can introduce two extra protections if clauses 2 and 3 remain in the Bill. Having heard the arguments, we should divide in favour of retaining clause 2, if the Government want to leave it out.

**Mr. Leslie:** We have heard some desperately poor arguments from Conservative Members, and the sound of barrels being scraped. Clause 2 is clearly unjustifiable and should be removed from the Bill, and I urge my hon. Friends to oppose it.

We have heard a number of interesting arguments, including the idea that in reality the Lord Chief Justice does not hold the views that he expresses. The hon. and learned Member for Harborough (Mr. Garnier) went on to say that it was intellectually dishonest to keep calling the post Lord Chancellor when the Government have fundamentally changed it by stealth. It is a bit rich to accuse the Government of intellectual dishonesty when the Government wanted to abolish the title of Lord Chancellor in the first place. As far as changes by stealth are concerned, the legislation and the concordat have been debated for more than a year in Parliament, which is hardly stealthy.

*[Mr. Leslie]*

The hon. Member for Worthing, West (Peter Bottomley) came up with all sorts of interesting suggestions, including that the Prime Minister could pick a Member of Parliament to be Lord Chancellor, but would then have to turf them out of this place, send them to the House of Lords and cause a by-election, because of the absolute objectionableness of having somebody elected in that post. What a dreadful, horrible concept that would be—I say that, of course, with irony.

There are many reasons why the Lord Chancellor does not have to be a peer—a concept that my hon. and learned Friend the Member for Redcar (Vera Baird) eloquently advocated, as did the right hon. Member for Berwick-upon-Tweed (Mr. Beith). Indeed, the main argument of the hon. Member for North-East Hertfordshire (Mr. Heald) was that it might be preferable to have a Lord Chancellor who was a peer. I submit again that that is not what the Bill says at present. It says that that individual must be a peer, not "perhaps could be" or that it "might be preferable", so that is not an argument in favour of clause 2.

A peerage is no longer a prerequisite for a Lord Chancellor. The Lord Chancellor would no longer have to be a Law Lord—not least because, with the new supreme court, there will no longer be an Appellate Committee of the House of Lords. Ministerial functions of that reformed office are capable of being undertaken in either House of Parliament. It would be perverse to say that anyone can be Lord Chancellor except those who are elected. It would be ridiculous to prevent for ever the taxpayer from holding a Lord Chancellor to account, via this elected House, for that £3 billion of legal aid expenditure. A peerage is no guarantee that we would get the best person for the job. We should ensure that it is possible for the Prime Minister to pick either an individual who is in the other place or an elected individual if they are the best person for the job. I hope that the House will reject clause 2 as it stands.

*Question put*, That the clause stand part of the Bill:—

*The Committee divided:* Ayes 119, Noes 272.

**Division No. 57]** **[9.6 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burnside, David
Burt, Alistair
Cameron, David
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Duncan Smith, rh Iain
Fabricant, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hawkins, Nick
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
Mackay, rh Andrew
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Randall, John
Redwood, rh John
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. David Ruffley and**
**Mr. Crispin Blunt**

**NOES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allan, Richard
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Beith, rh A. J.
Benn, rh Hilary
Berry, Roger
Betts, Clive
Blackman, Liz
Borrow, David
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brooke, Mrs Annette L.
Browne, Desmond
Bruce, Malcolm
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Carmichael, Alistair
Casale, Roger
Cawsey, Ian *(Brigg)*
Challen, Colin
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Connarty, Michael
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Cousins, Jim
Crausby, David

Cummings, John
Cunningham, Jim *(Coventry S)*
Darling, rh Alistair
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gerrard, Neil
Gibson, Dr. Ian
Gill, Parmjit Singh
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laws, David *(Yeovil)*
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
McFall, rh John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meale, Alan *(Mansfield)*
Merron, Gillian
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morris, rh Estelle
Mountford, Kali
Munn, Ms Meg
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Hara, Edward
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Gordon *(Pendle)*
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stunell, Andrew
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Teather, Sarah
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watson, Tom
Webb, Steve *(Northavon)*
Whitehead, Dr. Alan
Wicks, Malcolm
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Noes:**
**Joan Ryan and**
**Ms Bridget Prentice**

*Question accordingly negatived*

*Clause 2 disagreed to.*

## Clause 3

LEGAL QUALIFICATIONS

*Question proposed,* That the clause stand part of the Bill.

**Mr. Leslie:** I am hoping that the Committee will also reject and remove clause 3 from the Bill, for reasons similar to those that we discussed in the previous debate, and also for additional reasons.

The clause insists that the Lord Chancellor must have at least two years' experience of holding high judicial office, or 12 years' experience as a qualifying practitioner of the law, as set out in clause 22—in other words, as a lawyer. The new role of the Lord Chancellor in the Bill means that it is no longer necessary to have specific legal qualifications or experience in practice, and there is no reason why this ministerial post should require particular qualifications when other ministerial posts do not. The Lord Chancellor no more needs to be a lawyer than the Secretary of State for Health needs to be a doctor, the Chancellor of the Exchequer a qualified accountant or the Secretary of State for Education and Skills a university lecturer.

Hon. Members may well think that it is desirable for the Lord Chancellor to have legal qualifications, but

*[Mr. Leslie]*

holder must in all circumstances have had 12 years' practice as a lawyer or be a judge. The concordat with the Lord Chief Justice, which was debated earlier in today's proceedings, was negotiated explicitly on the basis that the reformed ministerial role requires no special qualification, and that was reflected in the comments made by the Lord Chief Justice that I, and my hon. and learned Friend the Member for Redcar (Vera Baird), quoted earlier.

With the transfer of the judicial selection process to a new independent judicial appointments commission and the consequent limiting of the Lord Chancellor's discretion, there is no continuing requirement for him to have legal qualifications, as he will be acting on the recommendations of the commission and will hence be accountable to Parliament. It will be the job of the commission to weigh up the precise legal abilities of candidates.In respect of the Lord Chancellor's duty to uphold judicial independence and the rule of law, the key qualities are not legal qualifications, but more the character and judgment of the person holding the office. Legal qualifications do not guarantee that the Lord Chancellor will have the strength of character to fulfil those particular duties.

**Keith Vaz:** But is it not the case that the Minister responsible will have to have knowledge of the candidates? Although only one candidate will be put forward, it will be possible, will it not, for the Lord Chancellor—the Secretary of State for Constitutional Affairs—to reject and send back a candidate for the supreme court, for example? Surely it would be an advantage if the person who held the office had knowledge of the Bar, in particular, because that is where the judiciary is drawn from initially, and they would then have knowledge of the personalities involved.

**Mr. Leslie:** That may be an advantage and it may be desirable, but it is not fundamentally necessary for the conduct of this particular office. It is not essential for Ministers in other ministerial roles to have knowledge of the candidates whom they wish to appoint to posts of a non-judicial nature.

**Mr. Siôn Simon** (Birmingham, Erdington) (Lab): Does my hon. Friend agree that it might be undesirable for the Minister to be a lawyer selecting from a group that people outside might view as a bunch of his pals? These days, we have such a thing as equal opportunities. The notion of a Minister selecting from a pool of people whom he or she knows and grew up with professionally might, in some circumstances, be considered a negative and a bad thing.

**Mr. Leslie:** There is equal virtue in that point as in the point made earlier. That may well be undesirable in the view of those who believe that the holder of the post must have a certain degree of objectivity in making appointments without fear or favour from the body of potential candidates and ensuring that there is a certain amount of distance and fairness in the appointment process. We wish to create a judicial appointments commission partly in order to move away from even the suggestion that appointments are made from among people who are perhaps closest to the appointer, and to ensure that they are made solely on merit according to the commission's assessment.

My hon. Friend the Member for Birmingham, Erdington (Mr. Simon) makes a reasonable point. I am not saying that it is or is not desirable that the Lord Chancellor should or should not be a lawyer—I am saying that such a qualification is not an essential prerequisite, and a non-lawyer is not incapable of undertaking this fundamentally ministerial office.

**Mr. Heald:** I declare that I am a barrister—not practising, although I got more than 12 years in.

Given the role of the Lord Chancellor in sticking up for judicial independence and dealing with complicated points on the rule of the law of the sort that we have debated, will it not be a huge disadvantage if he is not a lawyer?

**Mr. Leslie:** No. As I say, I do not regard the fact that one might have reached a certain number of years of practice in a particular profession as an absolute requirement for having the strength of character to guard the independence of the judiciary or stand up for the rule of law. Those are characteristics of an individual with strength of character and good sound judgment. Those are the qualifications necessary in the person who is best for the job; someone's being a lawyer does not fundamentally guarantee that they do or do not have them. It may be an advantage to have a certain knowledge of the law, but it is not a fundamental requirement.

In fact, we should be very cautious of any notion that power should reside exclusively with one body or one group of individuals. The law does not belong to lawyers, and the office of Lord Chancellor should not belong to any particular profession or class of people. The Prime Minister of the day should be able to pick the best person for the job from the widest pool of candidates, not just from judicial office holders or senior lawyers. A senior lawyer may be the best person to perform the role, but we have no good reason to constrain that choice with statutory limitations in the rigid manner proposed in clause 3, and I strongly urge the Committee to resist it.

9.30 pm

**Mr. Djanogly:** Lord Kingsland, the shadow Lord Chancellor, successfully moved an amendment on Report in the House of Lords to require the Lord Chancellor either to have held high judicial office for at least two years, have practised as a qualifying practitioner for at least 12 years—I should like to declare that I am a practising solicitor—or be serving as Law Officer of the Crown.

The Constitutional Affairs Committee report concluded that it

"may be an advantage for the holder of the post of Lord Chancellor to be a senior lawyer".

I admit that that is hardly the most decisive of recommendations, but it just about constitutes one. Our core argument is that the Lord Chancellor plays a central role in administering justice, including being

involved in appointing, disciplining and protecting the judiciary, and that there is therefore a need for legal understanding.

Let me briefly explain some of the functions that will remain with the Lord Chancellor. They include: functions that relate to the framework for organising the courts system; setting the jurisdictional boundaries in England and Wales; providing and allocating financial material and human resources for the administration of justice; matters regarding the pay, pensions and terms and conditions of the judiciary, and providing staff and resources for judicial training. They also include determining the overall number of judges and the distribution of business between the different levels of the varying courts.

**Mr. Simon:** I could do that, and I am not a lawyer.

**Mr. Djanogly:** The hon. Gentleman may believe that he has a good understanding of jurisdictional boundaries in England and Wales, but that would have to be seen. If he will hear me out, the jobs get even more complicated.

We should note that the Bill has been complicated because the functions of the Lord Chancellor that do not require consultation with the Lord Chief Justice or his concurrence have been removed by the decision of the other place to retain the office of Lord Chancellor. Furthermore, many aspects remain on which the Lord Chancellor and the Lord Chief Justice need to work together regularly and closely. Although the Lord Chief Justice is to take over the Lord Chancellor's rule-making powers that are not exercised by rule committees in order to mirror the Lord Chancellor's existing statutory powers to allow or disallow the rules made by rule committees, the Lord Chancellor's agreement to any rules that the Lord Chief Justice makes will be required. I should like the hon. Member for Birmingham, Erdington (Mr. Simon) to try that one. We must note that the Lord Chief Justice will assume the Lord Chancellor's functions on making practice directions. Again, that will be with the Lord Chancellor's concurrence.

Earlier, the Under-Secretary said that the number of years that a lawyer has practised does not by itself lead to qualification for the job. I agree to some extent. However, a non-senior lawyer, let alone a non-lawyer, would have a hard if not impossible time as Lord Chancellor, given the requirements of the role. A specific number of years of practice does not make someone eligible, but the job specification makes it unlikely that anyone other than a lawyer could do the job.

When he moved his amendment, Lord Kingsland said that he understood that the Lord Chief Justice supported it. Earlier in the debate, Lord Woolf, Lord Chief Justice and chairman of the Judges Council, summarised the council's position thus:

"At a meeting on 24 November last, the Judges' Council unanimously approved the Bill, subject to the concerns on which I must now address your Lordships. The first concern is that there should be a clear statement on the face of the Bill that the holder of my office will be the head of the judiciary. Without this amendment to the Bill, the Judges' Council is concerned that the retention of the title of Lord Chancellor could send a confusing message as to the role of the holder of my office in the future. The noble and learned Lord the Lord Chancellor recognises the validity of that point and is proposing Amendment No. 11 to Clause 3, which of course I support.

Subject to that clarification, the Judges' Council would welcome the retention of an office called "the Lord Chancellor". It would like to see a requirement that the holder should be a lawyer, ideally with similar qualifications to those required before a person can be appointed a High Court judge. The Lord Chancellor will not be a judge, however, and so he should not take the judicial oath . . . there is a proposal for a different form of oath in one of the groups of amendments."—[*Official Report, House of Lords*, 7 December 2004; Vol. 667, c. 757–8.]

The Bill delivered to us from another place provides a balanced approach to the role of the Lord Chancellor, and plays an important part in guaranteeing the continued independence of the judiciary. We consider a requirement for the Lord Chancellor to be a Member of the House of Lords and a senior lawyer to be part of that balance. That balance was carefully struck in the other place and it is the best formula for us to retain in this place.

**Keith Vaz:** I should like to declare an interest, Mr. Stevenson. I am a non-practising barrister and my wife holds a part-time judicial appointment.

I am troubled by what the Minister said this evening, not because I do not have enormous respect for him—I do. This issue occupied the Select Committee for a while, and the reason why there was not a decisive outcome to those discussions—although the hon. Member for Huntingdon (Mr. Djanogly) thinks that there was, this is the first time that I have heard the word "may" being used to describe a decisive outcome—was that there was a genuine division among members of the Committee on the issue. It was only thanks to the avuncular and consensual chairing by the right hon. Member for Berwick-upon-Tweed (Mr. Beith) that we managed to arrive at the words in our report.

I am of the view that the holder of the office ought to be a lawyer, although I was happy to go along with the recommendations of the Select Committee, because they represent a firm indication of the kind of person who we think should occupy the position. The Minister's argument—he put it forward very eloquently again this evening—is that if the Secretary of State for Health is not a doctor, why should the Secretary of State for Constitutional Affairs be a lawyer? That is correct, although the Secretary of State for Health probably has to be a non-smoker these days to be able to retain the position.

**Mr. Leslie:** Not by statute.

**Keith Vaz:** Not by statute, but by convention and by policy. I note that my hon. Friend the Member for Birmingham, Erdington (Mr. Simon) put in a bid for the job of Lord Chancellor on the ground that he thought he could do it. His wonderful hairstyle would mean that he would not need to purchase a wig. His suggestion opens up the possibility that anyone could be appointed

*[Keith Vaz]*

to the position, which deals with the important areas that have been dealt with by the hon. Member for Huntingdon.

**Mr. Simon:** Is my hon. Friend saying that if I could do the job, anyone could do it? I was saying that a person would not have to be a lawyer to do it, therefore I could do it.

**Keith Vaz:** I am sure that the Whips will have noticed my hon. Friend's second bid for the post.

The fact remains that of course the Prime Minister is going to appoint whoever he wants to this position, assuming that people are appointed on the basis of merit in politics. He will get the best man or woman for the job, irrespective of whether that person is a lawyer or not. The way in which the Select Committee has moved with regard to its recommendations signifies the desire that the person ought to be a lawyer, and a senior lawyer at that. Where the Minister has got me is with regard to the very restrictive nature of the clause as it has been drafted—and that is why I shall support the Government in the vote.

I am not clear why there would be any doubt that the person serving as a Law Officer of the Crown should have

"practised as a qualifying practitioner",

although I note that the Solicitor-General did not practise as a qualified practitioner—nor, I think, did her predecessor. Perhaps the Minister will tell us why this provision has been put into the Bill, because I did not follow the deliberations on it in another place. I would have thought that it was pretty obvious that the Law Officers should be members of the Bar, or members of the solicitors' profession, as is the case with the present Solicitor-General. I know that she was made a Queen's Counsel, as was her predecessor, my hon. and learned Friend the Member for Dudley, North (Ross Cranston), just before they assumed office. I did not think there was any doubt that the Attorney-General and the Solicitor-General ought to be members of the profession, although both are senior members of the profession.

**Peter Bottomley:** I do not disagree with the hon. Gentleman, except in the context of the way in which we will vote, but I think the answer to the "qualified practitioner" question is tied to clause 22, which allows Scottish lawyers to be considered as well. It is a way of embracing all qualified lawyers.

**Keith Vaz:** We now have a Law Officer on the Front Bench who happens to be a Scottish Law Officer, and I am grateful to the hon. Gentleman for correcting my misinterpretation of what is going on.

The concordat is only part of what concerns us. Someone who is asked to consider the merits of candidates for the supreme court and can reject a candidate whom he does not want—which the Secretary of State, the Lord Chancellor, will be able to do—must have a knowledge of the law and the personalities within it. That cannot be acquired over a short period; it must be acquired over a number of years.

Any Prime Minister, bearing in mind the nature of the office and the deliberations that have taken place here and in the other place—and, no doubt, reading the report of deliberations in the Select Committee with great care—will know how important it is for that office to be held by a senior member of the profession. I think it entirely unreasonable to restrict it to those who have held high judicial office for two years, which is another reason why I cannot support clause 3. I cannot recall in recent history the appointment of a Lord Chancellor who had first been a judge. I know that senior QCs have been appointed, but we have certainly not had any judges while I have been a Member of Parliament.

**Mr. Garnier:** Lord Mackay of Clashfern was a Scottish judge before becoming a United Kingdom Law Lord, and subsequently Lord Chancellor.

**Keith Vaz:** He is one of three who have occupied that position over the past 15 years or so.

I think the Minister should understand our concern in the House of Commons about the type of figure who could occupy this post. This is not to do with an age qualification; it is not necessarily to do with the fact that someone should have been a Member of this House for a number of years. It is to do with the fact that this is a very important office in the land, and even the office of Secretary of State—without the judicial functions and the Speakership of the Lords, which will go—remains a very important post in Government.

I had the privilege of serving the two most recent Lord Chancellors, as Parliamentary Private Secretary to the current one and, in the case of the last one, as a member of the Government. They were—Lord Falconer, of course, is still there—big figures in the legal establishment. Before the current Lord Chancellor became a Member of the House of Lords he was a very senior and highly successful member of the Bar, and I believe he commands enormous respect in the professions and among the judiciary. The same applied to his predecessor, Lord Irvine, and to Lord Mackay. They are big figures, who have occupied big positions in Government.

I hope that when the Prime Minister comes to make this appointment, he will not choose anyone for the job just because he or she meets the minimum criteria and qualification requirements. I hope that he will choose someone with the seniority that would be expected for the post. I think that he will choose a lawyer, because it is an obvious post for a lawyer—and let us face it: there are an awful lot of lawyers for him to choose from. Of course he can choose someone else if he wants.

However, given the views of the Committee and given the need for that person to interact on a constant and continuing basis with the high judiciary, it is important to have a lawyer in that position. That is why I was happy to go along with the consensual words of the Chairman of the Select Committee. They are not absolutely decisive, as I said at the start. They are not saying, "As this clause says, it must be this, that or the other," but they indicate what we hope will be the case, and that is good enough for me.

9.45 pm

**Mr. Beith:** It is obvious from the carefully argued contribution of the hon. Member for Leicester, East (Keith Vaz) that there was a range of views in the Select Committee, but they were not impossible to reconcile, as the words that we have used show. I am persuaded to some extent by his arguments, but I would not rest my case on the view that familiarity with the Bar is a good argument for having a lawyer in this position. As the hon. Member for Birmingham, Erdington (Mr. Simon) pointed out, before he got around to announcing his own claims for office, knowledge of some of the candidates is not necessarily a good position from which to secure dispassionate analysis of a wide range of candidates. Indeed, the last person I would expect to argue that particular view is the hon. Member for Leicester, East, who rightly focused the Select Committee's attention, on a number of occasions, on the need to widen the pool from which candidates for senior judicial office—indeed, junior judicial office—are chosen.

As we found when we looked at the changes in the Scottish system, familiarity with a certain part of the legal profession is sometimes a barrier. In Scotland, the Edinburgh establishment seemed long to dominate judicial appointments. That was one of the motives for creating an appointments commission. Therefore, in England there are dangers not simply of cronyism, but of being too aware of a particular part of the profession to take a dispassionate view. However, the whole nature of judicial appointments will change under the Bill.

If a Lord Chancellor comes to consider a judicial appointment and contemplates rejecting it, he would have to have advice before him. Indeed, he would not be discharging his duty properly if he did not ensure that he had appropriate advice on the reasons for rejecting the candidate or for accepting the nomination.

A Minister dealing with a complicated medical issue has to take advice before reaching a decision. The difference between the Secretary of State for Health in taking advice on a difficult medical decision and the Lord Chancellor is that, in the Lord Chancellor's case, the presumed mechanism is that he accepts the recommendation of the appointments commission and only departs from it if he has found compelling reasons to do so. In those circumstances, he must surely have had to take appropriate advice and to ensure that he had a range of dispassionate advice before him. It is possible to do the job without the familiarity with the profession that experience of serving as a judge or at the Bar for 12 years would give.

It can still be argued that the legal profession and the judiciary may be a lot more comfortable, certainly in the early years of the new system, with someone who they recognise as having authority in their field. That is an advantage that the Prime Minister ought to weigh when considering the making of an appointment. It probably would be considered carefully.

It is not the same with the Law Officers as we usually understand the term, whether the Advocate-General or the Solicitor-General, who are in principle expected to take cases on behalf of the Government and to appear, as the Attorney-General did only the other day, in court representing the Government. Active participation and qualification in the profession are requirements for carrying out that job. Appointments to that post have changed in recent years and there has been a much greater tendency, particularly with the Attorney-General, to appoint someone from outside active politics, who may be politically sympathetic but whose essential qualification is that he is able to give the Government high quality legal advice and to appear for the Government in some of the more important cases to which they are a party. That is a different situation from being the Minister who both runs a large Department and exercises certain functions where he confirms or concurs with decisions that come up through a process, at the head of which is the Lord Chief Justice. All those provisions were included to ensure that too much did not rest upon the shoulders of a politician in an area where the Government were, rightly, trying to ensure that appointments were not made on anything like political grounds.

It seems to me that the job could be done by someone who is not a lawyer. He would have more homework to do, just as being Chairman of a Select Committee requires extra homework, but I am very glad that the post will not be confined to lawyers. It would be a bad principle to follow that line. Again, as in the case of a Chairman of a Select Committee, any area where someone has to tangle with the law, for whatever reason, requires looking carefully into a wide range of matters, but that is not a reason for formally excluding from the Lord Chancellorship for ever, or for as long as the legislation stands, someone who does not have the legal qualifications specified in the clause. Some people who do not meet that requirement might well do the job to a very high standard.

I stand by the consensus viewpoint that the Select Committee reached—that, while it may be an advantage for the holder of the post of Lord Chancellor to be a senior lawyer, it does not and should not need to be written into the Bill. Some of my colleagues from the Select Committee have already explained why.

**Mr. Garnier:** I largely agree with the thrust of what my constituency neighbour, the hon. Member for Leicester, East (Keith Vaz), said a few moments ago. The reasons that he gently put forward reinforced what I said at the outset of our debate this afternoon—that there is a growing gap between the law in its wider sense and Parliament, which is much to be regretted.

The closer the understanding between the law and Parliament—those who make the law and those who have to apply and interpret it—the better it is for the people of our country. Too often, the House passes laws that make very little legal sense when they come to be applied in the courts in particular cases, whether civil or criminal, and particularly in the field of criminal law. If the Government have their way today and remove clause 3 as they did clause 2—the two clauses are very much of a piece—the greater will be the distance between the two institutions and it will grow to our mutual disbenefit.

Under the new regime, the Lord Chancellor will not really be a Lord Chancellor—he will be no more than another head of a public Department. Just as the Secretaries of State for Health, for Transport or for Defence do not have to be qualified doctors, lorry drivers or soldiers, so it will be perfectly possible under

*[Mr. Garnier]*

the modern regime for the next so-called Lord Chancellor—whether he or she is, as I hope, in the House of Lords or in the Commons—to carry out the work of arranging the divisions of various circuits, for example. However, that rather misses the point of the value of the Lord Chancellor's office, which is being wholly undermined and destroyed by the Bill.

I believe that it is important for the Lord Chancellor not to be just another jobbing Secretary of State. I happen to believe that the office of Lord Chancellor has traditionally been accorded rather greater importance than that, and that we are devaluing it and the work that the office holder does by the arrangements that the Government are implementing through the Bill. It is a regrettable step that we are having to witness.

As I said when we debated clause 2, I am aware that I do not have at my disposal the necessary power in numbers to defeat the Government's intentions, so I shall have to await another opportunity to put this right, but it is not right for the Government to inflict this wrong without Opposition Members expressing their concerns about the damage that will be inflicted.

I fully accept that my argument will not appeal to many, if any, Labour Members, and still less to the Chairman of the Constitutional Affairs Committee. He is an eminent parliamentarian and Chairman of his Committee, and not a member of either of the two legal professions in this country. However, I am less worried about that argument than about the downgrading and diminution of the office of the Lord Chancellor. I am concerned that the office is being turned into something else. The Government are trying to fool us into thinking that the office of Lord Chancellor will be maintained in its previous state simply because the name will be retained. However, that is rather like unscrewing the name plate from a Rolls-Royce, sticking it on a lesser vehicle and claiming that the lesser vehicle is none the less a Rolls-Royce—that was perhaps not the best example, but I hope that it made the point that I wished to get across.

I regret that I am powerless to persuade the Committee, due not so much to the Government's arguments, but to their numbers. I repeat the worry that there is a growing gap between the institutions of Parliament and the law. Despite what has been said one way or another, I think that the judiciary look to someone with authority whom they respect to speak up for them in the councils of Government. The Lord Chief Justice will take over that role, and under clause 6, which we were not able to discuss because of the guillotine, he will be able to present a written representation to Parliament. However, that is not quite the same as having a Lord Chancellor who is well versed in the eccentric, yet none the less valuable, traditions of the legal establishment and able to speak up for the law, the rule of law and the independence of the judiciary at the Cabinet table and in the Chamber of the House of Lords because of his professional and political upbringing.

**Mr. Heald:** It has widely been accepted here and in the other place that the Lord Chancellor will have the role of speaking up in the Cabinet on important matters to which the rule of law may be relevant, such as detaining terrorist suspects and the like. Does my hon. and learned Friend agree that if the Lord Chancellor is not a lawyer and does not understand the issues, he will be poorer in that role?

**Mr. Garnier:** I have no doubt that anyone who is capable of being a good Secretary of State will have the energy and intellect to understand basic ethics and learn about the requirements of the rule of law. However, that person would be at a disadvantage because he would have to learn about it, whereas it was second nature for Lord Irvine, Lord Mackay and Lord Falconer. I am decrying not the intellectual abilities of a non-legal Lord Chancellor, but the downgrading of the office and the growing distance between the two institutions.

A consequence of the situation will be the increasing importance of the Attorney-General as the defender of the law's institutions in Parliament. Although I disagree with the current Attorney-General's politics, he is an extremely fine lawyer. Perhaps because he sits in the House of Lords, he has had the time to appear as the Government's chief advocate in the courts.

**Keith Vaz:** The hon. and learned Gentleman wants them all to be in the House of Lords.

**Mr. Garnier:** I am talking about the Attorney-General, not the Lord Chancellor. The Advocate-General for Scotland is in the Chamber. I think that she has appeared for the Government several times in the European Court of Justice and perhaps she has appeared in the House of Lords acting for the Scottish Executive.

**The Advocate-General for Scotland (Dr. Lynda Clark)** *indicated dissent.*

**Mr. Garnier:** Whatever the hon. and learned Lady does, she knows rather more about it than I. The simple point is that the Law Officers will increasingly be taking over the protective role of the Lord Chancellor, because the Government are giving up the Lord Chancellor's role as protector of the judiciary and the interests of the rule of law.

**Mr. Leslie** *indicated dissent.*

**Mr. Garnier:** I see that the Minister disagrees. I know that the Bill contains guarantees and so forth, but that merely underlines the point that I made about the growing gap. Lord Chancellors did not need to have that set down because they understood what their job was, but the job is changing. The job of the Lord Chancellor under the Labour Government will not be the job of the Lord Chancellor in the days of Lord Mackay, Lord Irvine or any of their recent predecessors. I regret that; it is a retrograde move, but there is sweet Fanny Adams I can do about it.

10 pm

**Vera Baird:** I am concerned about the precise nature of the clause, which requires a person either to be a High Court judge,

"to have held judicial office for at least two years",

or—and it is either/or so obviously one does not have to be a High Court judge—to have

"practised as a qualifying practitioner . . . for at least 12 years".

Under clause 22, a qualifying practitioner must have "a Supreme Court qualification" under section 71 of the Courts and Legal Services Act 1990, which states that a person must have rights of audience in all the proceedings of the Supreme Court. That is of course not the new supreme court, but the old one, which is the Court of Appeal and the High Court.

I am right about the meaning because the next tier of qualification in the 1990 Act is a person who has a "High Court qualification", who is only a High Court advocate and not a Court of Appeal one. It is thus definitely a requirement under the clause that a person must for at least 12 years have been a person with rights of audience in the Court of Appeal and the High Court. That excludes an enormous number of senior and good lawyers.

Many, many solicitors are not High Court advocates because that does not enter into their way of being. They may prepare, and know a great deal about, High Court proceedings, because they are the solicitors who back up senior High Court advocates with their preparation, but they are not themselves High Court advocates. One could imagine that commercial solicitors, family solicitors or senior partners in a number of types of solicitor's practices might be admirably qualified in every way and would fit the mould that even Opposition Members are hankering for, but they will be excluded by the clause. It is a bad idea because it could exclude many good people.

On the other hand, the clause gives little protection from anything in the context of the Bar, because every member of the practising Bar is a Supreme Court advocate from day one as long as they remain a practising member of the Bar. Consequently, that does not require someone to be a senior lawyer; it requires them only to have been called for 12 years, which, as most Members who are lawyers will realise, is a calibre they will have attained by the age of about 33, 34 or 35. It does not require a barrister to be a senior lawyer and quite a few solicitors are likely to qualify. For instance, there is no protection in requiring a barrister of 12 years' call: someone might have undertaken magistrates court advocacy or industrial tribunal cases, or they might—being in private practice—do Chancery paperwork and never ever go to court, because they retain their status as a Supreme Court advocate by virtue of being in independent private practice. There is no protection of the kind that members of the Committee are seeking from that qualification. It is the wrong test. What is the point of it?

The clause would exclude—would it not?—a senior professor of law who might be ideal but who had never become a High Court advocate. He may have been a solicitor, but he may not even have done that; he may have been a law commissioner for several years. He might be an admirable person to take up the post, yet under the clause he would be excluded.

Equally, it seems to me that a professor of accountancy, who might have been seconded to the Court Service or have advised in detail about how the Court Service should organise its accounting procedures and finances, will understand its administration in far more detail than a barrister of 12 years' call possibly could, popping in and out of court to do a case or never going there at all. It seems to me that such a person could admirably understand the way the courts and their financing work and would be an admirable choice for that role.

Somebody from social sciences who might have been called in to try to turn the courts into what we all want them to be—an institution that puts the public participants first—may also have looked in huge detail at the way in which courts function, in order to try to guarantee that witnesses, victims and so on are looked after properly. They will know extremely well from start to finish, from A to Z, far better than a barrister of 12 years' call, how the courts work—and they will have known for many years. All such people will be excluded by the requirement of being a Supreme Court advocate, a High Court judge or a lawyer.

The provision is quite unnecessary. It gives no protection and does the damage of excluding people from other than the legal profession who could be just as good as a lawyer. Insisting on such a provision in legislation has the additional danger of making the job look like it is there for the protection and promotion of lawyers. In fact, it is not; it is about administering a public service. As such, it can be done by anyone who has any of the range of qualifications that I have mentioned and many many more that I have not thought about. I urge Members not to vote for this silly clause.

**Mr. Redwood:** The Minister has argued two very different positions. Before we vote, it would be good to have a little clarification of which the Government believe in. On one hand, the Minister wishes to agree with the hon. and learned Member for Redcar (Vera Baird) and the hon. Member for Birmingham, Erdington (Mr. Simon), who argue that more or less anybody can be Lord Chancellor, as slimmed down, redefined and modernised by this legislation. On the other hand, the hon. Member for Leicester, East (Keith Vaz) made a cogent case for the proposition that even the slimmed down, modernised and damaged version of the Lord Chancellor that we have before us in the Bill should be someone of legal distinction and knowledge, for the obvious reasons that he and my hon. Friends have set out.

I have a simple question for the Minister, the answer to which would help Members decide how to vote: were this Government to stay in office through another change of Lord Chancellor, would the Prime Minister want to appoint someone who was a good lawyer, because he accepts the argument of the hon. Member for Leicester, East, or does the Prime Minister think that modernisation would be advanced by definitely not having a lawyer and by taking advantage of the greater freedom for which the Minister is urging the Committee to vote?

**Mr. Simon:** I had no intention of speaking in this debate. I wandered into the Chamber and thought that I would listen and learn from more learned hon. Friends and colleagues, but I feel as if I have wandered into some bizarre little world of its own. People keep sidling up to me and asking, "What are you doing here? You aren't a

*[Mr. Simon]*

lawyer." I think that I am quite unusual in this Chamber in not being a lawyer. *[Interruption.]* I know that there are others present who are not lawyers.

**Mr. Leslie:** I am not a lawyer.

**Mr. Simon:** The Minister notes that he is not a lawyer, which is indeed a relief. Nevertheless, there is a preponderance of lawyers present, particularly on the Conservative Benches. *[Interruption.]* They have cheated a little—

**The Temporary Chairman:** Order. We can dissect different professions—I for one am not a lawyer, but that is irrelevant—but will the hon. Gentleman get back to the business before the Committee?

**Mr. Simon:** Regardless of whether Opposition Members are preponderantly lawyers, their argument that in order to be Lord Chancellor one needs to be a lawyer is absurd. The right hon. Member for Wokingham (Mr. Redwood) characterised my hon. and learned Friend the Member for Redcar (Vera Baird) and me as having argued that anybody can be Lord Chancellor. I am arguing that anybody can be anything. Anybody can be Prime Minister; anybody can be Home Secretary. One does not have to have specialist knowledge or professional expertise to run a Government Department. That much ought to be obvious. I cannot imagine what people in the real world think when they see Benches stuffed full of lawyers arguing that the only people who can head a law Department are lawyers. One does not have to be a teacher to run the Department for Education and Skills, one does not have to be a doctor to run the Department of Health, and one does not have to have been to Prime Minister school and gained 12 years' experience to be Prime Minister. It is self-evidently not the case, therefore, that one must be a lawyer to run the Department for Constitutional Affairs.

The hon. and learned Member for Harborough (Mr. Garnier) keeps telling us that the Government are intellectually dishonest, because they have changed the nature of the job while keeping the name of Lord Chancellor. There can be few constitutional jobs that have changed more while keeping their name. It is ridiculous to argue that the difference between the next Lord Chancellor and Lord Mackay of Clashfern is greater than the difference between the present incumbent and the Lord Chancellor who, 500 years ago, did a completely different job in a completely different environment.

The Lord Chancellor does not need to be a lawyer nor, as the Minister said, do we need to put such a requirement into statute. Indeed, it could be argued that it would be better if the Lord Chancellor were not a lawyer. As my hon. and learned Friend the Member for Redcar argued, if the holder of the post is a lawyer, it may, heaven forfend, make the Lord Chancellor look like a "producerist", defensive protector of the interests of the legal profession. Lawyers are not necessarily interested in the impartial, efficient and admirable administration of justice—some of them may be interested in their own enrichment and vainglory. The notion that we should legislate to guarantee that they have one of their own to speak for and defend them is not just wrong but ridiculous.

**Mr. Leslie:** It has been useful to hear the arguments adduced in favour of clause 3, because, as with clause 2, they are thin and threadbare. Indeed, clause 3 is a step backwards in time. There is no statutory requirement at present for the Lord Chancellor to be a lawyer. That is simply a convention. Enshrining in statute a requirement for 12 years of senior legal practice or two years' experience as a judge makes the process of appointment more rigid and less flexible. It is strange that none of the Members who spoke in favour of clause 3 could suggest why the reformed office of Lord Chancellor, even if they do not like the way in which will be shaped, should be different from the post of Health Secretary or Education Secretary. The shadow Health Secretary, the hon. Member for South Cambridgeshire (Mr. Lansley), has no medical qualifications, yet he would make health inspector appointments. The shadow Education Secretary, the hon. Member for Westmorland and Lonsdale (Mr. Collins), has no teaching qualifications, yet he hopes to make school inspector appointments. It is not axiomatic that the person holding the ministerial job of Lord Chancellor should have legal qualifications.

10.15 pm

My hon. Friend the Member for Leicester, East (Keith Vaz) said that it is desirable that the Lord Chancellor is a lawyer, but he accepted that clause 3 is too rigid. Conversely, my hon. Friend the Member for Birmingham, Erdington (Mr. Simon) argued that it might even be better if that individual were not a lawyer so we do not have what he characterised as a producer interest in the post. I do not seek to say whether it is, or is not, a good thing, but I dislike the mandatory requirement for the post to be held by an individual with a particular qualification.

My hon. Friend the Member for Birmingham, Erdington argued that anyone could become Prime Minister or Home Secretary. It is almost like the famous American dream: "One day, even you, young fellow my lad, could grow up to be President of the United States." What that individual needs is character, integrity, strength of judgment and so forth. We should recognise the fact that the ministerial post of Lord Chancellor belongs not to a certain profession, but to all the people. Legislation should not set in stone such unnecessary exclusivity. We know what the qualifications for that ministerial office need to be: competence, judgment, character and accountability.

The right hon. Member for Wokingham (Mr. Redwood) asked whether the Prime Minister would appoint lawyers in future. My answer is that he must ask him at Prime Minister's Question Time, but the Prime Minister will certainly be held accountable for any appointment that was deemed to be irrational or illogical, or involved not appointing the right person for the job.

Given the reformed status of the office of the Lord Chancellor and the fact that that individual will no longer be head of the judiciary or a Law Lord who sits as a judge, the post holder can sit in either House of

Parliament. There is no longer a rational requirement for any legal qualification, and I hope that the Committee will reject clause 3.

**Mr. Heald:** I agree with one thing that the Minister said: the shadow Secretary of State for Health will be making appointments after the general election—and the sooner, the better.

I shall comment on the speeches of the hon. and learned Member for Redcar (Vera Baird) and her partner in crime, the hon. Member for Birmingham, Erdington (Mr. Simon). Of course almost anyone could be appointed to the job if someone chose to do so, but given that it is an important job with particular responsibilities—including standing up for the rule of law in Cabinet and ensuring that judicial independence continues, the residual role of making appointments to the judiciary and the other important roles that relate to the jurisdiction of the courts—it would be a help if the person concerned were a lawyer. Indeed, the Select Committee on Constitutional Affairs said that that may be a help.

The Judges Council, which knows a thing or two about this, particularly wants the post holder to be a lawyer, ideally with qualifications similar to those required before a person can be appointed a High Court judge. Those on the council wanted that requirement not to enrich themselves or to be vainglorious, or anything of that sort, as described by the hon. Member for Birmingham, Erdington but because the Lord Chancellor's role is important and such knowledge is extremely helpful in the role.

It is all very well—this is a bit like another point that I have made—saying that it is preferable to have a lawyer in the role of Lord Chancellor, but if it is preferable, why should we take second best? That is why I continue to argue that clause 3 is vital and that such a requirement would be helpful to the person in that role, so we wish to divide the House on the issue.

*Question put*, That the clause stand part of the Bill:—

*The Committee divided:* Ayes 126, Noes 272.

**Division No. 58]** **[10.18 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burnside, David
Burt, Alistair
Cameron, David
Campbell, Gregory *(E Lond'y)*
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Grieve, Dominic
Hague, rh William
Hawkins, Nick
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Randall, John
Redwood, rh John
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. David Ruffley and**
**Mr. Crispin Blunt**

**NOES**

Ainsworth, Bob *(Cov'try NE)*
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Begg, Miss Anne
Berth, rh A. J.
Benn, rh Hilary
Berry, Roger
Betts, Clive
Blackman, Liz
Borrow, David
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brooke, Mrs Annette L.
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Cawsey, Ian *(Brigg)*
Challen, Colin
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Corbyn, Jeremy
Cousins, Jim
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Darling, rh Alistair
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dhanda, Parmjit

Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gill, Parmjit Singh
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hinchliffe, David
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
McFall, rh John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moore, Michael
Morris, rh Estelle
Mountford, Kali
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Hara, Edward
O'Neill, Martin
Opik, Lembit
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Stunell, Andrew
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Teather, Sarah
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Webb, Steve *(Northavon)*
Whitehead, Dr. Alan
Wicks, Malcolm
Willis, Phil
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Noes:**
**Mr. Nick Ainger and Joan Ryan**

*Question accordingly negatived.*

*Clause 3 disagreed to.*

To report progress and ask leave to sit again.—*[Gillian Merron.]*

*Committee report progress; to sit again tomorrow.*

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118 (6) (Standing Committees on Delegated Legislation).*

### CONTRACTING OUT

That the draft Local Authorities (Contracting Out of BID Levy Billing, Collection and Enforcement Functions) Order 2004, which was laid before this House on 15th December, be approved.—*[Gillian Merron.]*

*Question agreed to.*

## Listed Events (Sports)

*Motion made, and Question proposed,* That this House do now adjourn.—*[Gillian Merron.]*

10.33 pm

**Mr. John Grogan** (Selby) (Lab): For the many, not the few is one of the principles on which this Government are built, and I would contend that, in a modest way, listed events in their various guises since their inception in the 1950s reflect this aspiration. I would not argue that this is one of the most important debates to come before the House—it is not a matter of war and peace or poverty, or concerning the many threats to our environment—but it does affect the quality of life of many of our citizens, young and old, rich and poor, throughout the land.

As I said, listed events have come in many guises down the years. They first came about through the Television Act 1954, which prevented any one broadcaster from obtaining exclusive rights to certain sporting events of national interest. Of course, in those days there were only two broadcasters: the BBC and ITV. The Broadcasting Act 1990 prevented listed events from being shown on a pay-per-view basis. Then the Broadcasting Act 1996, recognising the threat of subscription as opposed to pay-per-view television, protected the availability of live coverage of listed events on free-to-air television channels with national coverage. That is the basis of the current rules, which were enshrined in the Communications Act 2003.

Although the legislation has changed down the years, the general principles underlying it have remained the same—that is, that some events are of such national significance, and in some cases of such international significance, that a large part of the nation wants to be part of them. People want to feel that they are in the stadium watching the Olympics, the grand national or the World cup finals. These events in some way bind the nation together.

No one is saying that the terrestrial TV stations should have these events for free. They must pay a fair and reasonable price, and if there is a dispute, the price could be judged by the regulator, currently Ofcom. It is interesting that down the years the list has largely policed itself. As far as I am aware, there has never been a case in which Ofcom has had to deliberate on a fair and reasonable price.

The recent history of the football World cup and the broadcasting of it illustrates the importance of the list to our nation. Some hon. Members may recall that the rights to the 2002 and 2006 World cup were sold by FIFA to Kirsch, a German broadcaster that tried to find a way round our listed events legislation—any possible loophole. In the end it did a deal with the BBC and ITV whereby both those broadcasters paid far more than they had paid in the past—undoubtedly a fair and reasonable price—but everyone in Britain will be able to see all the matches in Germany in the football World cup. That will not be true, incidentally, in Germany, where such stringent rules do not exist. Even though much public money will have gone into the stadiums in Germany, many of those matches will not be seen.

At some stage in the next Parliament we need to review the list, particularly the A list consisting of events that must be shown live. It is live sport that quickens the blood, thrills the nation and inspires the young. The list was reviewed in 1990 and in 1998. The event that led me to seek the debate tonight occurred just before Christmas, when the England and Wales Cricket Board sold itself lock, stock and barrel to BSkyB. That came as a shock to many people. There were editorials about it in most of the national papers.

The Prime Minister often says to the parliamentary Labour party—and of course I listen to everything the Prime Minister says—that one of the best things in government is the small decisions one makes that can affect people's lives in various ways. I believe we made the wrong decision, though it was a small decision, when in 1998 the Government decided to remove test cricket from the A list—from live coverage. BSkyB and the ECB lobbied for that. Subsequently the Secretary of State at the time, my right hon. Friend the Member for Islington, South and Finsbury (Mr. Smith), said he thought he had a gentlemen's agreement with Lord MacLaurin of the ECB that at least some cricket would remain on terrestrial television. That happened for a while under the subsequent television deal, and Channel 4 covered test cricket very well.

However, as some of us warned, once my right hon. Friend and Lord MacLaurin were long gone from office, the next deal came around and the ECB sold out, as I said, lock, stock and barrel to BSkyB, and not for a great deal more money. The best figures that I have seen suggest that the difference between the Channel 4 bid, which was much the same as its previous bid, and the BSkyB bid was perhaps 10 per cent.—not a large sum. Cricket will rue the day the deal was signed, for a number of reasons, the first of which is financial. When a sport sells out to satellite TV or subscription TV, sponsorship tends to decline. We have seen that in rugby. The Heineken cup has gone to satellite TV, and apparently Heineken is thinking of pulling out of the sponsorship. English rugby union sold itself entirely to satellite TV, but then stepped back.

**Mr. Andy Reed** (Loughborough) (Lab/Co-op): Does my hon. Friend agree that the financial costs are not the only consequence? More important is the fact that by removing itself to, say, Sky, with an audience of 400,000, compared with the 9 million that the Rugby Football Union would have got on BBC with the six nations tournament, it is denying the next generation of sporting heroes the opportunity to see the current sporting heroes? Often, people get involved in sport because they see Kelly Holmes or Martin Johnson doing their work week in, week out. That encourages people to get involved at local community level. The trend is dangerous because of its effect on sporting access for the future.

**Mr. Grogan:** My hon. Friend puts his finger on the key point in this debate. We are all looking forward to the test match series this summer, when England will play Australia for the Ashes, and it is instructive to see how our major cricketing rivals deal with this issue. They have what they call anti-siphoning legislation, as they do not want their top sporting events to be siphoned away so that only a few people can see them. The extensive list that has been drawn up includes not only test matches in Australia, but test matches involving England and Australia that take place in England, as well as all cricket world cup matches.

*[Mr. Grogan]*

This year's series will be shown on Channel 4, because the old contract will still apply, but the next Ashes series will be shown only on BSkyB. Perhaps the Australians realise that some poor boy in 2009 in some Australian suburb may get up in the morning, watch the end of the test match, perhaps at Headingley, and be inspired to go out and play cricket. Even if he sees the match on a battered television set and his parents will never be able to afford subscription TV, he may go out and play a makeshift game all day long and perhaps one day open the batting for Australia. Is it not sad that, when that same series and Headingley test match take place, a lad from not well-off circumstances in Hunslet or Harehills, just miles from the ground in Leeds, will not be able to be inspired by watching the match live? Highlights are not really the same thing; they do not quicken the blood in the same way.

**Mr. David Drew** (Stroud) (Lab/Co-op): My hon. Friend is making a very strong case. Does he agree that the problem is that we have lost not only test cricket, but all cricket, from mainstream television? Even with rugby or football, there were opportunities to watch the games, whether they were in the FA cup or different cup competitions in rugby. That will not be true of cricket, which has sold its soul completely in respect of terrestrial television. That really is unacceptable.

**Mr. Grogan:** I could not agree more with my hon. Friend. The only cricket that will be shown is highlights on Channel 5, which is not available in some parts of the country. It is sad that the only listed event that was not shown even in highlights form on terrestrial TV was the cricket world cup in 2003, which featured on the B list. Perhaps it would be appropriate to say a gentle word to the BBC, suggesting that it may have a role in the televising of cricket in future and should perhaps bid for the highlights of the cricket world cup in 2007 as a way back into cricket. If Parliament puts these events on the list, our major public service broadcasters have a responsibility to at least try to show them.

**Mr. Reed:** Particularly with the advent of BBC 3 and BBC 4, does not digital television give the BBC a significant opportunity, bearing in mind the difficulties of broadcasting cricket and the length of the game, particularly in comparison with the capabilities on Sky? Would my hon. Friend encourage the BBC to look at using BBC 3 and BBC 4 as sports channels so that sports fans can have genuine access on terrestrial television?

**Mr. Grogan:** The BBC needs to use all its channels to show some sport. Indeed, there have been some very good sports documentaries on BBC 4, and a few sporting events have been shown on BBC 3. As we move into the digital future, BBC 3, which is aimed at least partially at the youth market, would be a natural home for some sports.

Before I mention a couple of other sports, I wish to underline that cricket gets a lot of public money each year. Between 2000 and 2004, cricket at national and club level got more than £50 million of Government and lottery cash. If public money is being used to build some of the stadiums, it behoves the cricket authorities to ensure that people can see a little bit of what goes on inside them. The fear must be that cricket has sold its soul to BSkyB. Who will bid next time? Will the terrestrial broadcasters do so, or will BSkyB be the only bidder?

I said that I would mention a couple of other sports. Tennis is worthy of mention, because it might be the next sport under threat. In Britain, only the Wimbledon finals are listed, not the Wimbledon fortnight. It was listed until 1991, but is now on the B list, not the A list. In Australia, strangely, the whole of the Wimbledon fortnight is listed and must be shown on terrestrial television. What a tragedy it would be if we could not see Tim Henman at Wimbledon. He may make the finals one day, but so far he has appeared only in the earlier part of the two weeks, when matches are not listed.

The same applies to golf. Again, it is strange that the British Open is listed in Australia but not in Britain. There is also a case for listing the last day of the Ryder cup. Europe may be at its most popular in Britain during the Ryder cup, and it is a pity that we cannot see it live.

I want briefly to mention the Central Council of Physical Recreation. I was rather distressed when I received its briefing for tonight's debate, although it was kind of it to provide it. It says that

"sport has never accepted the policy logic behind 'Listed Events'. This has always seemed to be a policy driven by broadcast considerations, as opposed to what is best for the sports themselves."

I am not concerned with broadcast considerations, but with ordinary citizens—sports fans, and sportsmen and women who play their sport in a village or suburban team for many years, then make the teas, coach, and try to find the next generation. They will never sit on the CCPR or in hospitality boxes, but if they are not well-off in their old age, should not they—and their grandchildren—be able to see the great events live? I think that the CCPR, which calls itself, "One voice for sport and recreation", but is really one voice for sports administrators, should rethink its policy.

I want to draw the Minister's attention to two specific points. First, we need to review the legislation in the run-up to digital switchover, because it is not clear that it will all work, technically speaking, when that happens. Secondly, the European television without frontiers directive is to be reviewed in the next year or so, and I hope that during their presidency the Government will ensure that the clauses affecting listed events are retained.

There is no better measure of the success of the policy of sporting listed events than that of the TV programmes that did well in viewing figures last year. The England-Portugal game had 20.7 million viewers, peaking at 24 million during penalties, and was the most watched TV event of last year. The England-France game had 17.8 million viewers. Other events that feature in the top 50 are the never-to-be-forgotten Saturday night of the victories by Kelly Holmes and the 4 x 100 m relay team; the Olympics opening ceremony, and the grand national. If those events were not listed and went to the highest bidder, much of the nation would not talk about them at the bus stop, in the school hall and in the office, because they would not have been able to see them. That would diminish our nation.

My requests of the Minister are modest. We are approaching the election, and I suggest that it would be appropriate to include in our manifesto a couple of sentences about listed events. That would show, first, that we are proud as a Government of our record on keeping and, indeed, extending them, and that we are committed to them post-digital switchover; and secondly, that at an appropriate time we will review them and decide whether there is a case for adding to them.

10.49 pm

**The Minister for the Arts (Estelle Morris):** I congratulate my hon. Friend the Member for Selby (Mr. Grogan) on securing the debate and the duo whom he has brought with him, my hon. Friends the Members for Loughborough (Mr. Reed) and for Stroud (Mr. Drew), on participating in it at this late hour.

I acknowledge the interest and expertise of my hon. Friend the Member for Selby and the part that he played in scrutinising the Communications Act 2003. Although that measure offered no major changes to the aspect of communications that we are discussing, it considered it.

I join my three hon. Friends in acknowledging the importance of sport on television. The instances that my hon. Friend the Member for Selby gave, for example, of Kelly Holmes—her first victory was named the top television moment of 2004 by viewers—clearly brought the nation together during the Olympics. Two and a half times as many people watched England lose the match that my hon. Friend mentioned. I was interested to hear that the number of viewers increased during penalties. I suspect that if the people who genuinely watched the penalties were counted, the figures would drop dramatically, because it was a case of watching with our eyes shut. However, it was a special evening that brought the nation together.

Indeed, when we think back to 1966, such occasions provide several moments that we continue to talk about. They can still be unifying factors even three and four decades on. There is no difference of opinion between my hon. Friends and me about that. Sport is about national identity and national pride. When we get it right, sport at its best allows us to be different and to support different teams in a collegiate and friendly manner. I agree with my hon. Friend about the importance of the list and sport.

My hon. Friend, however, began by referring to the many, not the few. It is important to emphasise that even 21 million are the few, not the many. We must remember that a majority chose not to watch the penalties in the European championship match when England was knocked out. We must ensure that terrestrial television offers something for all viewers, whatever their interests. It is not a matter for Government, but perhaps terrestrial channels sometimes do not bid for some sports, especially cricket, because the matches last far longer than 90 minutes, plus 30 minutes for extra time and 15 minutes for penalties.

Let me outline Government policy for listing sport. My hon. Friend reasonably mentioned the future. He made a generous speech, and although he expressed his unhappiness about the England and Wales Cricket Board's decision, he looked to the future and to safeguarding something important. Let me therefore bring us up to date by stating Government policy. As my hon. Friend said, it is important that key sporting events are made available to all television viewers, including those who cannot afford or choose not to spend their money in that way. That has led to the solid protection by law of the listed events.

We all agree that we cannot possibly list all sports. The listed events are those that are believed to have a special national resonance. There is a danger—and an understandable trend—among sports enthusiasts that they want their sport listed so that they can watch it free on terrestrial television. However, that is not the purpose of the list, which is to involve the nation and ensure that the unifying factor can be brought to bear.

The listing process was reviewed in 1998 to ensure that it was as open and transparent as possible. As my hon. Friend said, the Government consulted on the criteria and then appointed an independent advisory group to make recommendations on listing. It is worth putting on record the criteria on which consultation was held and that were subsequently agreed for listing events.

Listed events must have a special national resonance and not simply be significant to those who follow the sport. They should unite the nation in a shared point on the national calendar. The Wimbledon finals are key examples. Consideration should be given to events that are likely to command a large television audience, such as pre-eminent national or international sports events and those involving the national team or national representatives.

The advisory group to which my hon. Friend referred considered the number of events. At that point, the notion of groups A and B came into being. Perhaps if we had not split the list into groups A and B, we would not be conducting a debate today that is based on dissatisfaction about the decision about cricket. However, it could have appeared on list A, although obviously it was put on list B. That meant that it would no longer be guaranteed to be shown live on terrestrial television, and although I accept that cricket is popular, I believe that lists A and B as a mechanism have provided an alternative in sometimes difficult times for audience share and pleasing everybody. As well as list A, which guarantees live coverage, we have list B, which guarantees showing highlights at some point. And of course, Channel 5 was able to do that with cricket. I accept the argument that Channel 5 is not as readily available throughout the nation as other terrestrial channels, but the establishment of groups A and B has enhanced the number of opportunities for our citizens to watch key events, rather than reducing it.

There is another side to this argument. When we talk about what sports terrestrial television is not able to broadcast, we must also remember that BSkyB is able to broadcast them. We should not therefore say that everything is lost if BSkyB gets a particular contract, as long as the rules are followed. Because of the way in which the market works, the price being paid for the television rights to both live broadcasts and recorded highlights is going up and up. I suspect that that is one factor that causes difficulty for the BBC and other terrestrial channels when they are considering their need to ensure that the wider audience is catered for. In

*[Estelle Morris]*

regard to terrestrial channels other than the BBC, advertising revenue might be put at risk in certain circumstances.

I hope however that my hon. Friend will consider it a good thing that, following the signing of the Central Council of Physical Recreation's voluntary code on sports broadcasting rights in 1997 by major organisations including the England and Wales Cricket Board, those organisations are now pledging 5 per cent. of their revenue from television to grass-roots schemes.

We can always argue about which determining factor might have made a future captain of Australia's cricket team become the brilliant player that he or she might be. They could have watched great matches on television, and I do not argue with the contention that there is nothing like watching a live match to enthuse people and to allow them to dream. For young people, such dreams are important. Equally, however, the enhanced sports facilities at grass-roots level, paid for by that 5 per cent. of the television revenue, might have been a determining factor in that young person's life.

This is a time of great change. Ten or 15 years ago, the issues involved would have been significantly different. At issue today is the number of viewers who can watch BSkyB and who have access to digital television. My hon. Friend rightly asked why the Government did not review the list in the light of the changes, and whether we would give an undertaking to do so. I certainly cannot give him an undertaking to put such a commitment into the manifesto, as he asked. However, I could give him an undertaking to review the list, because that is absolutely essential.

We know from other deliberations that we have had in the House that, as we move towards 2012, and as my right hon. Friend the Secretary of State carries out her review of the BBC, we are in a time when things move fast. Predicting the future is becoming increasingly difficult. However, there will presumably be an increase in the number of people subscribing to Sky and other digital outlets in the next few years, alongside the growth of freeview. That will naturally change the landscape. Nevertheless, sports rights contracts run for a number of years, and I do not see a pressing need to pledge to review the list now, or to feel under pressure to do so, given that it was reviewed in 1998. But I recognise that the list has to reflect not only the changing views of broadcasting. I do not want to fall into the trap that my hon. Friend mentioned. This is not a policy for broadcasters; it is a policy for sport and for most people who watch sport through the medium of broadcasting, so the list also has to reflect the changing views of the sports concerned. Successes in certain events resulting in increased viewer loyalty could mean that the 1998 list should be reviewed in due course.

Looking back, it is amazing how little the sports and events that one would assume to be the most popular have changed. My hon. Friend mentioned the most popular sports and they are, in the main, the same ones that bound the nation together when I was a teenager, which was more years ago than I care to remember. We must always bear in mind, however, the potential for changing views in sport. The switch to digital broadcasting, and the move towards a multi-channel environment—whether subscription or free to air—change the landscape. I think it not unreasonable for the Government to pledge to take that into account, and to announce, at the appropriate time, what they will do about reviewing the list. I do not know when that will be. Things may be changing too quickly for us to be able to predict it, and certainly the Government have no plans to make an announcement or name a date yet.

The debate is timely. I thank my hon. Friend the Member for Selby for initiating it, and thank my other hon. Friends for contributing. I think it behoves the Government to make it clear to broadcasters, citizens and sports players that although the arrangements may be set in stone now, they will not be set in stone for ever. We shall want to ensure that we make the necessary changes, so that the fundamental idea that live television coverage of these key events should be a great unifying force for the nation continues to hold.

No doubt in future years my hon. Friend will be back, asking when the Government will review the list. Long may he continue to do so. I am grateful for the opportunity to put the Government's case during this short but important debate, and to confirm their commitment to listed sport.

*Question put and agreed to.*

*Adjourned accordingly at one minute past Eleven o'clock.*

# House of Commons

*Tuesday 1 February 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

## PRIVATE BUSINESS

LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON BILL

*Order for Second Reading read.*

*To be read a Second time on Tuesday 8 February.*

# Oral Answers to Questions

## TRANSPORT

*The Secretary of State was asked—*

### Railways (Disabled Access)

1. **Mr. Peter Pike** (Burnley) (Lab): What assessment his Department has made of access to the rail network for disabled people. [211839]

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** More than half of all rail journeys originate at stations with step-free access. The Strategic Rail Authority will consult shortly on a strategy to make the railways more accessible. More than 3,800 rail vehicles are already fully accessible, and there will be 700 more within the next 12 months. The rail industry is working hard to make travel more accessible, but we recognise that more needs to be done.

**Mr. Pike:** I thank the Minister for that answer, but she will know that at many stations the layout and access for disabled people is impossible. In addition, if disabled people make a train journey and want to get off when they return home, they do not always know that they will be able to get off the train safely before it moves on to the next station. That means that many disabled people are trapped and unable to travel, because of their fears of the present transport system.

**Charlotte Atkins:** Stations are covered by part 3 of the Disability Discrimination Act 1995, which requires the operator to take reasonable steps to remove any barrier to using a train service. I appreciate the comments that the hon. Gentleman makes about the confidence of disabled people when using the train system. Certainly, the assisted persons reporting system should improve the delivery of assistance at all stages of the journey. It is important that operators take reasonable steps to ensure that if disabled users cannot access a train service, a taxi or some other means is provided to ensure that they can use the railway system with confidence and ease.

**Sir Sydney Chapman** (Chipping Barnet) (Con): The Minister will know, however, that under the 1995 Act to which she referred, the Government introduced regulations in 1998, but 50 exemption orders have already been granted against those. Can she report progress? Can she give any end date, such as the Joint Committee of both Houses on the draft Disability Discrimination Bill gave some time ago in a report, which said that complete access would be provided for disabled people by 2017?

**Charlotte Atkins:** As the hon. Gentleman knows, the Disability Discrimination Bill will enable the Secretary of State to set an end date by which all rail vehicles must comply with the Rail Vehicle Accessibility Regulations 1998. The Government's preferred date is 2020, simply because 2017, the date that he mentioned, would double the cost of implementing the measure. Of course, that does not mean that there will not be progress as we go along, as we have ensured that the parts of vehicles that are refurbished will be required to be accessible and to meet the regulations.

**Richard Burden** (Birmingham, Northfield) (Lab): I have already written to Ministers about Northfield railway station, where for someone in a wheelchair who wants to travel into Birmingham, it is reasonably easy to get to the platform, but if they want to come back from Birmingham, they face no fewer than 39 steps down, including the step off the train, to get to the street. Does my hon. Friend understand that my constituents do not want Northfield's story of the 39 steps to become as famous as the other one? The SRA's comment that this will not be an early candidate for investment is simply not acceptable, and the matter needs to be considered again.

**Charlotte Atkins:** As I have said, the SRA will consult shortly on its accessibility strategy, which includes options for prioritising spending from the access for all fund. If, as is likely, passenger numbers are a factor in deciding which stations take priority, Northfield is not expected to be in the first tranche for investment in step-free access, but might benefit from investment in less expensive works. Central Trains would be expected to find a reasonable alternative means of transport, such as a bus or taxi, were a passenger unable to reach the platforms. We encourage the operator to seek part 3 funding for additional improvements.

**Mr. Greg Knight** (East Yorkshire) (Con): Does the Minister accept, however, that this is not just a question of access at stations? Many disabled people find travelling by train far too daunting because of poor lighting, inadequate service announcements and the lack of a handrail where one should be provided. Will she do her best to see that those matters are addressed with a sense of urgency? I understand that the Joint

Committee on Mobility of Blind and Partially Sighted People asked many months ago for a meeting with other key parties and the Minister of State, Department for Transport. When will that meeting take place?

**Charlotte Atkins:** I am not sure when the meeting will take place, but I will certainly write to the right hon. Gentleman about it. The recent rail passengers transport report found that despite existing problems, a large majority of wheelchair users would encourage other users to travel by train. We take the issue of accessibility extremely seriously, and try to ensure that operators do as well. Through various franchise agreements, we are ensuring that information at stations and accessibility is a top priority for operators and station management.

**Mrs. Gwyneth Dunwoody** (Crewe and Nantwich) (Lab): But is the Minister aware that, unfortunately, operators do not regard that as a priority? Indeed, many do not have as many staff on stations as there were under the old British Rail regulations. This needs a little bit of lateral thinking, because the problems are ongoing. On Saturday, GNER passengers were decanted on to a platform where there was no lift, no help and no way of getting to the other side of the station. It really is time the operators faced up to their responsibilities—at this moment, not in five years' time.

**Charlotte Atkins:** As my hon. Friend knows, it is important that operators take this seriously. Eighty per cent. of all journeys by passengers are from stations with visual customer information systems and public announcement systems, and more than half of all journeys are from stations that are step-free. However, we have to accept that a reasonableness test applies here, as we cannot expect such changes—for example, to deal with a problem concerning a bridge between platforms—to be made overnight. We are mapping the stations that are accessible and providing that information to disabled people so that we can assure them that their needs will be met.

**Jim Sheridan** (West Renfrewshire) (Lab): Will my hon. Friend also look into disabled access to ticket machines on platforms, particularly those where trains arrive from north of the border? I recently had an unpleasant experience whereby a ticket machine rejected a Scottish £10 note and no assistance was available. I wonder what would have happened had I been a disabled person with no one to turn to. If the operating companies have some difficulty in accepting Scottish taxpayers' money, will they let us know?

**Charlotte Atkins:** I am grateful—indeed, delighted—that a Scottish Member is investing in the English railway system. Where disabled passengers cannot access the ticket office to use the train service, ticket inspectors must not impose a penalty, but instead offer to provide the correct ticket at no extra cost.

## Parking Charges

2. **Simon Hughes** (Southwark, North and Bermondsey) (LD): How much money was raised by local authorities in England from vehicle parking charges in *(a)* 1997 and *(b)* the latest year for which figures are available. [211840]

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** Total parking income raised by local authorities in England in 1997–98 was approximately £638 million. The latest figures are for 2002–03, when it was just over £966 million.

**Simon Hughes:** That works out as an increase of roughly 50 per cent. over the period. I hope that the Minister agrees that reasonable costs and reasonable penalties are entirely acceptable as a way of managing traffic. However, is she willing to consider issuing guidance to local authorities regarding the one thing that really winds people up, is unfair and could be done away with? Should not somebody who just goes over the time limit get a lesser penalty than if they had stayed there for much longer?

**Charlotte Atkins:** We do provide guidance, but the hon. Gentleman will know that central Government have no involvement in parking as such. We do not control parking charges, nor do we set the appropriate levels. Local authorities are best placed to determine the types of parking facilities in their areas. They should ensure that parking is part of an integrated transport strategy to deal with congestion, but also that council tax payers are not paying for facilities that should be paid for by local car owners and drivers.

**John Mann** (Bassetlaw) (Lab): The most zealous car parking attendants are those from private companies that local authorities have contracted to run their car parking. Does my hon. Friend agree that we should remove the anomaly in the law whereby those private operators can go to the criminal court for car parking offences, but the individual cannot go to the parking adjudicator to adjudicate on them?

**Charlotte Atkins:** My hon. Friend knows that it is up to a local authority to ensure that it controls such parking wardens, and that companies that operate in its area make sure that those wardens behave appropriately. No one wants drivers to be persecuted by parking attendants who extort unreasonable penalties from them.

**Mr. William Cash** (Stone) (Con): Does the Under-Secretary accept that the question of vehicle parking charges is directly connected to the problem of the lack of facilities for car parking, for example, in Stoke-on-Trent, for commercial businesses? As she knows from her constituency, serious problems arise as a result of inadequate planning arrangements to ensure that there are proper car parking facilities for big businesses. Furthermore, does she agree that it is disgraceful that

Norton Bridge station, which also serves her constituency, is now proposed for closure? I am writing to her about that as a matter of outrage.

**Charlotte Atkins** *rose—*

**Mr. Speaker:** Just the first supplementary will do.

**Charlotte Atkins:** The hon. Gentleman knows that the council that serves his constituency and mine has managed to develop a parking strategy whereby it has alienated people in Cheadle and Biddulph while making a loss on car parking charges. Clearly, it is up to local authorities to ensure that they plan appropriately and provide the necessary car parking facilities. That should happen within a strategy that considers congestion in town centres and ensures that local authorities do not make matters worse but try to improve them. They should ensure that car drivers have parking facilities and do not park on the streets, thereby creating a bigger problem. Such problems are happening in the hon. Gentleman's constituency and in mine.

## Traffic Noise

3. **Mr. Andrew Robathan** (Blaby) (Con): What assessment he has made of the efficacy of acoustic barriers alongside motorways. [211841]

**The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson):** Assessments of the effectiveness of noise mitigation measures have been undertaken at a sample of locations including some where an acoustic barrier has been erected alongside the motorway. Before adjusting measurements for traffic and weather conditions, the maximum reduction in noise at first floor level achieved with a noise barrier was 9.1 dB and the average reduction was approximately 4 dB. A report on the surveys is in preparation and a copy will be placed in the Library in due course.

**Mr. Robathan:** That shows how effective acoustic barriers close to the motorway can be. I hope that the Under-Secretary and the Secretary of State have received a petition, containing nearly 700 names, from people who live in Narborough and Enderby in my constituency, whose lives are made a misery by the noise from the M1. Will the Under-Secretary—and preferably the Secretary of State, too—visit my constituents in Narborough and Enderby to hear the unbelievable noise in their houses and gardens? Will he pledge to come before the end of the financial year, so that money can be made available in the next financial year to erect acoustic barriers when the motorway is resurfaced so that my constituents' lives can be improved, as has happened in Luton? What is good for Luton is good for Leicestershire—

**Mr. Speaker:** Order.

**Mr. Jamieson:** Thank you, Mr. Speaker. I thought that we were not going to finish before twenty past 11.

**Mr. Robathan:** Will the Minister say yes?

**Mr. Jamieson:** Yes, I am aware of the benefits that acoustic barriers can bring. Other hon. Members, too, know that from their constituents. The hon. Gentleman mentioned the petition of the motorway action group for Enderby and N[illegible]borough. I have a copy of it here—it was presented to me last week by David Morgan, the next Labour Member of Parliament for Blaby. He set out the issues calmly to me and referred to the value not only of acoustic barriers but of resurfacing the motorway with quieter materials, which the petition also requests. A programme has been brought forward for resurfacing the M1 between junctions 20 and 21 with quieter materials. That will have huge benefits for the hon. Gentleman's constituents, and I hope that he will welcome that action that we have taken.

**Mr. Kelvin Hopkins** (Luton, North) (Lab): My hon. Friend will be aware that noise barriers were erected in my constituency just a few years ago, following the very helpful intervention of Ministers from our Labour Government, and I am very grateful for that. Many of my constituents are very pleased with the barriers and say that they have reduced the noise, but others are less convinced that they are as effective as has been claimed. If my hon. Friend will agree to look specifically at the height and effectiveness of the barriers in Luton, I will be pleased to welcome him to my constituency to do so.

**Mr. Jamieson:** I congratulate my hon. Friend on his campaign to get those barriers put in. He presented the case calmly and sensibly on behalf of his constituents, and was successful. He is right to say that, given the different sizes and placings of the barriers, they can in some cases mean more noise for some people. We are looking into the matter very carefully, because we want to get the best value for money. The acoustic barriers are essential, but the quieter surfacing is having the greatest impact on noise for many people.

**Mr. David Heath** (Somerton and Frome) (LD): I entirely endorse that last point. I am interested to learn that the programme for introducing low-noise surfaces on the M1 has been brought forward. Promises were made by the Highways Agency to give villages such as Holton, Compton Pauncefoot and Blackford in my constituency low-noise surfaces on the A303, which carries as much traffic as many motorways, but the programme has been put back. Why is that?

**Mr. Jamieson:** We have to deal with these matters in order of priority. I think that the hon. Gentleman would accept that we should deal first with the noisiest roads that have the greatest impact on people, and that is exactly what we are doing. Some of the roads have had to be brought forward in the programme not because they needed the quiet surface more, but because they had deteriorated to the extent that resurfacing had to take place. I am sure that the hon. Gentleman would agree that we have to tackle the worst cases first.

## Lighting (Roads)

4. **Harry Cohen** (Leyton and Wanstead) (Lab): What programmes his Department is sponsoring to provide cats' eyes for roads where there is no lighting or inadequate lighting. [211842]

**The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson):** The Department is not sponsoring any special programmes to provide cats' eyes for roads where there is no lighting or inadequate lighting. Providing cats' eyes is the responsibility of the relevant highway authority. On the trunk road network, the Highways Agency installs cats' eyes as standard on high-speed roads, whether the road is lit or not.

**Harry Cohen:** Cats' eyes are essential for road safety. Will the Minister confirm that they are in place on all roads for which he is responsible? Is it not also the case, however, that local authorities have discretion in this regard over roads for which they are responsible, and that some have not invested in putting in cats' eyes? There have even been reports of some taking them out. Will the Minister issue an edict, or guidelines, to local authorities to increase the use of cats' eyes? If he improves driver safety in this way, he will deserve to have his name up in lights, glowing in the dark.

**Mr. Jamieson:** I do not think I can follow that.

My hon. Friend is right: cats' eyes are a major contributor to road safety. We do set out guidelines for local authorities, but in the end, it is for them to decide how they are to be installed on their own roads, except where there is a double white line in the middle of the road and they have to be fitted. We certainly recommend them for roads with a speed limit of more than 50 mph. I should be very surprised if local authorities were taking out cats' eyes, but if that is the case, I hope that they can make a very strong safety case locally for doing so. We are carrying out further research into cats' eyes and reflective studs in general, to ascertain the benefits and disbenefits that they can bring, and into the possibility of having lit cats' eyes or studs, which could make a major contribution to road safety.

### Transport Improvement Fund (Wigan)

5. **Andy Burnham** (Leigh) (Lab): If he will make a statement on the future of the transport improvement fund in the Wigan borough. [211843]

**The Secretary of State for Transport (Mr. Alistair Darling):** We will be providing £3.5 million for the transport infrastructure fund in 2005–06, and a further £3.5 million in 2006–07. Further funding will depend on the progress of our discussions with Manchester, following the written statement that I made to the House on 16 December 2004. The allocation to Wigan from the fund is a matter for the Greater Manchester passenger transport executive.

**Andy Burnham:** I thank the Secretary of State for that extremely welcome reply, and for listening to the concerns put to him by my hon. Friend the Member for Wigan (Mr. Turner), my right hon. Friend the Member for Makerfield (Mr. McCartney) and me. As a collection of former mining villages, our borough has particular transport needs, but we do not benefit directly from Metrolink phases 1, 2 or 3. To compensate for that, we have the 10-year deal. May I press the Secretary of State to confirm that it is vital that we have that deal for the 10 years agreed in 2000? Will he also look again at the case for the Leigh guided busway?

**Mr. Darling:** My hon. Friend will be aware that the money was tied to the overall agreement with Greater Manchester PTE in relation to Manchester Metrolink. I do not want to rehearse the history of this yet again, but the money that we put in the transport infrastructure fund depends on reaching an agreement. Because Wigan and Leigh seem to have expected to receive the money this year and next, I am prepared to go on providing it, but further funding will depend on progress with the overall settlement that I want to reach with the PTE.

Let me say to my hon. Friend, and his hon. Friends who have played such an active part, that it is essential for the PTE to present comprehensive plans for tackling congestion and improving transport throughout its area. The funding depends on that. I am glad that my hon. Friend welcomes the two years' funding, but it must be realised that we need to sort out Greater Manchester's problem as a whole. We cannot keep on patching and mending.

**Mr. Neil Turner** (Wigan) (Lab): I thank my right hon. Friend for listening to our case so carefully. The money will ensure that the A5225, the Wigan inner ring road and the town centre link can proceed prior to full approval by the Department. However, difficulties will be caused when people want to buy houses on the protected routes. Will my right hon. Friend ensure that his officials allow a degree of flexibility for the spending of the money over the two years, so that those essential schemes can reach fruition?

**Mr. Darling:** I am grateful to my hon. Friend for welcoming the funds, but I stress that the allocation for Wigan comes from the PTE. It is important for all parts of the PTE to unite and form a coherent transport strategy for the entire area. Many good things are happening in the Greater Manchester area, some of which were cited yesterday and today by my right hon. Friends the Prime Minister and the Deputy Prime Minister, but it is important for Manchester to come up with an overall plan. It has a real opportunity to show the rest of the country what can be done with sensible transport planning. We are not there yet, but we hope that we are on the way.

### Rail Freight

6. **Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): What measures he is taking to encourage the use of rail freight transport in *(a)* Wales and *(b)* England. [211844]

**The Secretary of State for Transport (Mr. Alistair Darling):** The Government are providing more than £20 million in each of the next two years to support the transfer of freight from road to rail. In addition, we have outlined our proposals to provide increased certainty for freight operators about their rights on the network in the railways White Paper, and earlier today we announced new proposals to secure better value for money from freight grants in future.

**Mr. Llwyd:** The Minister may know of a rather innovative scheme in the Conwy valley to recycle many millions of tonnes of slate spoil for use as building

material. That will require investment in the Welsh railway line, but also in some lines in Cheshire, so that the material can be taken to the plant to be reprocessed. I expect the Welsh Assembly Government to support the scheme in Wales, and I assume that freight facility grant will be available. Would the right hon. Gentleman be prepared to meet me at some point, along with members of Conwy and Gwynedd councils, to discuss the other side of the investment? This is a very worthwhile scheme, environmentally and economically.

**Mr. Darling:** I am aware of the scheme, and I am aware that an application for funding was made to the Welsh Assembly Government. The initial application was turned down, because it was felt that too much was being asked for, and I believe that a revised application is now being considered. That is a matter for the Welsh Assembly Government, not the United Kingdom Government. Obviously any application for grant for the railways across the border would need to be considered, and the hon. Gentleman may wish to consult my hon. Friend the Minister of State, who is probably the best person to see. Primarily, however, this is a matter for the Welsh Assembly Government.

**Mrs. Louise Ellman** (Liverpool, Riverside) (Lab/Co-op): Will the Secretary of State commit himself to supporting schemes to improve freight access to and from the port of Liverpool, and will that be part of the plans for "The Northern Way"?

**Mr. Darling:** I agree that it is important that access not just to Liverpool but to other ports be improved. Each application obviously has to be looked at on its merits, but it is important to bear in mind the fact that the amount of freight now being carried on the railways has increased very significantly in the past seven or eight years. Of course, central Government grants play their part, but ultimately, we want more of these schemes to be self-sufficient—in other words, to be paid for by the industry, rather than depending on Government grant to make them work. But we have made it clear that we will continue to provide grants—more than £20 million will be available this year and next—and such schemes will be looked at on their merits. It must make sense to transport heavy goods and freight by rail if we possibly can, and we want to continue to do so.

**John Thurso** (Caithness, Sutherland and Easter Ross) (LD): Is the Secretary of State aware of the encouraging trend reported in the Strategic Rail Authority's latest "National Rail Trends" document, which shows an overall increase of about 11 per cent. in rail freight during the last reported quarter? Is he concerned, however, that such increase is almost entirely in bulk commodity and actually masks a drop of 12.7 per cent. in other freight? Does he agree that such demand would be best served by the creation of freight villages or rail freight interchanges, and what will the Government do to encourage such development?

**Mr. Darling:** I am aware of those figures, and I am grateful to the hon. Gentleman for drawing the House's attention to what is just one of many achievements under this Labour Government. I look forward to reading his party's manifesto, which will doubtless repeat that point, in the not too distant future. I should caution him, however, against putting too much emphasis on quarterly figures; rather, we must look at the overall trend. He is right to say that transport of bulk products such as coal and steel are subject to events elsewhere in the economy, but overall, there has been an increase in the amount of freight carried.

We look primarily to private sector operators to develop freight villages. EWS, for example, whose management is slightly different from that of a couple of years ago, is developing a number of innovative schemes to encourage more business on to the railways and the transportation of more goods. We are supporting such efforts not just through grants, but by increasing the amount and certainty of access available to the rail freight industry, which is making a difference. Overall, the prospects for rail freight in this country are good, thanks to a combination of the Government playing their part through investment in the infrastructure, a bit of grant in aid, and the flair and innovation being shown by some companies. It is precisely such partnerships that we want to develop.

**Mrs. Anne Campbell** (Cambridge) (Lab): I congratulate my right hon. Friend on such investment, but in considering future investment in moving freight from road to rail, will he take into account the huge costs arising from accidents on the A14, such as lorries overturning? Such costs fall mainly on the businesses in my area, because of the resulting traffic congestion.

**Mr. Darling:** Yes, I am aware of the problem, and the A14 is one of several roads that will receive substantial investment over the next few years. Improvements to the railway from Felixstowe to Nuneaton will also make a difference by providing a more attractive means of transport, which will get some of the traffic out of that part of the east of England. My hon. Friend is right: if we can, we should get freight on to the railway, and where appropriate we want to do so. The important thing is that that means sustaining investment in the railways rather than cutting it, as the Conservatives propose.

### Thames Crossing

7. **Andrew Mackinlay** (Thurrock) (Lab): What assessment has been made of the requirement for an additional Thames crossing to the east of Thurrock. [211845]

**The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson):** The Highways Agency and the Strategic Rail Authority have been commissioned to examine capacity issues on the Dartford crossing and the level of demand for a rail crossing. They are due to report to the Secretary of State in the coming months. The further steps required to address capacity on this strategic route will be determined in the light of those reports.

**Andrew Mackinlay:** I welcome the Minister's reply, but may I urge him to focus on road traffic and a further Thames crossing to the east of Thurrock? Will he discuss with his fellow Ministers whether such an engineering project, which would benefit not just people in south

Essex and north Kent, but UK commerce to and from the Channel ports, could incorporate a Thames flood barrier, which is needed to protect and promote the Thames gateway?

**Mr. Jamieson:** I congratulate my hon. Friend on raising this matter so consistently in the House. He is right that extra capacity will be needed in the next 10 years. The report that we will have in front of us asks, first, whether we need extra capacity, and the answer is certainly yes; secondly, when it will be delivered; and, thirdly, where the new crossing will be, what form it will take and what further measures can be taken at the same time. I can assure my hon. Friend that, over the coming months when the report is available, we will deal with those issues most urgently and seriously.

**Mr. Christopher Chope** (Christchurch) (Con): The Minister's answer is disappointingly ambiguous. Why will he not state unequivocally that the surplus toll paid by motorists on the Dartford crossing will be reinvested in extra capacity and that he will engage the private sector now to use that money for a third crossing?

**Mr. Jamieson:** The hon. Gentleman knows that the excess money goes back into the transport pot and is spent on our 10-year plan. If we took that money out, we would then have to add to the £1.8 billion cuts that the Tories have advocated in their transport plans. That would amount to a substantial cut in expenditure. The hon. Gentleman claims that I am being ambiguous in saying that a report is soon to be published and that we intend to take action in response to it, but I would hardly call that ambiguous. I would say that I am being extremely assertive and decisive.

## Railways

8. **Mr. Tam Dalyell** (Linlithgow) (Lab): Pursuant to his answer of 21 December 2004, *Official Report*, column 1642W, on railways, what steps he is taking to secure efficiency gains in relation to *(a)* investment in the franchise elements of the railways and *(b)* transferring the Strategic Rail Authority functions to his Department. [211846]

**The Secretary of State for Transport (Mr. Alistair Darling):** In October last year, I announced changes in the franchises as part of improving the efficiency of the railways. Bids for franchises are judged not only on price but on performance, commitments to improve train and crew reliability and operational viability. One of our main aims is to bring costs under control, and all the reforms that we have set out will help to do that.

**Mr. Dalyell:** Can my right hon. Friend persuade us that the re-tendering process for ScotRail, which amounted to £2.8 million in June last year, but may have risen to £3.9 million now, was better spent on that than on front-line services?

**Mr. Darling:** The provision of the rail franchise is a front-line service. My hon. Friend will know that the operator of the ScotRail franchise changed last October when First Group took it over. One of the purposes of franchising is to ensure that we get better value in respect of the subsidy paid in the particular case, but we also want better services. I am aware that First Group encountered a number of teething problems when it took over the franchise, but the object is to improve the quality of services.

For the sake of completeness, I should also say that the award of the ScotRail franchise is a matter for the Scottish Executive, even though it is administered for them by the Strategic Rail Authority. Under the new regime, it will be entirely a matter for the Scottish Executive in the future.

**Mr. Tim Yeo** (South Suffolk) (Con): All franchisees have, of necessity, a close relationship with Network Rail. Does the Secretary of State share my concern about the lack of transparency and accountability of Network Rail? What international comparisons, if any, do the Government use to measure the efficiency of Network Rail, and why is progress on making better use of the brownfield development opportunities on sites that are controlled by Network Rail so appallingly slow?

**Mr. Darling:** In relation to Network Rail, it is an unusual company—not many other companies are structured in the same way. The hon. Gentleman will know that there is a choice to be made. Some people advocate the state taking the whole lot over again—nationalisation. I am not in favour of that option and, as far as I know, not even the new Conservative party has yet reached that stage. Another option would be to go back to Railtrack, but with the exception of a few Conservative Members, there is not much support for that either. What we have in Network Rail is a private sector company operating in the public interest. As to efficiency, Network Rail is held to account by the rail regulator, which regularly sets out milestones that it has to achieve.

The relationship between Network Rail and the train operating companies is much simpler and more transparent now than it was before I made the changes last year. There will now be agreements between Network Rail and the train operating companies in respect of their operation. Overall, the hon. Gentleman is right that it is important to provide efficiencies in the system. Railtrack completely lost control of its costs and the country paid an extremely heavy price, not just financially, but in terms of reliability. The regime that we have in place now is much more efficient and much simpler. We can point to areas in which there have been substantial improvements in efficiency and reliability, but, equally, there are areas where we have further to go. Above all, it is important to maintain the investment. I say yet again to the hon. Member for South Suffolk (Mr. Yeo) that if he insists on cutting nearly £2 billion from transport expenditure, it is bound to come at a cost.

**Dr. Phyllis Starkey** (Milton Keynes, South-West) (Lab): Will my right hon. Friend give me an assurance that, during the process of transferring responsibility from the SRA to the Department for Transport, the commitment to extend capacity at Bletchley and at Milton Keynes central station will be maintained? The group West Coast Rail 250 will publish a report on

Monday, in which it will become the latest to make a similar call. I urge my right hon. Friend to make sure that the commitment is honoured.

**Mr. Darling:** I remind my hon. Friend that my Department will be taking over strategic responsibility for the railways, while day-to-day operations will be a matter primarily for Network Rail. I am aware, because my hon. Friend has raised this matter in the House and with me personally, that there are capacity problems in and around her constituency. We need to see what we can do to improve that. I am also aware that there are continuing problems on the west coast main line in respect of both track and trains. I believe that both sets of problems are eminently capable of being sorted out. I have asked all concerned to sort them out, because that is what passengers expect.

### Mobile Phone Use

9. **Mr. David Amess** (Southend, West) (Con): What discussions he has had with the Home Secretary regarding the use of mobile phones by people in charge of motor vehicles; and if he will make a statement. [211847]

**The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson):** Ministers in the Department regularly meet their colleagues, including Ministers in the Home Office. They are closely involved in Government policy on the use of hand-held mobile phones by drivers, which includes the offence that we have established, the stronger penalty proposed in the Road Safety Bill currently before the House, and the enforcement of the law by the police.

**Mr. Amess:** I am delighted that the two Departments are chatting about this problem, but when the Minister next talks to Home Office colleagues will he ask them when the law will be enforced? I was told yesterday that police officers welcomed the introduction of this offence and that they did not need extra officers to enforce it, so why does the whole of the British population—although not me, because I do not own a mobile phone—seem to ignore the law completely?

**Mr. Jamieson:** If what the hon. Gentleman says were true, I would have some concern. At any one moment, between 1.5 and 2 per cent. of people might be using a mobile phone. We brought in the new law 12 months ago, since when there has been a 25 per cent. reduction in the use of hand-held mobile phones by people driving cars.

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): How does the Minister know?

**Mr. Jamieson:** The hon. Gentleman asks how we know, and I can tell him that we have carried out surveys of these matters and looked into them. The hon. Member for Southend, West (Mr. Amess) may also be interested to know that in Essex—the county in which his present and his former constituencies are both located—the police have given out 1,537 tickets to people using hand-held mobile phones while driving. Therefore, to say that nothing is happening is quite contrary to the truth.

### Nottingham

10. **Mr. Graham Allen** (Nottingham, North) (Lab): What discussions he has had with Nottingham city council in the past 14 days on transport issues in the city. [211848]

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** Neither my right hon. Friend the Secretary of State nor I have had any meetings with Nottingham city council in the past 14 days. However, my officials have had several meetings with council officers in that time.

**Mr. Allen:** Does my hon. Friend the Minister agree that the growth in reliability and passenger use recently achieved in Nottingham as a result of the city's innovative integration of bus and tram services provides an excellent model that can be built on? Will she consider again, and keep under review, Government support for the light rapid transit system that has been so successful in the city? It typifies the creative and innovative way that the city sets about tackling its transport problems.

**Charlotte Atkins:** The successes of the Nottingham express transit line one are encouraging, and we will take them into account when considering the case for extensions. The performance of Nottingham's buses and trams has been very impressive, with a high reliability level. It is no wonder that bus and tram use in Nottingham has risen by more than 10 per cent. in the past five years. It is an excellent example of an integrated transport strategy.

### Rail Timetables

11. **Mr. David Cameron** (Witney) (Con): What representations he has received on the new railway timetables in the south-east of England; and if he will make a statement. [211849]

**The Secretary of State for Transport (Mr. Alistair Darling):** The most significant timetable changes in December 2004 affected South West Trains, First Great Western, First Great Western Link and One, which covers the former Greater Anglia service. Since that time, it would appear that we have received fewer than 150 representations in relation to the changes.

**Mr. Cameron:** I thank the Secretary of State for that reply but is he aware that, on the Cotswold line, the new timetable has been a disaster? A daily commuter who lives in Charlbury wrote to me to say that her trains arrived on time only twice in the first four weeks of the new timetable's operation. Some trains did not stop at the advertised stations, and overcrowding, lateness and delays have become endemic. Will the right hon. Gentleman look at that line specifically and help ensure that timetables in rural areas are both deliverable and delivered? Is he aware that there is a suspicion in those areas that the new timetables favour urban areas and let down rural commuters such as my constituent?

**Mr. Darling:** The hon. Gentleman's latter point is not correct, but performance on the Cotswold line since the changes has been lamentable and is totally unacceptable. I have been given a long explanation as to why that is, but, unless the hon. Gentleman is a trainspotter, I shall save him from listening to me reading it out. The long and short of the matter is that the problems are capable of being fixed and First Great Western is in the process of doing so.

The timetable changes in general have improved reliability. For example, on South West Trains, which has had many problems over the past few years and has had the biggest change to its timetable for some 30 to 40 years, reliability is now approaching 90 per cent., which is up by 11 per cent.

On the hon. Gentleman's specific point, he is right. We are on the case and we need to fix it.

**Mr. Tim Yeo** (South Suffolk) (Con): Is the Secretary of State aware that service on the line from Norwich to Liverpool Street is at least as bad as that referred to by my hon. Friend the Member for Witney (Mr. Cameron) and that it is now difficult for my hard-working constituents to get to their City desks by 7 o'clock in the morning? Is he further aware that the services run by One are inadequate in their capacity and, frankly, appalling in their reliability? In view of the Secretary of State's reference to the rather light load of representations that he has made, will he agree to meet me and a delegation from my constituency in the near future so that it can express its concern about those services?

**Mr. Darling:** In relation to One's service generally, I do not agree with the hon. Gentleman's general proposition, because there have been improvements. There are particular problems—there is no doubt about that—but, inevitably, when there are large timetable changes there will be difficulties from time to time. We are trying to achieve a timetable that works, which may seem to be a matter of common sense to most Members of the House, but that has not necessarily been the case in the industry over the past few years, especially since privatisation and the free-for-all that was allowed at that time.

It would be helpful if the hon. Gentleman could write to me about his specific points in the first instance. Let me see what the problem is, and I shall then see what I can do to take the matter on thereafter.

**Chris Grayling** (Epsom and Ewell) (Con): The Secretary of State referred to South West Trains, but the reason why there may have been an improvement is that journey times have been extended so much that it now takes longer to get to London on a peak-time train than it did in Victorian times. Can he explain why the extension of platforms on South West Trains' routes, including at stations in my constituency, which could make a difference and which, according to the Government's previous plans, was due to be completed at the end of last year, has still not started? When will it start?

**Mr. Darling:** In regard to South West Trains—this is a general point—Network Rail and the SRA have been trying to draw up a timetable that is realistic. The problem on South West Trains is that the trains were given running times that they could never achieve because they did not take account of stopping times at stations and so on. We now have a timetable that is accurate. What passengers want is to know with reasonable certainty when a train will arrive and when it will get to Waterloo or wherever. That is why the timetable has been changed.

The hon. Gentleman is right to say that changes in platform length to allow for longer trains will help, and Network Rail is attending to that, but the most important factor is to have a timetable that works. The problem with the fragmentation nearly 10 years ago is that it resulted in services that people could not rely on. We are changing that and, as a result, services are becoming more reliable.

## Road Development (West Midlands)

12. **Mr. Jim Cunningham** (Coventry, South) (Lab): How much funding the Government have invested in major road developments in the west midlands region since 1997. [211850]

**The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson):** Since 1997, we have invested around £267 million in Highways Agency and local major road developments in the west midlands region.

**Mr. Cunningham:** What advice does my hon. Friend give to local authorities about the development of major road schemes in relation to pollution?

**Mr. Jamieson:** By reducing congestion and improving junctions, we can do much to tackle pollution issues. In a constituency like my hon. Friend's, which is in close proximity to some major roads, pollution can be considerable, as can the effect it has on children. We are also taking action to encourage cleaner vehicles through fiscal measures and have taken action in Europe to reduce engine emissions. We have taken a number of measures nationally and we also encourage local authorities to take such matters seriously.

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): One of the roads that goes through the west midlands and the east midlands is the A50. When it was built it had a concrete surface. The Secretary of State said that that surface would be replaced. When will that happen?

**Mr. Jamieson:** Those things will happen in order of priority, as the hon. Gentleman knows. He has seen today that several of his hon. Friends have been calling for their roads to be dealt with. All I can say to him, yet again, is that these improvements are in the programme and we are dealing with them. This Government have a policy on quieter surfaces, which of course his party never had. I ask him and his constituents to reflect on whether the Conservatives, with the cuts that they intend, would ever get around to doing that work at all.

**Mr. Brian Jenkins** (Tamworth) (Lab): Does my hon. Friend realise that one of the major transport schemes in the west midlands was not publicly funded at all? It was the privately funded Birmingham north relief road. Although that has been a tremendous success in moving traffic rapidly over 27 miles, that success has created problems. Will my hon. Friend take a look at the M42, especially the section between junctions 9 and 11 where the road goes from three lanes down to two? The additional traffic constantly causes problems and hampers development in my part of the world.

**Mr. Jamieson:** I am well aware of the benefits that the new M6 toll has brought to the area by cutting congestion, but I am also aware that further action needs to be taken on the M42. My hon. Friend is probably aware that a substantial amount of money—nearly £72 million—has been spent on making improvements to the M42 over the last few years. We are mindful that further improvements will be needed in future for the throughput of traffic, north-south as well as east-west.

## DUCHY OF LANCASTER

*The Chancellor of the Duchy of Lancaster was asked—*

### Policy Co-ordination

20. **Mr. Andrew Mackay** (Bracknell) (Con): What recent discussions he has had with the Deputy Prime Minister on policy co-ordination. [211858]

**The Chancellor of the Duchy of Lancaster (Mr. Alan Milburn):** I hold a range of meetings, including meetings with Cabinet colleagues relating to my cross-Government role in the co-ordination of Government policy, my responsibilities for the work of the strategy unit and the policy directorate, my Duchy of Lancaster role and my membership of the Cabinet.

**Mr. Mackay:** As, like me, the Chancellor of the Duchy of Lancaster supports housing association tenants' right to buy and is opposed to their being discriminated against, how come he lost the argument with the Deputy Prime Minister over that? Was it because the Deputy Prime Minister described him to Labour Back Benchers as an over-promoted, popped-up Back Bencher?

**Mr. Milburn:** That is fighting talk. I am extremely grateful for the right hon. Gentleman's support—indeed, in this job you take any support you can get. Our policy is perfectly sensible in at least three regards. First, it provides an opportunity for more first-time buyers to get on to the housing ladder, which must be right and proper. Secondly, it provides a new opportunity for housing association tenants, for the first time, to get a share in their own home. That, too, is a good thing, so that they get the chance of participating in home ownership. Thirdly, and most important, that policy is set against the background of increasing expenditure on housing. This country faces a shortage of houses both to rent and to buy. That is why our policy is right and why, frankly, I think the right hon. Gentleman's policy, which is about cutting housing investment, is wrong.

**Mr. Wayne David** (Caerphilly) (Lab): What policy co-ordination has there been between my right hon. Friend, the Deputy Prime Minister and the Welsh Assembly Government?

**Mr. Milburn:** I have frequent discussions with the Secretary of State for Wales and the First Minister in Wales on issues of policy co-ordination, within the devolved settlement, which is a strength not a weakness for the United Kingdom. I well remember the debates that took place before 1997 when there were those who argued that if we had devolution it would strengthen the hand of the separatists and weaken the United Kingdom. In fact, it has turned out to be the reverse: the separatists are weaker, the United Kingdom is stronger, and we draw on lessons that we learn from one another.

**Matthew Taylor** (Truro and St. Austell) (LD): Given that the Minister opened his comments by outlining the range of meetings he undertakes in his duties as Chancellor of the Duchy of Lancaster, could he, in the interests of public accountability, outline and publish the number of hours that he has spent in those meetings in which the subjects of the manifesto or the general election have not come up?

**Mr. Milburn:** The hon. Gentleman is becoming slightly like a tired record, since this is the second or perhaps the third time that he has asked me about my meetings. I am delighted and flattered that he takes such an interest in my meetings, but it might be useful if he asked about a policy issue. Why does he not stand there and talk about cross-Government policies—perhaps on the economy, public services or council tax and local income tax—as well as all the damage that Liberal policies would do to hard-working families in this country: policies on the economy and public spending that are unaffordable; policies that would cut public services; and policies that would send local income taxes through the roof?

**David Winnick** (Walsall, North) (Lab): A friendly question: is my right hon. Friend aware that, when it comes to policy co-ordination, many of us would be deeply opposed to the severely disabled being financially discriminated against and penalised in any review of incapacity benefit? I hope that he will bear that very much in mind.

**Mr. Milburn:** I am grateful to my hon. Friend for his friendly question. As he knows, my right hon. Friend the Secretary of State for Work and Pensions will introduce his proposals on the reform of incapacity benefit in due course, but it must be right to ensure that people who are severely disabled are properly protected. Equally, it must be right that, when the 1 million people who are on incapacity benefit say themselves that they want the opportunity to work, our job in government is to provide those opportunities for them.

## Policy Co-ordination

21. **Mr. Mark Prisk** (Hertford and Stortford) (Con): What recent discussions he has had with Lord Birt about policy co-ordination. [211859]

**The Chancellor of the Duchy of Lancaster (Mr. Alan Milburn):** In my cross-Government role in the co-ordination of Government policy—

**Chris Grayling** (Epsom and Ewell) (Con): It says here—

**Mr. Milburn:** Remarkably, it does, because I wrote it earlier. Given my responsibilities for the work of the strategy unit and the policy directorate, I have many discussions with many different officials and advisers.

**Mr. Prisk:** I appreciate that the Chancellor of the Duchy of Lancaster has been busy in his writing and reading lessons, and in his party political poster campaign, but has he found time in his discussions with Lord Birt to discuss the question of value for public money? If he has, can he tell us why—although they both advise the Prime Minister on policy, allegedly—the noble Lord works for free, yet the right hon. Gentleman charges taxpayers more than £130,000?

**Mr. Milburn:** I am very pleased that the hon. Gentleman raises the issue of value for money and how we spend the public's hard-earned taxes, but he might like to take a look at the Conservative party's policies on that issue. I understand that, at the same time, he proposes to cut taxes, raise spending, reduce borrowing and ensure debts are cancelled. Most people would assume that such figures simply do not add up. When he and his party play fast and loose with the public finances in that way, it returns us to only one thing—he knows what it is, and I know what it is—boom and bust in the economy.

**Mr. Tam Dalyell** (Linlithgow) (Lab): On what topic did Lord Birt make his most useful contribution?

**Mr. Milburn:** I am grateful to my hon. Friend for that friendly question, too. Lord Birt makes a range of useful policy suggestions. As the House is aware, he is an unpaid strategy adviser to the Prime Minister who advises on a range of subjects, and of course we take interest in the advice that he gives.

**Dr. Julian Lewis** (New Forest, East) (Con): When the Chancellor of the Duchy of Lancaster last met Lord Birt, did he discuss the decision to revive the Fagin smear initiated by the chairman of the Labour party last year? Given the outrage that that smear caused then, how could he have thought anything other than that what he was doing in reviving it in his poster advertisement was nothing more and nothing less than a calculated campaign of sly anti-Semitism?

**Mr. Milburn:** I very much regret the terms in which the hon. Gentleman put his question. I fully understand and respect the views of those who have concerns about any poster designs that have appeared on the Labour party website. However, let me make it absolutely clear that those poster designs were not in any way, shape or form anti-Semitic—they were anti-Tory. I give no apology at all for making it clear to the British public exactly what the Conservatives' plans would mean, exactly where they stand and exactly what they would do to the British economy by taking us back to sky-high interest rates, mass unemployment and instability in the economy, and most of all making £35 billion of cuts to public services. If the hon. Gentleman is so interested—

**Mr. Speaker:** Order.

**Mr. Bill Wiggin** (Leominster) (Con): Why was the Deputy Prime Minister excluded from the anti-Semitic smearing group?

**Mr. Speaker:** Order. I allowed the previous question to be put to give the Minister an opportunity to reply, but these are really matters for the Conservative and Labour parties outside the House. The Minister must answer questions about ministerial responsibility. On that happy note, we must move on.

## Points of Order

12.30 pm

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): On a point of order, Mr. Speaker. Will you hold an inquiry in light of what happened in questions to the Chancellor of the Duchy of Lancaster? It is a rather serious matter that all six questions on the Order Paper were tabled by Conservative Members. I wonder whether something has gone wrong with the shuffle because I cannot believe—

**Mr. Speaker:** Order. I think that the hon. Gentleman is going a bit too far. I assure him that it was a very fair random ballot.

## Pharmaceutical Labelling (Warning of Cognitive Function Impairment)

12.31 pm

**Mr. Andrew Dismore** (Hendon) (Lab): I beg to move,

That leave be given to bring in a Bill to make provision for a warning symbol to be prominently displayed on the packaging of pharmaceuticals which act on the brain and central nervous system so as to impair dangerously the consumer's ability to carry out certain activities; and for connected purposes.

A psychoactive pharmaceutical is one that has a direct action on the brain and thus exerts clinical effects such as reducing depressive symptoms or anxiety, or inducing a good night's sleep. They are also used to treat panic attacks, post-traumatic stress disorder, obsessive-compulsive disorders and allergies. The direct action on the brain needed to alleviate the symptoms also has the potential to affect other nervous functions involved in the accurate performance of the tasks of daily living—whether at home, on the roads or in the workplace—including the rate of information processing, alertness and attention, visual processes, motor co-ordination and memory. I would hazard a guess that many have used such perfectly legal drugs without knowing that if they were then to take to the roads, their judgment could be just as impaired as it would have been if they had been drinking alcohol to such an extent that they were well above the legal limit.

Over a five-month period, Professor Hindmarch of Surrey university conducted a pilot study in which blood samples were collected from people at two hospitals who had suffered accidental injuries. The results implied strongly that the presence of tricyclic antidepressants and benzodiazepines led to an increased risk of accidental injury.

In a different pilot study, information on contributory factors in road accidents was collected by 15 police forces in 2002 and 2003. The influence of drugs was recorded as a contributory factor in about 1 per cent. of injury accidents, which was on a par with the effect of excess alcohol, although it is not clear what proportion of those drugs were legal or illegal. In 2001, the Transport Research Laboratory published a study to measure the incidence of drugs in fatal road accidents. A study published in 1989 found a 5.5 per cent. incidence of medicinal drugs and a 3 per cent. incidence of illegal drugs. Those figures were relatively low compared with the 35 per cent. incidence of alcohol. However, the 2001 study, which was based on results collected between 1996 and 2000, found that the incidence of drugs in the blood samples of road traffic fatalities was three times higher than in the previous study, while the incidence of alcohol had fallen.

A Canadian study of fatal road accidents in 1981 found that drivers who had used benzodiazepines were found culpable in 98 per cent. of the cases examined. Drivers involved in fatal road accidents who had been taking antihistamines were found culpable in 72 per cent. of cases.

There is no defined limit of drug use as there is for alcohol, and no such clear cut test as the random breath test. Moreover, the law does not make a distinction between illegal or misused drugs and over-the-counter or prescription drugs that are taken as directed by a GP or other medical practitioner.

*[Mr. Andrew Dismore]*

Just as we have come to welcome a culture that emphasises the need for warnings about alcohol levels—a culture in which driving while drunk is no longer tolerated and for most employees drunkenness at work is a dismissible offence—it is time to ensure that those using psychoactive drugs are aware of their effect. The Driver and Vehicle Licensing Agency provides advice to medical professionals. Doctors and pharmacists should provide information when dispensing prescriptions or other medicines. The Department for Transport is researching UK health professionals' attitude to providing fitness-to-drive advice to the public, including an examination of advice given in relation to medication. However, that is not enough.

Clearer labelling seems to me to be an excellent way of both alerting the public about the unexpected hazards of what they are taking to cure their ills and promoting a clear safety message by triggering the need to consider the risks before driving or embarking on potentially hazardous work. Who would be willing to wield a dangerous power tool if they knew that their reactions might be seriously impaired? Now, a pharmacy sticker might state, "Do not drive if you feel drowsy," or "May cause drowsiness," but by the time that someone feels drowsy, it is already too late—the safe limits have been exceeded. Inside the package, there may be a tightly folded patient information leaflet. If one is able to unwrap it, one might find print so small and illegible that one needs a magnifying glass to read it. To those of our fellow citizens or visitors to our shores who speak little or no English, it is of no use at all, and as the language used is rarely plain English, it is of little use to the rest of us. Such warnings are not adequate: the labelling is ambiguous and unhelpful and the patient is extremely unlikely to have insight into the actual level of drowsiness caused in the brain. My Bill would require the external packaging of medicines known to have an effect on judgment to be prominently marked. I propose a red triangle, meaning simply that use of the medication could seriously impair the user's judgment.

The main classes of medication—there are others—that would fall into the red triangle category would be benzodiazepines and tricyclic antidepressants, both of which are available only on prescription, and antihistamines, which are available over the counter to treat common complaints such as hayfever and conjunctivitis. A report compiled by Loughborough sleep research centre identified medicines available over the counter that have the potential to cause drowsiness and therefore to be hazardous. The literature makes it clear that one antihistamine sub-group, the classical H1 receptor, is especially sedating—it is even used for the relief of temporary sleep disturbance in some cases. The impairment caused by the recommended dose of at least two of the drugs is greater than that caused by the legal blood alcohol concentration limit for driving in this country. The elderly are especially vulnerable to the sedative effects of those drugs.

I do not suggest that the drugs are dangerous in themselves or that their use should be curtailed, either in prescription or in over-the-counter sales. Instead, because they will continue to be used regularly by large numbers of people, I advocate a red triangle marking to stand as an unambiguous warning that the ability to drive or to work safely might well be impaired on taking the drug. That would give users more control over their activities and an option to seek different medication if appropriate. Choice and control are paramount in avoiding preventable accidents.

That view has already been adopted in other countries. In Canada, a warning symbol was introduced under the Controlled Drugs and Substances Act 1996. The European Commission has acknowledged the benefits of such a system and referred to the need for appropriate labelling of medicines in the European road safety action programme for 2003 to 2010, which aims to half the number of people killed on the roads by the end of that period. In countries such as France, the Netherlands and Denmark, a clear system of symbols is used: green if it is safe to drive, amber if caution is needed, and red to show that one must not drive. Red triangle symbols are in use in Denmark, France, Italy and Norway, and other versions of the symbols are used in Austria, Belgium, Italy and Spain. The UK is lagging behind.

We need to place on certain medicines a visible warning that will leave no one in any doubt about their potential effects. The red triangle is an obvious visible warning stating, "Be careful what tasks you choose to do. Do not drive. Do not operate machinery." We need to act now to cut deaths and injuries on the road, in the workplace and at home. I hope that my Bill to achieve those objectives will find favour with the House today.

*Question put and agreed to.*

Bill ordered to be brought in by Mr. Andrew Dismore, Ms Karen Buck, Mr. Stephen Pound, Mr. Martin Salter, Sir Archy Kirkwood, David Hamilton, Dr. Alan Whitehead, Angela Eagle, Miss Anne Begg, Alan Keen and Mr. Neil Gerrard.

### Pharmaceutical Labelling (Warning of Cognitive Function Impairment)

Mr. Andrew Dismore accordingly presented a Bill to make provision for a warning symbol to be prominently displayed on the packaging of pharmaceuticals which act on the brain and central nervous system so as to impair dangerously the consumer's ability to carry out certain activities; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 20 May, and to be printed [Bill 50].

# Orders of the Day

## Constitutional Reform Bill *[Lords]*

[2ND ALLOTTED DAY]

*Considered in Committee.*

[SIR ALAN HASELHURST *in the Chair.*]

*[Relevant Documents: First Report from the Constitutional Affairs Committee, Session 2003–04, HC 48-I and 48-II, on Judicial appointments and a Supreme Court (court of final appeal), and the Government's response thereto, Cm 6150; and the Third Report, Session 2004–05, HC 275-I and 275-II, on the Constitutional Reform Bill [Lords]: the Government's proposals.]*

### Clause 20

THE SUPREME COURT

12.41 pm

**Mr. Dominic Grieve** (Beaconsfield) (Con): I beg to move amendment No. 350, page 9, line 15, at end insert

'situated in the Palace of Westminster'.

**The Chairman of Ways and Means:** With this it will be convenient to discuss the following: Amendment No. 328, in clause 23, page 10, line 16, leave out from 'appointment' to end of line 20 and insert

'as a Lord of Appeal in Ordinary'.

Amendment No. 329, page 10, line 26, leave out subsection (4).

Amendment No. 341, in schedule 7, page 156, line 7, leave out

'President of the Supreme Court'

and insert

'senior Lord of Appeal in Ordinary'.

Amendment No. 342, page 156, line 8, leave out

'Deputy President of the Supreme Court'

and insert

'second senior Lord of Appeal in Ordinary'.

Amendment No. 343, page 156, line 13, leave out from beginning to end of line 43 on page 158.

Amendment No. 344, page 159, line 24, leave out from first 'the' to end of line 31 and insert

'senior Lord of Appeal in Ordinary'.

Amendment No. 345, page 159, line 33, leave out paragraph 8.

Amendment No. 346, page 160, leave out lines 6 to 19.

Amendment No. 347, page 161, leave out lines 1 to 33.

Amendment No. 330, in clause 25, page 11, line 17, leave out from beginning to 'will' in line 18 and insert

'The Commission must ensure that among them the Lords of Appeal in Ordinary'.

Amendment No. 331, in clause 27, page 12, line 36, leave out

'judges of the court would between'

and insert

'Lords of Appeal in Ordinary would among'.

Amendment No. 333, in clause 54, page 24, line 20, leave out subsections (3) and (4).

New clause 6—APPOINTMENT OF LORDS OF APPEAL IN ORDINARY—

'(1) Section 6 of the Appellate Jurisdiction Act 1876 (39 & 40 Vict. c. 59) (appointment of Lords of Appeal in Ordinary by Her Majesty) is amended as follows.

(2) After 'unless', insert—

"(1) he has been recommended for appointment in accordance with section 23 of the Constitutional Reform Act 2005 (selection of Lords of Appeal in Ordinary); and

(2)".'.

Amendment No. 334, in clause 62, page 27, line 9, leave out 'Supreme Court judge' and insert

'Lord of Appeal in Ordinary'.

Amendment No. 335, page 27, line 20, leave out 'Supreme Court judge' and insert

'Lord of Appeal in Ordinary'.

Amendment No. 336, page 27, line 31, leave out 'Supreme Court judge' and insert

'Lord of Appeal in Ordinary'.

Amendment No. 337, page 28, line 5, leave out 'Supreme Court judge' and insert

'Lord of Appeal in Ordinary'.

Amendment No. 365, page 28, line 5, leave out

'judge of the Supreme Court'

and insert

'Lord of Appeal in Ordinary'.

Amendment No. 338, page 28, line 7, leave out 'to the Court' and insert

'as a Lord of Appeal in Ordinary'.

Amendment No. 368, in schedule 15, page 225, line 12, leave out from beginning to end of line 43 on page 226.

Amendment No. 340, in clause 120, page 52, line 25, leave out subsections (4) and (5).

Amendment No. 369, in title, line 2, leave out from second 'to' to 'to' in line 4 and insert

'make provision in relation to the appointment of Lords of Appeal in Ordinary'.

**Mr. Grieve:** This is a long list of amendments. They have been grouped correctly, although they deal with two separate issues. Amendment No. 350 deals with the issue of where, if there is to be supreme court, it will sit. Other amendments represent an attempt by the official Opposition to rewrite part of the Bill to retain the Law Lords while, at the same time, ensuring that there is an adequate independent commission for their appointment, as provided for in the legislation.

Amendment No. 350 would insert in clause 20, page 9, line 15 a requirement to situate the supreme court in the Palace of Westminster. Prior to the Bill's introduction, there was a great deal of discussion about the fact that a supreme court was needed, allegedly in part because the facilities in the other place were insufficient for the Law Lords. However, during the course of that debate, a strange situation arose. The Law Lords who are keenest to establish a supreme court, because they believe that there should be a separation from the House of Lords, are least enamoured of the

*[Mr. Grieve]*

Government's proposals to rehouse them in another location. The Government have a problem, as a sunrise clause in the Bill expressly provides that the supreme court will not come into being until suitable premises have been identified to house it. On Second Reading, the Under-Secretary of State for Constitutional Affairs, the hon. Member for Shipley (Mr. Leslie), said with apparent certainty, although without making an official announcement, that the Government intended to house the new supreme court, which essentially takes over the role of the Law Lords with only a small amendment to their powers, on the other side of Parliament square in Middlesex guildhall, which is currently used as a Crown court. That building has been described by Lord Bingham, the senior Law Lord, as wholly unsuitable for the use of the new supreme court.

That should come as no surprise. When we consider the way in which the Law Lords operate, it is clear that theirs is a highly informal, Committee-based system of legal reasoning, which prides itself on the simplicity of the manner in which business is conducted. Complex rules of procedure are not necessary, nor is hierarchy. The Law Lords discharge their responsibilities as a corporate body. They can decide who will sit on an individual panel to deal with cases, and they do it in a Committee Room atmosphere, to which the public have access. Moreover, they can shift Committee Rooms in the other place if there is a need to accommodate more of the public to listen to the arguments. As was also pointed out in the course of debate in the other place, the nature of the argument that takes place in front of the Law Lords tends to be of quite an academic, if not esoteric, description, and is unlikely most of the time to have huge appeal to members of the general public. It is not the sort place where one will watch people being cross-examined on evidence.

12.45 pm

In those circumstances, it is unbelievable that it has, apparently, been pre-ordained that the Law Lords are to be moved into an old civic institution, a building that I know very well because I have practised there as a barrister on many occasions. The building is suitable as a county hall for local government administration, albeit of a rather old-fashioned kind, and suitable as a Crown court setting, but I find it astonishing that the Government should conclude that the building is suitable to house the Law Lords in the discharge of their new responsibilities, if they are to be set up as a supreme court.

**Simon Hughes** (Southwark, North and Bermondsey) (LD): I am glad to join debate with the hon. Gentleman again. I, too, have practised in Middlesex guildhall in my previous life and I have formed an entirely different view. The building is entirely adaptable. There are several courts and other rooms, it is over the road from Parliament and, most important, it is a distinct building—a distinct institution—so making the point that I thought the hon. Gentleman supported: that there should be a clear separation between Parliament and the legislature, and the courts. That is the obvious way to achieve it.

**Mr. Grieve:** I shall not be drawn into a discussion at this stage about the separation of powers, in which, as I indicated previously, I do not believe. I accept that we have a serious disagreement about the need to set up a supreme court at all. However, I want to make it clear—which is why I tried to split this argument from the argument on amendment No. 328 and amendments consequential upon it—that my arguments on amendment No. 350 are based on the premise that we are setting up a supreme court. I disagree with the hon. Gentleman. I do not believe that Middlesex guildhall, without major adaptation, is a suitable environment.

**Mr. David Wilshire** (Spelthorne) (Con): Before my hon. Friend completely destroys the image of Middlesex guildhall, will he keep in mind that it acts as a symbol of something very important—historic Middlesex? Although its county council was abolished and the guildhall is therefore no longer required, Middlesex still exists. Middlesex guildhall is important and needs to keep that name, to keep the history alive.

**Mr. Grieve:** I entirely agree with my hon. Friend, who represents a seat which historically formed part of Middlesex and still does. If one goes into the building, one notices that it is redolent with civic pride relating to the county of Middlesex. There are coats of arms associated with the county and a host of carving that highlights the traditions of the county, all of which have been easily adapted to the environment of a Crown court. Historically, many Crown courts have sat in shire halls in the same way as takes place in Middlesex guildhall. It is a perfect environment for a Crown court, but we are setting up the supreme court of the United Kingdom. Either we must take out the stained glass, remove the carving and alter the interiors so that they correspond to the idea that the new members of the supreme court who are enthusiastic about it have about their functions, or we are putting them into a building that is the very opposite of what they wanted.

It is a matter of slight speculation, but one can draw some inferences from what Lord Bingham said as to what those Law Lords who are in favour of turning themselves into a supreme court want. My impression is that they want a building that is distinguished in appearance, probably modern if it could be found—*[Interruption.]* Well, a number of buildings have been floated as proposals ranging from Somerset house to Middlesex guildhall, and in each case, I have detected objections, both from public utterances and from what I have picked up in other circumstances, to the effect that none of them quite reflects the image of the court that they want to put forward. I have some sympathy with that. It is clear that they want the Committee Room-appearance of the courtroom, with the judges not on the dais but down at the same level as the practitioners, to be preserved. In an ideal world, they would want some facilities for the public so that the place is user-friendly to those coming in and to suggest something accessible, informal and modern, and even some sort of interpretation centre—I do not mean that in any way pejoratively—to give people an impression

of what the new court will do. I have great difficulty imagining all those things in the context of the setting of Middlesex guildhall, and so does Lord Bingham.

**Mr. Paul Tyler** (North Cornwall) (LD): Unlike my hon. Friend the Member for Southwark, North and Bermondsey (Simon Hughes), I have no legal background, but I have some architectural background, and my ancestor, Sir William Chambers, designed Somerset house, which I have been all over. I can give the hon. Gentleman an absolute guarantee that English Heritage would never permit the sort of changes that he is suggesting. If he is saying, as he was a few moments ago, that members of the supreme court might seek a modern environment, is he really suggesting that the other end of this place provides that?

**Mr. Grieve:** I shall come on to that in a moment. One thing on which I agree with the hon. Gentleman is the problems relating to any changes to Somerset house. I am perfectly aware of that, and am familiar with Somerset house, which is a magnificent piece of architecture. As I understand it, Somerset house was unsuitable for that reason. The Minister will correct me if I have it wrong, and he may take the opportunity of this debate to enlarge on the Government's approach, as Parliament is entitled to know a little about their background reasoning and the options rather than just hearing it at third hand through the press.

Any changes to Middlesex guildhall will also pose problems with English Heritage. We may have the opportunity to hear more from the Minister as we discuss the matter in Committee, but my understanding is that any alteration poses considerable difficulties, and from my knowledge of the building, I have no problem in understanding why. It would need substantial adaptation, including the moving of the woodwork and many internal fittings, which remain an integral part of its structure and have adapted well to its role both as a Crown court, and in the past, as a shire hall. The Government have not addressed those genuine problems.

**Simon Hughes:** I smile at the idea that the Conservative party is resisting a change of use to Middlesex guildhall when I seem to remember that it was responsible for a change of use to County hall over the river into something far further removed from civic pride than is being suggested for the guildhall. There may be good reasons for suggesting the guildhall. If the hon. Gentleman does not want it to be the guildhall, but if we are to have a supreme court outside the Palace, will he tell us where he suggests that it should go?

**Mr. Grieve:** That raises some interesting questions—*[Interruption.]* Well, my simple answer to the hon. Gentleman is that I have not the slightest idea. While I can see that if the Government were prepared to fork out £250 million a suitable site could be found on which to erect a building that would correspond to the idea held by those Law Lords who wish to move, the Government have not suggested that they will fork out that sum, although I have a funny suspicion that by the time this process is finished we will be moving rapidly in that direction.

I want to compare Middlesex guildhall, which is the offer on the table—not the other ideas, which might be costly but have some validity—with what is available down the Corridor. It is a fairly remarkable set-up. It is within the Palace at the other end, and has succeeded over the past hundred and something years in accommodating the Law Lords. First, it has provided them with their own rooms, which most of them find agreeable, as they have said, and private rooms in which to work. Secondly, it has provided them with a Committee Room, which I have been in and sat in for work purposes as well as seen in the context of being a Member of the House. That Room is entirely suitable, pleasant and at the same time quite an informal environment. Thirdly, it has succeeded in various offices in providing all the necessary support services for the Law Lords. There is a fantastic library of national quality and standard, which also provides the House of Lords with its Library, sensibly, avoiding a duplication of resources. There is an amazing office at the bottom of the Victoria Tower, where judgments can be produced and distributed, and which, once one knows where it is, is a hive of activity and industry. There appear to be motivated staff who are happy to work in the building.

Overall, those facilities are provided for the princely sum, on which the Minister will correct me if it is wrong, of £168,000, leaving out the judicial salaries—*[Interruption.]* Indeed, there are no overheads because of the duplication of the function that the building must already perform as a House of Parliament. That seems to me a jolly sensible use of public money. The Minister will have to persuade me, before I return to my constituents in Beaconsfield, that there really is some purpose in spending between £30 million and £50 million, with running costs of between £5 million and £8 million—it is not quite clear—to set up a separate structure to deliver exactly the same service.

**Mr. Tyler:** I do not know whether the hon. Gentleman has had similar experience to my own when I held accommodation responsibilities—that there is considerable pressure from the existing membership of the House of Lords for offices and other accommodation at the other end of the building. Were the change to take place, which Liberal Democrat Members support, it would release some of the pressure at that end, and might make it more possible for more parts of that House and its support staff to be within this building, which would clearly be to the advantage of Parliament. Has he taken that into account?

**Mr. Grieve:** Yes, I have. The hon. Gentleman makes a perfectly valid point: if the Law Lords were to leave the House of Lords and move into a supreme court, some accommodation would be freed up. I have to say that it is minimal in comparison with the costs of setting up the new supreme court elsewhere. I suppose that the key issue, on which I am sure that he will agree, would be whether it would enable Millbank to be given up, or something of that sort. I have a question mark over that, because I need only compare what is available at Millbank with the amount of space that the Law Lords take up to make me think that that is improbable. The Minister may be able to help us in the course of today's debate. I see him smiling, and I think that the answer

*[Mr. Grieve]*

is that it is improbable. I wait with interest to hear how Millbank can be squeezed into the pint pot that is available down at the other end of this building.

Another fact to consider is that this building has a long and historic association with the dispensing of justice, which has nothing to do with the Law Lords being Members of the House of Lords. There have been courts in this building or on this site for almost 1,000 years. Justice was dispensed at Westminster under the Saxon kings—certainly by the time that William Rufus had built Westminster Hall in the 1090s—and that practice continued until the 1860s. There really is a long association, and it is sensible to preserve that if possible.

1 pm

I suspect that the real reason for getting the Law Lords out of the building is to assert the separation of powers. I do not believe in the separation of powers—I believe in judicial independence—but, if I concede to the Minister for the purposes of this debate that we should have a supreme court, I am puzzled as to why it cannot be in the same building as that in which Parliament sits, while maintaining its separateness. The United States Supreme Court managed to sit in the Congress building, almost directly underneath one of the meeting chambers—one can still go there—for a very long time without anybody asserting that it interfered with the separation of powers. When the facilities proved insufficient, it moved to a large, very fine building opposite. If we wanted to put up such a grand building to give sufficient authority to a supreme court, the thick end of £1 billion would probably just about cover it.

**Simon Hughes:** But we have available a much cheaper option—a building owned on behalf of the public that could provide the benefits of a court that was somewhere else but nearby, and independent and perceived to be independent, but without the costs, other than those of internal refurbishment.

**Mr. Grieve:** I entirely disagree. To begin with, there will be knock-on costs because the courts that currently sit in Middlesex guildhall will have to be found alternative accommodation. They are very busy Crown courts, and have been ever since they were set up. My fundamental point is that although Middlesex guildhall is a lovely building, there is no comparison, in terms of status, between it and this building. The only similarity lies in its Gothic revival historicity. That is not necessarily a bad thing. Nevertheless, it would be clear to anyone entering it that the Law Lords are occupying an old shire hall—albeit rather tastefully designed—of the late 19th and early 20th centuries. That is not adequate for a supreme court. I would much prefer to leave the Law Lords down at the other end of the Corridor. Anybody who sees the unusually informal way in which they operate there would be completely comfortable with the idea of their continuing to do so. We are going to waste money on something that will be unnecessary even if a supreme court is set up.

Amendment No. 328 and the long list of consequential amendments that flow from it would radically alter the Bill. They return to a lengthy debate in the other place about whether we need a supreme court at all and whether it would be possible to preserve the existing structure of the Law Lords. The Law Lords themselves appear to be fairly evenly divided. Given the pressure for this move that the Government have exercised in the public sphere, it is remarkable that they have not succeeded in securing more than 50 per cent. support for it from the Law Lords. The truth is that the Law Lords function very well, as the Government repeatedly acknowledge, and that the Government's desire to get rid of the Appellate Committee is a piece of theoretical mumbo-jumbo that is completely unnecessary in practical terms.

We are told that a separation of powers is required to send out this great signal that the judiciary is free of the Executive and Parliament. However, I worry much more about the signs of frequent interference in the independence of the judiciary by the previous Home Secretary than about where they sit and whether they are Members of the House of Lords. Judges have to exercise self-restraint in everything they do, to the extent of their private conversations at dinner parties, because in an age of mass publicity something that they have said, or has been said about them, could be seen to undermine the impartiality with which they discharge their office. They have succeeded in doing that, year in, year out—it has been impossible to find examples of where they have not. Where there has been any statement by a Law Lord or any other judge that might interfere with their ability to deal with a case, the general rule has been that they have not sat on it. The one exception is that of Lord Hoffman's involvement in the Pinochet case. However, the exception proves the rule, and that might equally well have applied had there been a supreme court. The fact that they are Law Lords makes no difference at all.

The Government seem to think that Law Lords are put into a peculiarly delicate position because they should not be able to listen to, participate in and vote on debates in the House of Lords. There is nothing wrong with that. Indeed, in terms of voting they are extremely circumspect, virtually to the point of self-denying ordinance. Convention absolutely underpins the quality of our administration in this country. One of the things that worries me most about this Government is their absolute hatred of convention. They showed long ago that they could not be trusted to respect any convention in the book whatsoever. We had enough difficulty in persuading them to observe the convention of taking this Bill on the Floor of the House.

The Government want to create a whole series of mechanistic structures that are designed to ensure the Law Lords' apparent independence but will not make a blind bit of difference to the way in which the public perceive their work. I believe that we will lose out in two ways. First, their participation in the legislature is rather a good thing. The opportunity for them to express, as they always do in a very careful and moderated way, any doubt or anxiety that they have about a piece of legislation that might, for instance, undermine the rule of law, sends a powerful signal to the Government that they should think very carefully about what they are doing. That is an intensely useful structure in a parliamentary democracy.

Secondly, the Law Lords have an opportunity to be receptive to what other people are saying. I do not want to suggest that judges are isolated, because they are not.

The majority of the judiciary, outside of the Law Lords, operate in a world where they come into frequent contact with large numbers of people. For instance, the lives of those in the High Court are centred around the law courts in the Strand, which gives them a continuing connection with members of their own profession that they tend to find very useful. However, the Law Lords, by virtue of being here, have never had that contact in the same way. My impression, from conversations, is that they value working in a building with other people whose sole focus is not the law. They value the opportunities that that provides for gaining understanding from, for example, attending meetings about issues of public concern. That gives them an important focus, which helps them in their judicial work.

Yet all that will be blown away, first by getting rid of their status as Law Lords and secondly, by moving them out of the building. Some of the ethos could probably be preserved by creating the supreme court but leaving its members in the building to enjoy its facilities. Again, that would be cheap but we would lose something by removing their right to sit and debate. There is a way round that. I agree that we need an appointments mechanism for the supreme court. The majority of the amendments that the Opposition tabled try to preserve the structure while enabling the Law Lords to remain in the House of Lords.

The second issue that we need to consider is the position in respect of Law Lords being made life peers. New clause 7 is a probing amendment on that. At what stage would that happen? Would they be made life peers when they cease to sit as members of the supreme court? Could they be made life peers while they are sitting? Could the president, but not the other members, be made a life peer? We need some clarification from the Government about those matters.

As I understand it, it is not intended that the Lord Chief Justice should cease to be a peer but perhaps the Government intend that to happen. That must follow if we are moving towards a total separation of powers. I hope that we can engage with that in debate. *[Interruption.]* I hear the Under-Secretary saying, "suspended". That highlights the Government's approach: one can be a life peer but one cannot sit while serving as a judge. That is bizarre. What if someone who has been a life peer is appointed as a judge? That person will have engaged in public debate, yet is viewed as suitable to act as a judge. That underlines why the Government's attempt to produce clarity creates nothing but a silly mess.

I wish that the Government would reconsider their obsession with the separation of powers, which, as I have often said, derives from poor old Montesquieu's failure to understand how the English judiciary worked in the 18th century. The discovery that the judiciary was not an arm of the Executive amazed him with delight when he came to England. However, he built that up into the separation of powers, which is different from judicial independence.

I have outlined the reasons for the amendments and I hope that we will have an opportunity to consider the two issues carefully. I want to emphasise again that they are distinct. The issue of where the court should sit would apply if there were a supreme court. One could continue with the Law Lords and move them into another building—there is no reason why one could not do that. Amendment No. 359 therefore concentrates on location. I am anxious about the possibility that we may wait a long time before the sunrise clause comes into operation, unless the Government have made a clear decision about the Middlesex guildhall. The Under-Secretary will help us with that.

The wider issue is the Government's monumental waste of public money, in which they specialise. The first example of that is the dome. It is interesting to note that the Lord Chancellor was associated with that, although he treated it as a rather difficult client for whom he had no personal responsibility. The second example is the Scottish Parliament building, which was started before the powers had been transferred to Edinburgh. I suspect that we are moving towards more major Government expenditure to achieve a result that could be obtained by continuing to spend overheads of £168,000 per annum. I do not understand where good government lies in that and I look forward to the Under-Secretary's response.

**Ross Cranston** (Dudley, North) (Lab): The hon. Member for Beaconsfield (Mr. Grieve) began with the location of the court. He rightly said that the Judicial Committee of the House of Lords currently operates in a seminar style. I have appeared before the House on several occasions and my experience is of academic, to quote the hon. Gentleman, discussion. It is the sort of discussion that needs close interaction and a dialogue between counsel and the members of the Judicial Committee. There is nothing inconsistent between that style of judicial decision making and a new location.

1.15 pm

To broaden the perspective, if one considers the operation of comparable courts such as the supreme courts of Canada or Australia, one see that style in a separate supreme court building or its equivalent. The Law Lords who support the change and the Government's proposals do not believe that the current style of decision making is inconsistent with having a different location.

The hon. Gentleman mentioned Westminster guildhall. I have sat there several times as a recorder and there is no doubt that structural changes must occur if the seminar style is to continue. That will require substantial expenditure. However, that is a consequence of the principle. That court has built up good relations with other parts of the criminal justice system in central London and I should like assurances from my hon. Friend the Under-Secretary that everything will be done to facilitate transition for the judges and staff of that court and for the continuation of the good relations. I therefore have no problem with a move to a separate building or with Westminster guildhall. Situated on Parliament square, it is an appropriate place for a supreme court.

The more substantial point is the creation of the supreme court. As I said on Second Reading, I was initially sceptical about the proposal. There is no doubt that the House of Lords is an outstanding body. The judges are of the highest integrity and standing not only in common law but more generally in the international legal world. When one hears from judges such as Lord Nicholls, who opposes the change, that gives one

*[Ross Cranston]*

pause for thought. We heard evidence before the Constitutional Affairs Committee from Lord Hope, the former Lord President of the Court of Session in Scotland and now a member of the Judicial Committee, who said that he appreciated the opportunity to sit in the House of Lords in its legislative capacity, listen to debates and hear the issues of the day discussed. He believed that that was beneficial in the performance of his judicial functions. It gave him a wider perspective. There is no doubt that judges at that level need a wider perspective because they make decisions that have profound social consequences. However, as I also said on Second Reading, I am persuaded that the case for a supreme court has been made. I mentioned other jurisdictions. No other jurisdiction has our arrangement. Although that is not necessarily conclusive, it is a persuasive argument for change.

I mentioned the supreme courts of Canada and Australia in the common law world. The Indian supreme court is also an eminent judicial body. Across the North sea in Germany, arrangements at the highest levels are different, in that there are supreme courts in functional areas such as tax, labour and administration. However, in Karlsruhe, we find the Bundesfassungsgericht—the German constitutional court—and the supreme court of justice, the Bundesgerichtshof. We have only to read the judgments of those courts to see why the Bundesfassungsgericht is so highly regarded as a constitutional court. Those are examples using comparisons. Other countries have supreme courts, so why do not we?

The argument relating to the rule of law is strong. It is not an argument about the separation of powers, but, as Lord Bingham has said, judges are judges. The hon. Member for Beaconsfield asked why we needed a supreme court. Bagehot talked about the effective parts of the constitution, but he also talked about its symbolic aspects. Sometimes, as in this case, symbols are important. Here we would have a separate supreme court illustrating the fact that judges are functionally separate and that judges do judging.

Let us look at the historical situation. The hon. Gentleman rightly said that we had had courts in this location for centuries. Furthermore, members of the Judicial Committee have also been members of the legislative body in the House of Lords, but those were different times. When we had our debate in Westminster Hall on the Constitutional Affairs Committee report, I quoted the words of Lord Salisbury on the kind of person who ought to be a judge. He also said that the judges in the House of Lords should be Members of the House of Lords,

"since, practically, they have often to make law as judges, they will do it all the better for having also to make it as legislators".

Frankly, I do not think that that argument holds water any more. I accept the point that judges make law. We lawyers all know that Lord Reid famously said that it was a fairy tale that judges did not make law. They do, but, more importantly, they make law within a social and economic context. In a case before the Privy Council in 1949, Lord Porter said:

"The problem to be solved"—

by the court—

"will often be not so much legal as political, social and economic."

Judges make important decisions that have social ramifications.

The fact that we now have the Human Rights Act 1998, that we are getting important decisions such as the Belmarsh decision, and that, in a different context, we have had cases such as the Pinochet case, illustrates that judges are now making decisions that have a much greater impact on our social lives, in terms of both public perception and reality.

**Peter Bottomley** (Worthing, West) (Con): I do not want to challenge anything that the hon. and learned Gentleman is saying, but in what kind of forum should a judge be able to say, "The law requires decision X, whereas justice would require decision Y."?

**Ross Cranston:** Judges already do that in the context of their judgments, although they might not put it in exactly those terms. The Law Commission, for example, will often draw on what judges have said about changes in the law. A judge might say, "I have to decide this case in this way, but there is a problem with that." That is something that the Law Commission should look at. That judge might suggest that justice required a change in the law, although, as the hon. Member for Beaconsfield said, judges have to be extremely careful about what they say.

It is difficult to characterise the times in which we live. In a decade's time, when the supreme court is up and running, we might look back and see this as a fundamental revolution in our constitution. However, the proposal seems to me to be the kind of pragmatic, incremental change that is characteristic of constitutional change in this country. Today seems to be an appropriate time to make that change and I support the Government's proposals.

**Simon Hughes:** It is a pleasure to intervene in this debate at this stage, having not taken part in it earlier—perhaps a greater pleasure than for those other Members who have laboured day and night over the Bill. I shall be brief, but I shall also be slightly self-indulgent, because this is an enjoyable extra to my normal duties, I have declared an interest, in that I am a member of the Bar. Although I do not currently practise, I am still a member of chambers, so, like the hon. Member for Beaconsfield (Mr. Grieve), I have performed over the road at the Middlesex guildhall in its capacity as a Crown court.

I want to address the two questions raised by the amendments, but I have one preparatory comment. The good knowledge of history that the hon. Member for Beaconsfield demonstrated reminded me that this place now lacks the kind of great historical contributions that used to be made here. He also reminded me of his very-much-still-alive predecessor, Lord Brooke of Sutton Mandeville, formerly Peter Brooke, whose knowledge of London and Westminster history was without parallel. We miss him, although those at the other end of the building still have the benefit of hearing from him.

On the venue for the supreme court, my hon. Friends and I have always supported the idea that there should be a supreme court and that it should be visibly and

organisationally separate from the working of the legislature. On Sunday, there was an insert into the "Politics Show" on television; I discovered that it is running a series of them. Last week's asked, "How Conservative are the Conservatives?" This week, it was, "How Liberal are the Liberals?", and next week it will be, "How Labour is Labour?" As I was listening to the hon. Member for Beaconsfield, it struck me that, if ever we wanted an illustration that the Conservatives were still Conservative, he would be a living manifestation that that was the case.

We need to scrutinise the argument for keeping an arrangement that grew up for a reason that has now changed. The reason that the courts were in this building, a royal palace, was that the king was the fount of justice. He invited the courts to sit in Westminster Hall and we are proud of Westminster Hall's history, both its conservative and its progressive, radical history. That must include its most radical moment of all, when King Charles I was sentenced to death in the hall attached to this building.

That was the reason for the courts being here and when the fire happened in the 19th century, the opportunity was taken to move almost all the courts to the new law courts in the Strand. The only court that remained here was the Law Lords. They represent the highest court in the land and effectively form the supreme court, but they are also members of the legislature, which is part of the other historical anomaly.

The hon. and learned Member for Dudley, North (Ross Cranston) rightly said that no other place in the world had the same judicial arrangements as ours. Well, no other place in the world has the same parliamentary arrangements as ours, namely an elected Chamber at one end, and at the other, a Chamber that is, with the exception of nearly 100 people who are the elected residue of the hereditary peers, all appointed. One historical anomaly is that, when the senior judges were appointed, the same group of people were appointed to be Members of the House of Lords. We delude ourselves if we imagine that the judges are regular, active participants there, because they are not. They are given that job incidentally, having been appointed as senior judges. They may incidentally contribute to debate and some benefit may result from their being able to talk to legislators, but I envisage much greater benefit from a separate supreme court elsewhere.

1.30 pm

Let us take the great December judgment, when the House of Lords decided by a majority of eight to one that the Government were acting illegally—unlawfully. It is interesting to note that Ministers find it very difficult to use those two words. The Lords said that the Government were acting without the law in detaining people in Belmarsh and required them to change the law. That was a hugely significant consfitutional judgment, for which many of us are very grateful.

The House of Lords does its job in a very different style from the one that people would normally expect. The Lords do not sit in robes or on pedestals and do not wear wigs, but the House of Lords hardly ever experiences public involvement, acclaim or participation in its processes. People go much more often to the law courts in the Strand, and even more often to Crown courts around the country, which are visited by school parties, college and university students and others with an interest. Very few people come to the supreme court of this country, although it would be far better if they did.

Members have given examples of courts in other countries that are frequently visited. There is the Supreme Court of the United States. There is the European Court of Human Rights, which has its own building in Strasbourg. There is the European Court of Justice in Luxembourg. People go to those courts and see judges interpret the law, and it is important that the judges can be seen to do that in a way that the public can fully appreciate. The public would be far more likely to appreciate the significance of what the judges do here if they were in a free-standing location and seen to be wholly independent of the legislature. This is about perception as much as reality.

**Mr. Grieve:** I am entirely in favour of people being able to see the supreme court in action, but its work will be similar to that of the Law Lords, and that—as many Law Lords have acknowledged—does not attract much wider public interest, because of its extremely academic and slightly esoteric nature. The High Court in the Strand offers more opportunity for excitement. That will continue to apply wherever the court is, and in whichever building it sits.

**Simon Hughes:** The hon. Gentleman is right, to an extent. People can no longer come here to see whether someone is sentenced to death or not. They cannot come here to discover whether a conviction for one of the gruesome murders featured in the tabloids will be overturned by the court of criminal appeal. Nevertheless, great constitutional judgments of our day such as the one in December are important, not only to academics but to a huge number of people.

I believe that the first point is made. Let me deal with the second tangentially. My colleagues and I want a mostly elected second Chamber. I should like 80 per cent. of its members to be elected, with a residual number of appointees. That debate is, of course, as yet unresolved, although we hope it can be resolved in the next Parliament, whatever the outcome of the election.

With a minority of appointees, it would be possible to secure the expertise of those in the legal and judicial professions. A nominee might have been a member of the supreme court or been nominated by the judges. With the disestablished Church that some of us favour, denominations of the Christian and other faiths could be equally represented. We need not lose the voice of judicial experience in a second chamber, but the representatives should not be trying to do two jobs at once. It is clearly unfair for someone to be legislating at one moment and judging at the next. There is no weakness in a system whereby judges come fresh to the law and interpret it—they need not have sat through the debate. If the Lord Chief Justice or the president of the supreme court wants to issue a warning that the Government are behaving inappropriately, he or she can do so by calling a press conference or making an announcement, or as part of a judgment.

Then there is the question of the venue. There is no magic in establishing the supreme court in the Middlesex guildhall. I have no absolutist view on that.

*[Simon Hughes]*

but take a pragmatic, sensible view on what constitutes an appropriate location. Of course a supreme court could sit at the end of this building without going anywhere else, but if we are to start with the new structure clear, it is surely better on balance for us to vacate space that has been accidentally occupied in this building and move to a convenient location nearby at no huge public expense, if that is possible. It would then be possible to consolidate all the other activities of Parliament in this building. We have "outhouse" buildings that we rent to accommodate people, such as No. 7 Millbank and the buildings in Abbey gardens. Perhaps we could save those costs. Filling the space will be no difficulty in practical terms.

If it is decided that a move would be better, or possible, where should the move be to? It would be logical to choose somewhere near the centre of traditional power in the land. We have Government in Whitehall and the legislature here at Westminster, so the logical venue for the supreme court is close at hand. What are the options? I suppose there is the chapter house of Westminster abbey, although it is not terribly convenient. The court could squat in some of the rooms at Westminster school, although the school might have something to say about that, or we could ask the General Synod of the Church of England whether some hot desking would be possible in Church house. The Synod might not think that appropriate, but I believe that Church house has been used on a temporary basis before: I think that during the war Parliament moved in when this place was bombed. We could talk to the Methodists very nicely—Central Hall Westminster is capacious. It would even be possible to book a few rooms at the Queen Elizabeth II conference centre.

All those are options, but directly opposite us—on the other side of Parliament square—there happens to be a building that was originally the shire hall for the very county in which Parliament was for hundreds of years. It is, indeed, the very county in which Parliament still is, for the old county of Middlesex includes this place. The government of Westminster has moved up the road to less pleasant-looking premises in Victoria street, the city council offices, but that building was our county headquarters. Moreover, it is a court building. It is not as if it would be taken from local government to become a court. Of course some adaptations would be necessary, and I support the Law Lords' wish to retain the style that they have had before, but I cannot believe that that would be impossible in the Middlesex guildhall.

I have only one other thought. I have not gone around with a questionnaire consulting Law Lords or anyone else, but the only other building with a logic to it—if it were adaptable—would be the Privy Council building in Whitehall. It is near enough, and part of the Government's complex of buildings. I should be interested to learn from the Minister whether that has been considered. I share the view that buildings further afield, such as Somerset house, are inappropriate.

I feel that the proposition that the Middlesex guildhall could be adapted is reasonable. I note that the Select Committee on Constitutional Affairs—chaired by my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith), who has had to leave the Chamber—decided that it was entirely reasonable, and I hope that it could be adapted at minimal cost. I should also be interested to know what contingency arrangements are in hand for moving the current work of the courts. I have three Crown courts in my constituency just over the bridge: the inner London court of session, which has been there for many years; Southwark Crown court, which is extremely busy; and Blackfriars Crown court. There are spaces in London for other courts. The courts administration could doubtless be adapted and, if the presiding judges were given due notice and help from the Minister's Department, appropriate buildings could be found.

There is a cost issue and it is true that we ought not to spend huge sums. If we were starting from scratch, we could build a new building, but no one is saying that we should do so. I assume that the hon. Member for Beaconsfield is not suggesting that it is Conservative policy to build a new building for a supreme court. The right hon. Member for West Dorset (Mr. Letwin) has not added the associated cost to the list of additional Conservative expenditure, which will of course be balanced by £35 billion-worth of Conservative cuts. In the light of such cuts, it would be difficult to squeeze out of the Tory budget money for a new building.

**Mr. Grieve:** I was amused to hear the hon. Gentleman refer to £30 million costs as minimal—he is being very liberal with the largesse involved. We want the court to remain in the current building because that is the proper setting, but if it is the Government's wish to splash out public money, in our view, the building that has been identified—notwithstanding what the hon. Gentleman says—is wholly unsatisfactory.

**Simon Hughes:** We can debate that issue and express our views but, in the end, if the Government get their Bill, they can implement the proposal.

In a rare moment of accord, we have tabled no amendments in Committee to a Government proposal—*[Interruption.]* No, that is no precedent for the future—not even for the short period before we are the Government and Labour are the Opposition. *[Interruption.]* That period may be shorter than Labour Members think. That said, I shall not be distracted into too much preliminary electioneering. The reality is that the Bill contains a contingent proposal: there will be a supreme court, but only if it moves from this building. I am surprised that the Government are being so definite about this proposal. I can see the logic of it in one sense, but as the hon. Member for Beaconsfield will agree, it is entirely possible to have a supreme court—the most important point—without moving it immediately, which is a less important point. We must get the priorities right.

I turn to the bigger issue, with which amendment No. 328 deals: whether we have Lords of Appeal in Ordinary or supreme court judges, with all that that entails. My hon. Friends and I approach this issue from different traditions and perspectives, but we share the common view that there is merit in having a supreme court. As my hon. Friend the Member for Somerton and Frome (Mr. Heath) said on Second Reading, Lords of Appeal in Ordinary are certainly not "ordinary" and therefore have an anomalous name. The role that they fulfil would be more clearly perceived as judicially independent were we to bite the bullet and adopt the proposal before us.

This is not a new proposal that the Government have just dreamed up—it has been around for a long time, and we Liberal Democrats are glad that they have grasped this issue. Implementation of such a proposal is overdue. It would make it clear that there is a difference in democracies between government, legislature and the courts. It is important that those elements be separated, because at the moment, there are all manner of anomalies, such as the Lord Chancellor having three jobs and the Law Lords acting as legislators. That is why we will vote against the amendments if they are pressed to a vote. We hope that we can proceed to a satisfactory solution that will cost the taxpayer little money, but which will give us clear judicial independence, separation of powers and a separate, self-contained place in which the Law Lords, in their new role as the supreme court, can do their work.

1.45 pm

**Peter Bottomley:** The hon. Member for Southwark, North and Bermondsey (Simon Hughes) advertised his speech as a short one, but it ran to 19 minutes; mine will be shorter than that. The first question to ask is why we are paying the price of a ministerial brainstorm that occurred during a botched reshuffle. Abolishing the Lord Chancellor and the issues arising from that proposal have resulted in a Bill of 227 pages. The major associated cost—*[Interruption.]* I do not intend to be interrupted too much by the Minister's Parliamentary Private Secretary. The major associated cost is the capital cost, but there are also high recurring costs.

When the Law Lords appeared before the Constitutional Affairs Committee—I am very grateful to them and to the Lord Chancellor for doing so reasonably frequently—Lord Bingham said that the current arrangements passed the Bingham "pudding test", but not Bingham; in other words, appearances seem to be more important than anything else. If the issue is separating the place where the highest court will sit from the Palace of Westminster, I should point out that in doing so we would be separating it from the legislature, not the Government. I was intrigued by the idea, as advanced by the hon. Member for Southwark, North and Bermondsey, of locating the court in a Government office. It would be far better to locate it in the legislature instead, but perhaps we can sort out that difference of opinion later.

We could say that the Lord Chancellor's house need not be used by the Lord Chancellor. It could be defined as being outside Parliament, but still fall within the Palace of Westminster security screen. As a result, there would be no additional costs. In other words, we could deal with the situation by changing people's perception and altering the definition, in the same way as—as has been suggested—we could change the name from Lords of Appeal Ordinary to supreme court justices.

The Government seem not to understand the difference between continuity and improvement and change. They have shown a lack of respect for an institution that has worked pretty well and they are obsessed with constant change. As a constituent of mine wisely said, if they were half as good at delivering results economically and effectively as they are at launching their ideas, life would be likely to improve. Not a single improvement will follow the high cost, disruption, argument and delay in which the Government's proposal will result. A far better idea would be to say that we prefer that the Law Lords do not vote in the upper House. That could be done by convention and, through a minor adaptation, we could establish that the Lord Chancellor need not sit on cases. The third problem could be solved by defining the place where the Law Lords meet as theoretically outside the Palace of Westminster. The only remaining issue would then be the best way of appointing the judges—an issue with which different clauses deal.

I hope that the Committee will forgive me but I will have to leave the Chamber at 2 o'clock because the Constitutional Affairs Committee, which has contributed to this debate, will be in session and it needs to be quorate.

**Mr. Tyler:** I endorse and support what my hon. Friend the Member for Southwark, North and Bermondsey (Simon Hughes) said earlier. I am stimulated to say something else, as well, by the contribution of the hon. Member for Worthing, West (Peter Bottomley), who is of course a member of the Constitutional Affairs Committee. My right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith) has left to prepare for the meeting to which the hon. Gentleman just referred, so I am glad that the hon. Gentleman is still here to hear what I have to say.

The role of the Constitutional Affairs Committee in preparing for this debate has been an extremely useful innovation, and we owe it to its members to take their advice very seriously. I am sorry that Conservative Front Benchers have not done so, because a considerable section of Members support the proposition before the Committee. The hon. Gentleman may want to comment on the fact that the Select Committee did not divide on paragraphs 37 to 54 of its report, which endorse the proposal for a supreme court that is separate from the present legislative role of the Law Lords.

**Peter Bottomley:** To avoid having Divisions all the way through our proceedings, the hon. Gentleman will want to advise the Committee that unfortunately, it was necessary during our Select Committee proceedings to have two votes on paragraph 55, which in essence deals with this issue. The hon. Gentleman is not reflecting fairly, therefore, the decent, gentle and courteous behaviour of the Select Committee.

**Mr. Tyler:** I am surprised to hear the hon. Gentleman make that point because I have read the report very carefully. It is true that there were some Divisions on paragraph 55, which dealt with the actual location of the court, but the principle of setting up the supreme court is dealt with in the earlier paragraphs.

I want to respond to the particular point about using this building for this particular purpose, while still maintaining the separation of powers, to which I and my colleagues are very much attached. I accept that there is an argument for doing so in the transitional period. That is why I want to deal with what the hon. Member for Beaconsfield (Mr. Grieve) referred to as the sunrise clause. My colleagues and I have some concerns about it—it is clause 120—because it provides a safety valve that could easily become a blocking mechanism if particular members of the judiciary decided that the

*[Mr. Tyler]*

accommodation was unsuitable, not ready, or not of the sufficient calibre, standard or quality to which they were attached as residents of this building. The hon. Member for Worthing, West has made an important contribution in that it would be perfectly possible during the transitionary period to use this building until the Middlesex guildhall is available.

**Mr. Grieve:** The hon. Gentleman puzzles me now, because the recommendation in the report wholly endorses the need for a sunrise clause and states that no supreme court should come into operation until a new building has been identified. Is there not some inconsistency between what the Select Committee said and the hon. Gentleman's current view?

**Mr. Tyler:** Not at all. I want to make it absolutely clear that my colleagues and I are not seeking to exclude the sunrise clause. What we are saying is that the Government owe it to the Committee now to explain precisely how they intend to handle the transition. That is a perfectly reasonable request to put to the Minister, and it is in those terms that I draw his attention to the possibility that the sunrise clause could be used as a blocking mechanism, which I believe would be very damaging to the reputation of Parliament. It would allow one part, albeit an extremely important part, of our body politic to hold up the will of Parliament. I hope that the Minister will respond to that particular point.

I believe that the Select Committee's other comments are admirable. The Committee came down firmly in favour of Middlesex guildhall as an appropriate location, which I believe is a measured and sensible recommendation. The Committee also gave considerable thought to the interim arrangements that will apply until the recommended building is ready. I hope that the hon. Member for Beaconsfield has read that section of the Select Committee report. I endorse the Select Committee's measured approach—I include Conservative members of the Committee in my praise—and I greatly prefer it to the apocalyptic approach of Conservative Front Benchers.

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. Christopher Leslie):** It has been interesting to hear the debate so far, not least because the arguments both for and against have been put forward so well by my hon. and learned Friend the Member for Dudley, North (Ross Cranston) and by the hon. Members for Southwark, North and Bermondsey (Simon Hughes) and for North Cornwall (Mr. Tyler). I agree with many of the points that those Members advocated, though my reading of the amendments before us is rather different from that of Conservative Members, particularly regarding the entire deletion of the creation of a supreme court in one form or another. I accept some of the points made about particular aspects of the building, appointments to the supreme court and so forth, and I shall try to deal with them in turn.

At present, the highest Court of Appeal in the land sits as a Committee of Parliament—the Appellate Committee of the House of Lords. To anyone except a seasoned observer, it can appear that a legislative body is interpreting legislation. The status quo thus has potential flaws that could cause difficulties. About half of the present Law Lords are now reported to be uncomfortable with their position in the legislature, which potentially conflicts with their judicial role. They have had to exercise a self-denying ordinance in recent years in order to avoid speaking or voting on legislation that might later prejudice their objective application of those laws.

Although the present system works, the time has now come to make improvements. Part 3 of the Bill, from clause 20 onwards, therefore proposes the creation of a new supreme court for the United Kingdom that is separate from Parliament, removing the potential conflict between the legislative and judicial roles of our most senior judges, and providing greater clarity and visible independence for our highest court.

Ideally, the functional separation of the judiciary from the legislature and the Executive is a cardinal feature of any modern, liberal and democratic state that is governed by the rule of law. Pragmatically, the business of justice should be, and should be seen to be, independent of the business of Government and the business of Parliament. That was argued strongly by the hon. Member for Southwark, North and Bermondsey. The interpretation and application of laws should not be undertaken by those intimately involved in making the laws. The Joint Committee on Human Rights has welcomed the proposal because it reduces the prospect of a critical judgment in the future that a free and fair tribunal should not be prejudiced by preconceived potential bias. Greater clarity is necessary for public confidence and for our continued reputation in the wider world.

Specifically on the comments by the hon. Member for Beaconsfield (Mr. Grieve) about the location and nature of the prospective building, we believe that a new supreme court must be established in an acceptable way, in a manner fitting to the principles of the highest court in the land and the dignity commensurate to its status, while simultaneously securing value for money for the taxpayer. The Bill places the Lord Chancellor under a duty to provide appropriate accommodation and facilities—and here the sunrise clause 120 additionally ensures that commencement will not occur until those facilities are available. I am glad that the Select Committee commented favourably on those arrangements—in particular on page 20 of its report. To explain a little further, the arrangements were made in order to placate some of the concerns expressed in the other place—that there might be a hasty removal or eviction of the Law Lords from the House of Lords to somewhere they regarded as unsuitable. Ministers will approve the new building and ensure that consultation with the Law Lords takes place throughout the process until they become supreme court justices.

The Government announced in December—I believe on either 14 or 19 December and in a written ministerial statement—the preferred option of Middlesex guildhall, the Crown court that we now see on the opposite side of Parliament square, as the new, separate supreme court building. I am sorry that the hon. Member for Beaconsfield said that I somehow sneaked this out on Second Reading, because there was, as I said, a voluminous written ministerial statement about it.

Never mind, but that statement would probably answer many of the questions that the hon. Gentleman put to me today.

The advantage of this particular site—I have advocated it throughout as the most obvious choice—is, of course, its prime constitutional location in Parliament square, with legislature, Executive, the Church and now the judiciary to be represented on all four sides. Furthermore, that location would represent a potentially vast improvement on the cramped conditions of the present accommodation in the House of Lords. Middlesex guildhall is already owned by the Department for Constitutional Affairs and is used as a Crown court.

I understand the concerns expressed by the hon. Member for Beaconsfield, who quoted the concerns of Lord Bingham, but they relate to the building that is used now. I believe that it is perfectly possible to strike the right balance between preservation of the key features—we would need planning permissions elsewhere, which is one of the reasons why the Middlesex guildhall remains our preferred location at this stage—and the more traditional approaches of the Law Lords who prefer to sit in panel and have a more open and transparent method of conducting their hearings. I believe that Middlesex guildhall can be refurbished and changed to meet those concerns. I also believe that that location will provide good value for money, in being a refurbishment rather than a new building. It also has the architecture most likely to galvanise widespread recognition and respect among the general public. We know that it also has the support of the Select Committee on Constitutional Affairs.

2 pm

The costs of fitting out and refurbishing the building are on the record. They are significant, but modest in comparison with the costs incurred by some of the big institutional building projects that have taken place already this century. The total of £30 million covers fees, value added tax and a 50 per cent. optimism bias. Also, £15 million will be spent to provide additional Crown court rooms elsewhere in London. We have not announced where those will be, but the options will be reviewed over the next few weeks. Some of London's Crown courts have rooms that are under used, and Middlesex guildhall may not always be the most appropriate place for Crown court hearings, given its wide catchment area and the fact that there might be more suitable locations elsewhere.

We announced in a written ministerial statement that we had looked at various different options, including Somerset house. Our preferred option, the Middlesex guildhall, was chosen according to the statement of requirements agreed with Lord Bingham. We considered it suitable because of its location, and on the ground of value for money. Developing and refurbishing court houses, including listed buildings, is already part of the Department's core work. We have a good track record and we work on such schemes around the country every day.

Amendment No. 350 would force the supreme court to remain in the Palace of Westminster. Various Law Lords have complained over the years that this building is too cramped. Middlesex guildhall would offer much more space, with better rooms for hearings as well as better libraries and office accommodation. Those facilities will help the supreme court's very important judges make correct decisions.

If we retained the supreme court in the Palace of Westminster, there would be no benefit arising from a visible separation between it and the legislature, and such an arrangement would invite questions about the separation, free from parliamentary interference, of funding, facilities and governance arrangements. I hope that the creation of the new supreme court will ensure that separation and transparency.

Many of the amendments deal with the title "Supreme Court Justice". The hon. Member for Beaconsfield said that his aspiration was to be the Conservatives' conservative and ensure the retention of the title of Lords of Appeal in Ordinary. Most people find that title confusing and anachronistic. The title of Supreme Court Justice is far clearer and more accessible. The title of Lords of Appeal in Ordinary was coined in the Appellate Jurisdiction Act 1876. In addition, the phrase "in Ordinary" derives from ecclesiastical law, which makes things even more confused.

**Mr. Grieve:** Another oddity is that our constitution means that the proposed court will not be a supreme court so much as the final Court of Appeal for the UK. Moreover, in the Strand there sits already the supreme court established by the Supreme Court of Judicature Act 1891. The Government have not explained what they intend to do with that, but it is one reason why it might have been appropriate to call the supreme court's judges Lords of Appeal—whether in Ordinary or not.

**Mr. Leslie:** Some courts are commonly called supreme courts, although they are not used as such, and we have suggested that they be called superior courts. The supreme court will be the UK's final Court of Appeal, but it will not take on what are regarded as the functions of the US Supreme Court. Our supreme court will act as the Court of Appeal for cases produced in all of the UK's different jurisdictions. The proposed title is the one that will best fit its functions.

We consulted widely about the name change. The proposal to adopt the title of Supreme Court Justice received widespread support from those who responded to the consultation process.

**Simon Hughes:** My party supports the proposal for a supreme court, with supreme court justices. However, will the term for those who do the Appeal Court job remain Lords Justices of Appeal? In any case, the supreme court will be able to do its job properly only when we have our own Bill of Rights.

**Mr. Leslie:** The hon. Gentleman may be the Liberals' liberal, but the changes on the tables are enough for now. I shall stick to them.

Various amendments apply to the appointment process for Lords of Appeal and Law Lords. However, increased transparency in the appointment process is not the only requirement when it comes to reforming the system. We want there to be a separate court, so it would therefore not be enough merely to change titles. The court must be separated from Parliament.

**Mr. Grieve:** I appreciate that the amendments envisage retaining an appointments procedure, but that mechanism is rendered ponderous by the requirement that there be a president of the supreme court, and a deputy president. At present, the senior among the corporate group of judges is, by convention, the one who presides and undertakes a certain amount of regulatory function. The provision in the Bill represents quite a change, as we shall discuss at more length in the debate on clause 21 stand part. However, I should be grateful if the Minister would say why the Government have decided formally to appoint a president and a deputy.

**Mr. Leslie:** The proposed president of the supreme court will have different functions and characteristics from the present senior Law Lord. We believe that the job will merit its own appointment process. The appointment process for supreme court justices will have to be more transparent and formalised than at present, and I know that the hon. Gentleman agrees with that. That reform is well worth while.

Although the amendments are founded on clear principles, I hope that the Committee will reject them. We need to move away from having a legislative body that interprets and applies the laws that it passes. It must not be perceived to do that, so we must secure the functional separation of judiciary and legislature. The highest court in the land must have clarity, transparency and visible independence. These are high constitutional matters, although the hon. Member for Beaconsfield suggested that they were academic and esoteric, without great importance for the public at large. He said that the expenditure incurred by the reform was not necessary, and it may be true that the constitutional environment just at the moment is placid and calm. However, we should not ignore the potential problems in the system or shy away from making improvements.

**Mr. Grieve:** I do not disagree with the last part of the Minister's peroration, but he did not understand at all my use of the words "academic" and "esoteric". I was talking about how members of the public might regard the deliberations of the court, but I did not intend to diminish the importance of what it does. In its current form, the court performs vital work. It will continue to do so in any new form that it might be given.

**Mr. Leslie:** I understand what the hon. Gentleman says, but his earlier comments betrayed a view that these issues are remote and distant from the public at large. They are fundamental and that is why they require attention, even if they seem from time to time to be academic. They are central questions and my point is simply that it is important to keep the health of our institutions in prime condition. We should not accept a conservative attitude from the Opposition. We have a duty to maintain the health of our institutions as best we can and that is why a new supreme court is necessary. I hope that the amendment will be withdrawn or, if not, rejected.

**Mr. Jonathan Djanogly** (Huntingdon) (Con): I am a practising solicitor and, technically, a solicitor of the Supreme Court. The Minister may wish to consider the fair point made by the hon. Member for Southwark, North and Bermondsey (Simon Hughes) that there are complications surrounding the use of the words "supreme court". Those will need to be dealt with if the Bill is passed in its current state.

The arguments against the creation of the Government's new supreme court were eloquently set out during the Bill's passage through the other place.

**Mr. Leslie:** I need to correct a comment that I made earlier. I said that we would change the colloquial term Supreme Court, covering the High Court and Appeal Court, to the superior courts. In fact, the title in England and Wales will be the senior courts and in Northern Ireland it will be the court of judicature. I wanted to put that on the record.

**Mr. Djanogly:** I thank the Minister for that clarification.

Arguments against the creation of the new supreme court were set out on Second Reading in this House and by my hon. Friends the Members for Beaconsfield (Mr. Grieve) and for Worthing, West (Peter Bottomley) today. Because the Government will not drop this divisive proposal, my hon. Friends and I feel that we must speak out again in the hope that some sense might prevail. We remain convinced that the creation of a new supreme court would not only be a pointless and costly exercise, but cause significant damage to the excellent position we enjoy now.

Despite all their attempts to convince us otherwise, the Government's proposals to scrap the judicial functions of the House of Lords in favour of a new supreme court are unnecessary. The hon. and learned Member for Dudley, North (Ross Cranston) spoke about the chances of the Bill leading to a fundamental revolution. This Bill will not do that. It is a damp squib or, at best, what my hon. Friend the Member for Worthing, West described as change for change's sake. The proposed court would exercise the same role already carried out by a combination of the existing Appellate Committee and Judicial Committee of the Privy Council. Under clause 21, the existing Lords of Appeal in Ordinary would, logically, become the first judges of the supreme court. Legal rulings by the Law Lords already command the highest respect in this country and around the world. Indeed, there is no suggestion from any quarter that the existing Law Lords are anything other than excellent at their work, and the hon. and learned Member for Dudley, North made that point earlier.

What is the justification for wrecking the present arrangements? Again, we come back to change for change's sake and the Minister citing what he thinks is a modern, liberal separation of powers. Not only would the move to a new supreme court do nothing to improve the Law Lords' reputation, the opposite might be the case, as Lord Nicholls of Birkenhead rightly pointed out in the other place. The Appellate Committee's esteemed reputation might not pass seamlessly to a new body. The proposed supreme court would not begin its life as a supreme court as the term is understood in almost any other jurisdiction. It would not have the power to override parliamentary supremacy and strike out legislation as unconstitutional. The question then arises

as to whether we would be swapping the prestige of our present Appellate Committee for a court perceived, as the Lord Chief Justice, Lord Woolf said, as a sort of "second class" supreme court.

The Government justify the new supreme court on the grounds of ensuring the independence of the judiciary, yet concerns about that have never been more than anecdotal. No one has seriously suggested impropriety on the part of the Law Lords.

What of the Human Rights Act 1998? I concur with the view expressed by my hon. Friend the Member for Beaconsfield on Second Reading when he suggested that the fact that the Lord Chancellor sits as a judge—we are all happy to change that—could, arguably, provide grounds for a human rights challenge. That aside, one can point to the fact the despite all the scaremongering, no legal challenge has ever been made to allege that our existing arrangements do not ensure a fair trial, in line with the European convention on human rights. The need for greater separation of powers in the British system is also a spurious justification for a supreme court. As Lord Kingsland said in the other place,

"the argument that the separation of powers requires these reforms proposed by the Government is wholly unsustainable."—[*Official Report, House of Lords*, 12 February 2004; Vol. 657, c. 1222.]

Democracy has long been upheld in this country without the requirement for the type of rigid separation of institutions favoured in, for instance, the United States. Even if some notion of political correctness were to require such separation, would not the link between the legislature and the Executive be rather more pressing? However, there are no plans—as far as I know—to remove the Executive from this place, notwithstanding the fact that it has vastly more impact on the affairs of the legislature than a few Law Lords in the other place.

2.15 pm

Another of the Government's arguments has involved the inadequacy of the present working arrangements for the Law Lords, but it is far from the unanimous view of the Law Lords themselves. Lord Nicholls of Birkenhead, for instance, responded to the suggestion that the Appellate Committee made do with impoverished and substandard facilities by saying:

"Nothing could be further from reality." [*Official Report, House of Lords*, 20 December 2004; Vol. 667, c. 1552.]

He also said that the Law Lords unanimously favour some of the advantages that the present arrangements bring, such as the informal layout and procedures, which are conducive to the promotion of dialogue. In contrast, Lord Bingham of Cornhill has previously noted that the Law Lords have grave doubts about the suitability of the Government's proposed choice of Middlesex guildhall for the new supreme court. The arguments have been made already today, and I shall not go over them again. However, in terms of prestige, what more fitting location is there for our highest court than right in the heart of Britain's seat of power—here, in the Palace of Westminster? How can a move away from here be anything other than a negative step?

The hon. Member for Southwark, North and Bermondsey acknowledged that the House of Lords does its job in an unusual way, and that few people were able to watch it. However, the Law Lords' method of working is collegiate and deals with points of law, rather than the exciting facts of the case as does the High Court. I do not see that as a strong argument. Nor would hot-desking in Church house be a good alternative. I appreciate that the hon. Gentleman rejected that suggestion.

Another weak line of argument with which the Government have attempted to sell us their proposals is confusion among the British public. As Lord Norton of Louth made clear in Committee, the Government cannot provide us with any empirical evidence on that point. The British public are, apparently, overwhelmingly confused about the judicial function of the House of Lords. Well, we beg to differ on that point. As others have pointed out, does it matter if the public cannot always remember that the Law Lords are in fact Lords of Appeal in Ordinary, sitting together as the Appellate Committee? The important point is that the public understand the role of the Law Lords as our highest court, independent of the Government and making decisions on the most important legal issues of the day.

There is an argument that some confusion may occur through the use of the name "House of Lords" to describe sittings of the Law Lords, but if that is the root of the alleged confusion, the solution would be as simple as removing reference to the House of Lords from the name of the court. That would avoid any confusion with the House of Lords as a legislative body, but would allow the existing Appellate Committee to continue with its work free from the unnecessary upheaval of leaving its present surroundings. Just such an outcome would have resulted from the amendment tabled by Lord Howe on Third Reading in the other place. To address that issue, we have again proposed an amendment that any supreme court should remain situated in the Palace of Westminster. As Lord Kingsland pointed out when he moved Lord Howe's amendment, the renamed court could be provided with its own entrance, such as the present Black Rod's Entrance, in order to underline further the court's separation to the wider public. Instead of supporting such sensible proposals, the Government continue to insist that what is required is nothing less than the complete uprooting of the Law Lords to less appropriate and more costly accommodation.

In dubbing the proposed court a supreme court, the Government may in reality just add to the level of public confusion. That is because, as I have already mentioned, the court will not be supreme over Parliament. Perhaps a name along the lines of "Final Court of Appeal" as in Hong Kong, for example, would be a more appropriate title.

As I have stated, not only do we believe that the creation of a supreme court is unnecessary, we would go further and state that the measure will have a damaging effect on the Law Lords and the House of Lords overall. As Lord Norton of Louth pointed out, a freestanding supreme court might be isolated and vulnerable to attacks from Ministers, including having its budget cut. As Lord Kingsland pointed out on Report in the other place, it also appears that the new supreme court

"will enjoy less financial independence than ... the Appellate Committee". [*Official Report, House of Lords*, 14 December 2004; Vol. 667, c. 1244.]

*[Mr. Djanogly]*

The public's perception of the court could suffer, too. Would not the judges in a new supreme court, away from the House of Lords, be more open to accusations that they were sitting in some ivory tower cut off from real decision making? The introduction of the supreme court could herald the first steps towards the type of rigid written constitution adopted in the United States.

**Simon Hughes:** Before the hon. Gentleman reaches his coda, I have a question for him. I know that he lives in Huntingdon and represents it, but has he ever calculated the distance between the House of Lords and the proposed new premises? By my calculations, the distance is about 100 yd. That is hardly an ivory tower, miles away, far out of sight and mind.

**Mr. Djanogly:** Many Members have spoken about the special historical significance of these premises. Indeed, the hon. Gentleman pointed out that the execution warrant of Charles I was signed in Westminster Palace, so he makes my point for me.

As Lord Rees-Mogg stated in the Select Committee in the other place, there must be serious concerns about the developments that would follow the creation of a supreme court. Would such a court begin to debate whether it should in fact respect the very cornerstone of our British constitutional system—the supremacy of Parliament? As we shall no doubt consider in detail in relation to clause 109 later on, the other place would also lose the valuable input of the Law Lords.

There are so many more arguments that can be ranged against the Government's supreme court proposal, but I cannot sit down without touching on one of the most significant—the cost of the supreme court. Members will need no reminding that the Government's estimates—or should I say the estimate emanating from the ex-Minister for the dome?—are a capital outlay of £30 million. The Minister said that refurbishment would be cheaper than new build, but let us see where the Government get to. We say it will be £50 million, and how much more? Who knows? On top of that, there will be yearly running costs of £8 million, as my hon. Friend the Member for Beaconsfield made clear, compared with only £168,000 for the Appellate Committee at present.

I repeat what I said on Second Reading—that we will be far from surprised if those figures do not grow significantly by the time the money is actually spent. How can those costs be justified to the British public when, as my hon. Friend said, we can all agree on much more pressing uses for that amount of money? Without even venturing beyond the bounds of the justice system, there would be many better uses.

This unnecessary new supreme court is not a priority for the people of Britain and does not even command the full support of the Law Lords. It will damage our constitution and the high regard in which the Law Lords are held at present. The Government should desist from their attempts to force the proposal through during the remainder of this Parliament. Our view on the proposal could not be stated more clearly and simply than by quoting the Government's former Chancellor, Lord Irvine:

"a sufficient case has not been made for the abolition of the Appellate Committee of the House of Lords and its replacement by a separate new supreme court."—[*Official Report, House of Lords*, 10 June 2002, Vol. 636, c. WA3.]

The Government have completely failed to convince us on this issue and we ask that amendment No. 350 be put to the vote.

*Question put*, That the amendment be made:—

*The Committee divided:* Ayes 114, Noes 285.

**Division No. 59]** **[2.23 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Barker, Gregory
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Campbell, Gregory *(E Lond'y)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Flight, Howard
Flook, Adrian
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Hawkins, Nick
Heald, Oliver
Heathcoat-Amory, rh David
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
McIntosh, Miss Anne
Mackay, rh Andrew
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Moss, Malcolm
Ottaway, Richard
Paice, James
Pickles, Eric
Prisk, Mark *(Hertford)*
Randall, John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Sayeed, Jonathan
Shepherd, Richard
Simmonds, Mark
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David

Wilshire, David
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Andrew Selous and**
**Mr. Peter Atkinson**

**NOES**

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barron, rh Kevin
Battle, rh John
Begg, Miss Anne
Beith, rh A. J.
Bell, Sir Stuart
Bennett, Andrew
Berry, Roger
Betts, Clive
Borrow, David
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brooke, Mrs Annette L.
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Burstow, Paul
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chidgey, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Edward *(Kingston)*
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dhanda, Parmjit
Dismore, Andrew
Dobson, rh Frank
Donohoe, Brian H.
Doughty, Sue
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Ewing, Annabelle
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Green, Matthew *(Ludlow)*
Griffiths, Jane *(Reading E)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hancock, Mike
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Heath, David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moore, Michael
Mountford, Kali
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Oaten, Mark *(Winchester)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Primarolo, rh Dawn
Quin, rh Joyce
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Rendel, David
Robertson, Angus *(Moray)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Sanders, Adrian
Sarwar, Mohammad
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Skinner, Dennis
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stunell, Andrew
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dan *(Stockton S)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Ward, Claire
Wareing, Robert N.
Watson, Tom
Webb, Steve *(Northavon)*
Weir, Michael

White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Willis, Phil
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Margaret Moran and James Purnell**

*Question accordingly negatived.*

*Clause 20 ordered to stand part of the Bill.*

**Clause 21**

FIRST MEMBERS OF THE COURT

*Question proposed,* That the clause stand part of the Bill.

**Mr. Leslie:** Clause 21 provides for the first judges of the supreme court to be the Lords of Appeal in Ordinary who hold office at the date of commencement. This is a one-off provision to allow for the transition of members of the Appellate Committee of the House of Lords to the supreme court. The effect of the clause is that, on establishment of the court and immediately before commencement, Lords of Appeal in Ordinary will become the first supreme court judges. The senior Lord of Appeal in Ordinary before commencement will become the president, and the second senior Lord of Appeal in Ordinary before commencement will become the deputy president of the supreme court.

The clause will ensure a smooth transition between the present arrangements and the new ones, which is very important. In the same way as the supreme court will take over the jurisdiction of the Appellate Committee, the judges who sit in one will move to sit in the other. They have already been selected as the judges best suited to sit in the UK's highest court, and it would be unnecessarily disruptive to suggest that any separate selection procedure was necessary to identify the first members of the new supreme court. Schedule 9 provides detailed arrangements for the handling of cases that might be in progress at the time of transition. That is why the clause should stand part of the Bill.

**Mr. Grieve:** I am grateful to the Minister for outlining those arrangements, but I return to a point that I raised in an earlier debate that can be raised now just as easily. I hasten to add that this is not an objection to the Government's position—I simply want a bit of clarification.

Currently, there is no president or deputy president of the Law Lords, although I understand that, in practice, they operate an informal system by which the senior Law Lord discharges certain duties and has responsibilities for the good organisation of their work. Despite that, it is an exceptionally collegiate structure, which marries very well with the informality that we debated earlier, and I get the impression that both Government and Opposition Members wish to preserve that in the new supreme court structure.

The Government are sufficiently comfortable with those arrangements to make the point in clause 21 that in any transitional provision the senior Law Lord and the second senior Law Lord will simply become president and deputy president respectively. However, when we go on to consider the process for selecting the members of the court, we realise that all this will become quite complicated. Not only a system for selecting ordinary members of the supreme court but a special system—or at least a similar but particular system—for selecting the president and the deputy president will be required. I want to draw the Minister a little on the Government's reasons for wishing not only to set up a supreme court but to create those two formal positions, rather than relying on the more informal structure that pertained previously.

**Sir Patrick Cormack** (South Staffordshire) (Con): As an unrepentant conservative who sees absolutely no need for the changes, I underline the point that my hon. Friend made when he talked about the collegiate nature of the body. I do not want a supreme court and I see no need for one. It is being visited on us unnecessarily. If we are to have it, we do not need to formalise its structures in the way that the Minister outlined and the Bill proposes. I do not want a proliferation of titles, as the members of the collegiate body are equals. I would prefer the informal arrangement that pertains at present to pertain in the supreme court.

**Mr. Leslie:** We do not propose to end the collegiate nature of the final court of appeal in our country—far from it. However, we want to make important improvements to the system. Clause 21 has not been over-criticised, not least because Conservative Front Benchers have realised that there is virtue in bringing greater transparency and formality to the appointment process, rather than having candidates emerging and then being appointed by Her Majesty on the advice of the Prime Minister without a clear and transparent process.

**Sir Patrick Cormack:** I am all for emerging.

**Mr. Leslie:** We will have to see whether the hon. Gentleman ever emerges in that context. We certainly do not want the proliferation of titles. Indeed, the title of Lord of Appeal in Ordinary needs to go, and we need to use the simpler title of supreme court justice. However, we debated that earlier.

The hon. Member for Beaconsfield (Mr. Grieve) asked several questions. We need a separate process for the appointment of the president and deputy president of the supreme court, although the process will be similar to that for any member of the supreme court. The holders of the posts will have slightly different jobs. The president will chair the selection committee to select new members and will determine whom to invite to serve as acting judges or on the supplementary panel. He or she will make directions about the composition of sitting panels and will make rules of the court. He or she will also have additional functions specifically pertaining to guarding the independence of the supreme court, namely the appointment of the chief executive, officers and staff. He or she will be involved in consultations around those areas and will work closely with the chief executive on the administration of the court's operation. Given that the post is different, it merits specific attention, instead of simply having an individual emerging from the body.

I think that our proposals are pretty straightforward. When establishing a new court, we have to start somewhere. Clause 21 thus makes provision about the

first members of the court at transition, with the existing senior Law Lord becoming the president and existing Law Lords becoming justices of the supreme court. The clause is the right way to proceed and I commend it to the Committee.

*Question put and agreed to.*

*Clause 21 ordered to stand part of the Bill.*

**New Clause 4**

REPRESENTATIONS TO THE NORTHERN IRELAND ASSEMBLY

'(1) The Lord Chief Justice of Northern Ireland may lay before the Northern Ireland Assembly written representations on matters within subsection (2) that appear to him to be matters of importance relating to the judiciary, or otherwise to the administration of justice, in Northern Ireland.

(2) The matters are—

(a) excepted or reserved matters to which a Bill for an Act of the Northern Ireland Assembly relates;

(b) transferred matters within the legislative competence of the Northern Ireland Assembly, unless they are matters to which a Bill for an Act of Parliament relates.

(3) In subsection (2) references to excepted, reserved and transferred matters have the meaning given by section 4(1) of the Northern Ireland Act 1998 (c. 47).'.—*[Mr. Leslie.]*

*Brought up, read the First and Second time, and added to the Bill.*

**New Clause 5**

NORTHERN IRELAND ACT 1998: EXCEPTED AND RESERVED MATTERS RELATING TO SUPREME COURT

'(1) The Northern Ireland Act 1998 (c. 47) is amended as follows.

(2) In Schedule 2 (excepted matters), after paragraph 11 insert—

"11A The Supreme Court."

(3) In Schedule 3 (reserved matters), after paragraph 14 insert—

"14A The following matters—

(a) rights of appeal to the Supreme Court;

(b) legal aid for appeals to the Supreme Court."'.—*[Mr. Leslie.]*

*Brought up, and read the First time.*

2.45 pm

**Mr. Leslie:** I beg to move, That the clause be read a Second time.

In the Northern Ireland Act 1998, areas of legislative competence are divided into three categories. I know that the right hon. Member for Upper Bann (Mr. Trimble) will know this backwards, but partly for my own benefit, I shall elucidate. The first category is transferred matters, which are the responsibility of devolved government in Northern Ireland, when that is functioning. The second category is reserved matters, which include policing and justice, on which the Northern Ireland Assembly may legislate with the consent of the Secretary of State for Northern Ireland and subject to parliamentary control. Reserved matters are listed in schedule 3 to the 1998 Act. The third category is excepted matters, which are responsibilities retained by the British Government. They are listed in schedule 2 to the 1998 Act.

The Northern Ireland Assembly, when active, has the power to make primary legislation conferred on it by the 1998 Act broadly according to those three distinctions. New clause 5 will simply ensure that the new UK supreme court will be identified as an excepted matter in schedule 2 to the 1998 Act. It also makes it clear that rights of appeal to the UK supreme court and legal aid for such appeals will be reserved matters under schedule 3 to the 1998 Act. That is the current situation that applies to the House of Lords. Legal aid is already dealt with by Orders in Council, and the Northern Ireland courts are a reserved matter. We are taking the opportunity to clarify the situation by amending schedule 3.

**Mr. David Trimble** (Upper Bann) (UUP): I wish to ask a question about terminology, although the Minister may have dealt with it in earlier proceedings on the Bill. The phrase "Supreme Court" in new clause 5 refers to the body that will unfortunately replace the House of Lords in its judicial capacity, but does not refer to the Supreme Court of Northern Ireland, which presumably will require a new name in the same way as the Supreme Court of England and Wales will require a new name. What will the new name of the Northern Ireland body be?

**Mr. Leslie:** The body will be called the court of judicature in Northern Ireland—for completeness, the body in England and Wales will be the senior court.

By making the change to schedule 3 to the 1998 Act, new clause 5 will ensure that the position of the new UK supreme court will exactly reflect the current status of the judicial function of the House of Lords, so the status of the final court of appeal for Northern Ireland will not be altered. The new clause reflects and preserves existing devolution arrangements, so I hope that the Committee will accept that it is effectively a consequential aspect of the wider principles that we debated earlier.

*Question put and agreed to.*

*Clause read a Second time, and added to the Bill.*

**Clause 37**

JURISDICTION

**Annabelle Ewing** (Perth) (SNP): I beg to move amendment No. 366, in page 17, line 23, leave out 'An' and insert 'No'.

**The Second Deputy Chairman of Ways and Means (Sir Michael Lord):** With this it will be convenient to discuss amendment No. 367, in page 17, leave out lines 24 and 25.

**Annabelle Ewing:** The clause sets out the jurisdiction of the so-called supreme court. In its present form, it provides for final appeals in civil cases in Scotland, which currently lie to the House of Lords, to lie instead to the new supreme court. Amendments Nos. 366 and 367 would, in effect, delete that provision by amending clause 37 so that no final appeal in civil cases in Scotland would lie to the supreme court. I made a detailed speech on Second Reading setting out my thoughts on the

*[Annabelle Ewing]*

clause and it would not be appropriate to go over the same ground at length today, but I shall state briefly the principal reasons behind the amendments.

First, the amendments would end the 18th-century anomaly whereby final right of appeal in Scots criminal law cases lies—quite properly—in Scotland, but final appellate jurisdiction in Scots civil law cases still lies south of the border. In post-devolution Scotland, that arrangement is illogical, unnecessary and undesirable. The second reason relates to the structure of the court and the system that will be operated as a result. In Scotland, serious concerns have been voiced by senior legal figures about the negative impact that the new supreme court system will have on the integrity of Scots law. I submit that those concerns have not been sufficiently addressed in the Bill.

It is clear that the new supreme court will not be entirely distinct and separate in all respects from the administration of justice south of the border, as is required by the 1707 treaty of Union. We see, for example, that the new Lord Chancellor—a Department for Constitutional Affairs Minister—will not only be responsible for appointing the chief executive of the supreme court but will retain some functions relating to the working of the judiciary in England. In addition, funding for the supreme court will, in effect, come within the DCA's overall budget. The proposals for the court therefore fall foul of the treaty of Union by not providing a system that is entirely distinct and separate in all respects from the administration of justice south of the border.

It is time to repatriate to post-devolution Scotland final appellate jurisdiction in Scots civil law cases. The Bill as it stands represents a missed opportunity, which the amendments are designed to rectify. Given the constitutional importance of the matter, it is a great pity that no other Scottish Member from the other parties has bothered to turn up to this key debate, just as they did not turn up for Second Reading.

**Keith Vaz** (Leicester, East) (Lab): As the hon. Lady knows, I am not a Scottish Member, but does she agree with me that it is incredible that there are no Conservative Back Benchers present? After the fuss they made yesterday about the constitutional importance of the Bill, they cannot be bothered to turn up to listen to this important debate.

**Annabelle Ewing:** I had not noticed that, so I am grateful to the hon. Gentleman for pointing it out. It is indeed rather odd, given that the Conservatives argued at great length on Second Reading for the time for consideration of this important Bill to be extended. Not only are there no Conservative Back Benchers present, but the sole Scottish Tory MP, the so-called shadow Secretary of State for Scotland, the hon. Member for Galloway and Upper Nithsdale (Mr. Duncan), has not bothered to turn up either.

Given the constitutional importance of the clause and the fact that it relates directly to the integrity of the Scots legal system, I shall seek to divide the Committee on the amendment.

**Ross Cranston:** I oppose the amendments. I do so, first, for selfish reasons. English law has benefited enormously from the Scots' contribution in terms of both personnel and the substantive law. For their contribution of personnel, we need only look at the great jurist Lord Reid—a Scottish Law Lord, a former Advocate-General, I believe, and a Member of this House. For their contribution to the substantive law, I mentioned on Second Reading the case of Donoghue *v.* Stevenson: we have benefited because civil cases have come from Scotland and, conversely, Scotland has benefited as well. Because of the way in which jurisdictional limits operate in courts in England, the smaller cases, but cases that none the less involve important points of principle, do not always come to the highest courts. The Scots civil cases that come to the House of Lords provide that opportunity for law making. Returning to personnel, Lord Rodger of Earlsferry, an eminent Law Lord, is an example of one who can bring that dimension of Scots law—the heritage from Roman law—to decision making in our highest court of appeal.

When considering devolution cases, the House of Lords and the Privy Council have been highly sensitive to the Scottish dimension. Not only has there been a substantial Scottish presence on the relevant appellate body but there has been a majority of Scottish judges deciding devolution cases in the Privy Council. Let me quote a Scottish advocate, Aidan O'Neill QC, who wrote:

> "The somewhat surprising (and surely unintended) result of this might be thought to be an effective Scottish take-over of England law when matters of Convention rights are raised in the UK Privy Council".

I simply do not understand the rationale behind the amendments.

**Annabelle Ewing:** The hon. and learned Gentleman will be aware, since he has quoted a senior advocate, of the serious concerns expressed by the Faculty of Advocates about the proposals in general. As for his specific point about the composition of the panel and the number of judges, the faculty expressly called for a majority of Scottish judges on the panel dealing with Scottish cases.

**Ross Cranston:** As I said, that has happened in a number of the important devolution cases. I repeat, I cannot see the rationale for the amendments.

**Mr. Grieve:** I endorse every word that the hon. and learned Gentleman has said. I agree that the fact that there is in the Law Lords at present, and will be in the supreme court, the ability to apply common principles to civil jurisdiction in England and in Scotland has been of inestimable advantage to the development of our jurisprudence over the centuries. The fact that the two systems are different but based on the same philosophical principles means that the tension in differences of approach can be examined and ideas that start in one country can be adopted by the other. Such things are what the substance of being a united kingdom is all about, but at the same time they allow within the framework of the devolution settlement—and did so even before devolution, as can be seen in the

preservation of the sole right to criminal jurisdiction in Scotland—the autonomy of the different parts. That is one of our great national success stories.

I disagreed profoundly with the hon. Member for Perth (Annabelle Ewing) when she described the arrangement as an 18th-century anomaly. She might think it anomalous today, but it certainly was not anomalous in the 18th century. It was the logical thing to do in view of the desire of the two Parliaments coming together, and that desire has continued ever since. If the amendment is pressed to a Division, I shall vote against it.

3 pm

**Simon Hughes:** I support entirely the thrust of the arguments made by the hon. Member for Beaconsfield (Mr. Grieve) and the hon. and learned Member for Dudley, North (Ross Cranston) against the amendments. There are huge benefits in a system that allows one of the Lords of Appeal in Ordinary—under the Bill, they will become supreme court justices—to come from Scotland. They have always played a significant part, and have made a contribution. Scotland has been well represented at that level. The last Lord Chancellor but one was a Scot. The highest reaches of the United Kingdom legal decision-making process has benefited from Scottish participation.

The logic of the argument made by the hon. Member for Perth (Annabelle Ewing) is that there would be no such participation, and Scots would not be nominated at that level. That is an implication of independence—a country pulls itself away entirely—but we have benefited greatly from that mixture.

**Annabelle Ewing:** The hon. Gentleman will be aware that the Bill includes an express provision that the judgments of the new court outwith their jurisdictional aspects are not to be binding but merely persuasive. How do his arguments sit in light of that fact?

**Simon Hughes:** With respect to the hon. Lady, that is not particular in relation to Scotland. There has never been perfect unity—we are a united kingdom to which four different countries contribute. The Scottish position is different from the Northern Irish and the Welsh position. Like my colleagues, I believe that it is better to take the Scottish contribution to our legal system up to the top. We have benefited significantly from that contribution, and some of the greatest jurists have been Scots. The United Kingdom should continue to benefit from that at the highest possible level.

**Mr. Leslie:** I agree with everyone who has spoken except, of course, the hon. Member for Perth (Annabelle Ewing). It is a pity that she decided to divide the Committee before hearing the rest of the debate.

**Mr. Iain Luke** (Dundee, East) (Lab): Is the Minister aware that the Scottish Parliament has had an opportunity to debate this fully? Scots law will be protected under clause 37.

**Mr. Leslie:** My hon. Friend is right. On 19 January, the Scottish Parliament passed a Sewel motion endorsing the establishment of a UK supreme court, with 63 votes in favour and 56 against. That was the decision of the Scottish Parliament, I am glad to report.

The amendments would simply remove Scottish civil appeals from the jurisdiction of the UK supreme court. Clause 37, and schedule 8, which it introduces, make provision for the jurisdiction of the new supreme court. We propose that its jurisdiction will be the same as the jurisdiction of the Appellate Committee of the House of Lords in appeals from England, Wales, Scotland and Northern Ireland, together with the jurisdiction of the Judicial Committee of the Privy Council in relation to devolution issues. The supreme court will be a superior court of record, as are the House of Lords and the Judicial Committee of the Privy Council.

Clause 37 is critical, because it ensures that current jurisdictional arrangements are preserved, thereby ensuring consistency in approach between the new and the old regimes for people seeking a judgment from the highest court in the land. Those arrangements include the appeal process and the types of appeal from each jurisdiction, including leave requirements and routes of appeal.

**Annabelle Ewing:** The Minister would be hard pressed to find one Sewel motion that has not been passed by the Labour-Liberal Scottish Executive. However, can he explain to senior legal figures in Scotland and to me what on earth is the logic of sending a final appeal down to a court in London, when the judgment is not binding on any other part of the UK? The opposite also obtains. What is the logic of that in post-devolution Scotland?

**Mr. Leslie:** It is the same logic that applies to any part of the United Kingdom that sends its appeals to that court or to the new supreme court. The hon. Lady could make the same argument for any other part of the United Kingdom, and the change that she has proposed would not be beneficial. As my hon. and learned Friend the Member for Dudley, North (Ross Cranston) pointed out, it could be detrimental. The hon. Lady suggested that the passing of a Sewel motion is a minor irrelevance, but it is democracy. In fact, it is the choice of the people of Scotland themselves who, through their elected representatives, backed the creation of a UK supreme court. That was Scotland's choice, and I am glad that it was passed by the Scottish Parliament.

The decision to transfer the devolution jurisdiction of the Judicial Committee of the Privy Council to the supreme court will create a single apex to the UK's judicial systems. Previously, that was not possible, because of the need to avoid the constitutional absurdity of a court hearing a dispute between the UK Parliament and a devolved Administration where the court is a Committee of one of the parties—in other words, the UK Parliament. I forgot to mention it earlier, but that is another reason for creating a supreme court and removing an existing anomaly.

In discussing the proposed repatriation of civil appeals, it is significant, as I said, that a Sewel motion was passed. There is a 300-year-long tradition for appeals in civil matters legitimately to come to a UK-wide court of appeal. The hon. Lady's arguments about

*[Mr. Leslie]*

the Act of Union of 1707 are misguided, and nothing in the Bill is inconsistent with it. The overriding fact in this debate is that the Bill preserves the essential nature of appeals to the House of Lords. The route of appeal will lie, from the same courts, in the same cases and in the same way, to the supreme court, just as it does to the House of Lords. I therefore urge the Committee to agree to the clause unamended and to reject the amendments.

**Annabelle Ewing:** Briefly, I have not heard anything in our short debate that obviates the need either for the amendments or for a Division, which I shall still seek. Scots law is entirely separate and is devolved to the Scottish Parliament. We have a new political structure in the United Kingdom, which the Minister may not yet have caught up with. He used the Sewel motion as a purported justification for the clause, but it is a political mechanism, and provides no justification for the provisions of the Bill that, as I explained in detail, we are seeking to amend. Fifty-five Sewel motions have been passed since 1999. They represent devolution in reverse and are not to be commended.

The Minister referred to the treaty of Union, but he has failed on Second Reading and in Committee to address the specific concerns expressed by senior legal figures in Scotland about the compatibility of the Bill's proposals with that treaty. The proposed new system and structure will not be entirely distinct and separate from the administration of justice south of the border, and he did not seek to deal with those specific points at all. I therefore seek to divide the Committee on amendment No. 366.

*Question put,* That the amendment be made:—

*The Committee divided:* Ayes 4, Noes 411.

**Division No. 60]** **[3.08 pm**

**AYES**

Ewing, Annabelle
Price, Adam *(E Carmarthen & Dinefwr)*
Robertson, Angus *(Moray)*
Weir, Michael

**Tellers for the Ayes:**
**Mr. Elfyn Llwyd and**
**Mr. Simon Thomas**

**NOES**

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Allen, Graham
Amess, David
Ancram, rh Michael
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Atkinson, Peter *(Hexham)*
Austin, John
Bacon, Richard
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barker, Gregory
Barron, rh Kevin
Battle, rh John
Begg, Miss Anne
Beith, rh A. J.
Bell, Sir Stuart
Bennett, Andrew
Beresford, Sir Paul
Betts, Clive
Blears, Ms Hazel
Blizzard, Bob
Blunt, Crispin
Boateng, rh Paul
Borrow, David
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bradley, Peter *(The Wrekin)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Browning, Mrs Angela
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Burns, Simon
Burstow, Paul
Butterfill, Sir John
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Cairns, David
Cameron, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Cash, William
Cawsey, Ian *(Brigg)*
Challen, Colin
Chidgey, David
Chope, Christopher
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Kenneth *(Rushcliffe)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clifton-Brown, Geoffrey
Coffey, Ms Ann
Collins, Tim
Colman, Tony
Connarty, Michael
Conway, Derek
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cox, Tom *(Tooting)*
Cran, James *(Beverley)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Curry, rh David
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Davis, rh David *(Haltemprice & Howden)*
Dawson, Hilton
Dhanda, Parmjit
Dismore, Andrew
Djanogly, Jonathan
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dodds, Nigel
Donohoe, Brian H.
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Fabricant, Michael
Fallon, Michael
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Flight, Howard
Flint, Caroline
Flook, Adrian
Flynn, Paul *(Newport W)*
Forth, rh Eric
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Francois, Mark
Gale, Roger *(N Thanet)*
Gapes, Mike *(Ilford S)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goggins, Paul
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Griffiths, Jane *(Reading E)*
Hague, rh William
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hammond, Philip
Hancock, Mike
Hanson, David
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Hawkins, Nick
Heald, Oliver
Healey, John
Heath, David
Heathcoat-Amory, rh David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hendry, Charles
Heppell, John
Hermon, Lady
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howarth, Gerald *(Aldershot)*
Hoyle, Lindsay

Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Jenkins, Brian
Johnson, Boris *(Henley)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Key, Robert *(Salisbury)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lait, Mrs Jacqui
Lawrence, Mrs Jackie
Laws, David *(Yeovil)*
Laxton, Bob *(Derby N)*
Leslie, Christopher
Letwin, rh Oliver
Levitt, Tom *(High Peak)*
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Liddell-Grainger, Ian
Lilley, rh Peter
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIntosh, Miss Anne
McIsaac, Shona
Mackay, rh Andrew
McKechin, Ann
Mackinlay, Andrew
McLoughlin, Patrick
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Malins, Humfrey
Mallaber, Judy
Mann, John *(Bassetlaw)*
Maples, John
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Moss, Malcolm
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Murrison, Dr. Andrew
O'Brien, Mike *(N Warks)*
O'Hara, Edward
O'Neill, Martin
Opik, Lembit
Osborne, Sandra *(Ayr)*
Ottaway, Richard
Paice, James
Perham, Linda
Picking, Anne
Pickles, Eric
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prisk, Mark *(Hertford)*
Prosser, Gwyn
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Randall, John
Rapson, Syd *(Portsmouth N)*
Redwood, rh John
Reed, Andy *(Loughborough)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, John *(Glasgow Anniesland)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roche, Mrs Barbara
Roe, Dame Marion
Rooney, Terry
Rosindell, Andrew
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Ruffley, David
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shaw, Jonathan
Sheerman, Barry
Shepherd, Richard
Sheridan, Jim
Shipley, Ms Debra
Simmonds, Mark
Singh, Marsha
Skinner, Dennis
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Soley, Clive
Southworth, Helen
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Stanley, rh Sir John
Starkey, Dr. Phyllis
Steen, Anthony
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Streeter, Gary
Stunell, Andrew
Sutcliffe, Gerry
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thomas, Gareth *(C'wyd W)*
Thurso, John
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Tredinnick, David
Trickett, Jon
Trimble, rh David
Truswell, Paul
Turner, Andrew *(Isle of Wight)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Tyrie, Andrew
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Ward, Claire
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Whittingdale, John
Wicks, Malcolm
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, rh Alan *(Swansea W)*
Willis, Phil
Wilshire, David
Winnick, David
Woodr, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Tony *(Cannock)*
Yeo, Tim *(S Suffolk)*

**Tellers for the Noes:**
**Mr. Tom Watson and Vernon Coaker**

*Question accordingly negatived.*

*Question proposed,* That the clause stand part of the Bill.

**Mr. Leslie:** Briefly, clause 37 and schedule 8, which it introduces, together provide for the jurisdiction of the UK supreme court, and transfer over the current arrangements, ensuring that they are preserved. Effectively, that is what clause 37 does, and I commend it to the Committee.

*Question put and agreed to.*

*Clause 37 ordered to stand part of the Bill.*

*Schedule 8 agreed to.*

## Clause 109

### PARLIAMENTARY DISQUALIFICATION

**Mr. Djanogly:** I beg to move amendment No. 339, page 48, line 27, leave out subsections (1) and (2).

**The Second Deputy Chairman:** With this it will be convenient to discuss new clause 7—*Conferment of life peerage on judges of the supreme court*—

'Nothing in this Act shall prevent the conferment of a life peerage on a judge of the Supreme Court.'.

**Mr. Djanogly:** My hon. Friends and I tabled the amendment and new clause with the intention of retaining the ability of any future judges of the supreme court to sit in the other place.

The usual concerns are raised regarding the independence of the judiciary from the legislature. A convention already exists, however, in relation to the present Law Lords—that they will exclude themselves from debates and voting in circumstances where this is properly left to the remaining Members of the other place. As Lord Bingham of Cornhill's statement in 2000 made clear, the Law Lords will not speak or vote on matters which are strongly party political or which they believe would affect their ability to judge a case involving the matters under discussion. If an issue arises in a case as a result of a comment that a Law Lord has made during a debate, the Law Lord in question will not hear that case. That does not take us outside the general principle that the senior judiciary must be careful not to be seen to prejudice their judicial work through extra-judicial activities, an example being the giving of opinions in lectures.

The input of the current Law Lords is highly valued in the scrutiny of legislation, particularly in Committee, where they bring their technical experience of interpreting legislation. In addition, they contribute informed criticism on social issues, drawing on their practical experience in the courts. They also help to promote the type of legal reform measures that can sometimes be a low legislative priority for Governments.

All that being the case, there is little weight to the argument that the Law Lords, or if necessary their successors in the supreme court, could not maintain or be seen to maintain their independence in judicial matters, and therefore need to be excluded from the other place. As Lord Hope of Craighead said in Committee in the other place, the most that any perceived imperfections in this area might call for is a Standing Order to formalise the successful present conventions. However, I am afraid that that would play into this Government's mindset of total disregard for our conventions, which have served us well in years gone by and still do so today. I have no doubt that the quality of debate in the other place, particularly on legal issues, will be much reduced as a result of the Bill. That is highly regrettable.

The hon. and learned Member for Dudley, North pointed out that it is helpful for the Law Lords to sit in on proceedings of the House so that they are kept up to date on the issues. All that will go, on the basis of this Bill. I note the Government's desire for a separation of powers, but ask again what is the real purpose of the measure. As for whether things will be better as a result, I am afraid that I cannot see how that will be the case.

**Keith Vaz:** Is not the best way to guarantee independence to allow the Lords to act as they are—as the House of Lords—without the presence of members of the supreme court? Is not that the best way to e that there is no cause for misinterpretation of any that they do or say?

**Mr. Djanogly:** It is interesting that throughou debates on the Bill no Member on either side o House has suggested that the House of Lords is party political or that it has acted wrongly in any In fact, people were only too keen to say how imp they are. The hon. Gentleman must conside question in the context of history, precedent and happens in practice. In practice, the court works, a wish to keep it that way. We believe that the Bil distort that, which is why we tabled the amendme

**Mr. Leslie:** I want briefly to come back at the Gentleman on some of his points and, I hope, to some time for the rest of the timetabled debate.

The Bill will add judges of the supreme court to t of persons disqualified from membership of the H of Commons and the Northern Ireland Asse and consequently the Scottish Parliament and Na Assembly for Wales in other legislation. A separat of clause 109 will suspend the sitting and voting of full-time judicial officeholders in the House of L while not wholly removing their membership o Lords or their peerages.

The amendments are clearly contrary to one key principles behind the proposals for a sep supreme court and for the functional separati the judiciary from the legislature. The supreme must be able to demonstrate the independen Parliament's Upper Chamber, and that woul impossible if all the members of the court continue Members of the House of Lords entitled to take part in its proceedings, which would be the effect amendment. Law Lords are judges, not legislator must maintain that proper distinction and go enhance it with the creation of the supreme justices. The separation between the two func must be clear. In practice, we propose applying House of Lords provisions that have long appli the House of Commons. Full-time members o judiciary should not also be Members of Parlia able to speak and vote on legislation that they subsequently be called upon to interpret. The first j of the supreme court will be the current Lords of A in Ordinary, and they will retain their peerages b disqualified from sitting and voting in the House.

3.30 pm

It has been said that removing the sitting and v rights of the judiciary will lead to a loss of expert the House of Lords. However, members o supplementary panel—retired supreme court judge other senior judges in the first five years of retirement—can be full Members of the H alongside other part-time judges. It will also becom convention that judges of the supreme court are o peerages on their retirement. We recognise tha judiciary has made an important contributio the work of the House of Lords, but that c override the clear need for a visible, separate independent supreme court while the judge conducting their full-time job.

**Mr. Edward Garnier** (Harborough) (Con): I accept the Under-Secretary's argument, although I do not agree with it, about the need for a clear separation between the House of Lords as a part of Parliament and the judiciary. However, he undermines his argument by saying that those on the supplementary panel would be entitled to participate in the work of the Judicial Committee or the supreme court and none the less remain active members of the House of Lords as a legislature. If he is to be as pure as he wishes, surely he should be consistent and exclude or include everybody.

**Mr. Leslie:** If we took that attitude, the hon. and learned Gentleman, as a member of the part-time judiciary, might be in some difficulty. We need to draw a line on the basis of practical common sense. We do not want members of the full-time judiciary to have a concurrent full-time legislative role. From time to time, because of illness or bringing in extra individuals, people on the supplementary panel may need to help out at supreme court level. It would be prudent and reasonable to allow them to continue with their full membership of the House of Lords.

I have outlined the line that we need to draw. Going further than that would mean change in this House, too.

**Mr. John Redwood** (Wokingham) (Con) *rose*—

**Mr. Leslie:** I should like to leave a little time for further debate after I have finished, but I shall give way briefly.

**Mr. Redwood:** I was about to make a suggestion to help further debate. Several hon. Members wish to speak and the knife will fall too soon. Will the Under-Secretary adjust our sitting hours so that we can discuss the issue properly? I am sure that, under pressure, we could still finish at his chosen time this evening, but it is silly that we do not have enough time to discuss the subject of our current debate.

**Mr. Leslie:** That is a matter not for me but for the Chairman and the House generally.

Mechanisms will be put in place so that even though the full-time members of the judiciary will be separate from the legislature, they will continue to be able to make their views known to Parliament. Clause 6 provides for senior members of the judiciary to make written representations. That will adequately aid the dialogue between the different branches of our constitution. The senior judiciary will be free to appear before Select Committees and make representations to both Houses of Parliament.

It is important to separate the full-time judiciary from the legislature, and I hope that the amendments and new clause 7 will be rejected if not withdrawn.

**Simon Hughes:** The Government's proposal, which we support, does not imply any criticism of the current conduct of the Lords of Appeal in Ordinary. Everybody accepts that they have done their job impartially and managed to keep out of the party political debates in the Lords. They should not therefore feel that the proposal is a criticism.

The amendments are slightly bizarre. Amendment No. 339 would remove the current bar on senior judges being in the Commons. New clause 7 deals with the House of Lords, which is the more substantive issue. On that point, we share the Under-Secretary's view, for a reason at which he hinted but on which he did not elaborate. Someone who has been a member of the supreme court—the most senior court in the land—could later become a member of the legislature. Someone who does a part-time judicial job, such as the hon. and learned Member for Harborough (Mr. Garnier), who sits as a recorder, can be a member of the legislature. It is therefore entirely logical that if judges want to be consulted or have an input, they can do that. They can be asked to give evidence to Select Committees and they can submit evidence in any review. The supreme court will be quite entitled to give a view on any matter that it deems appropriate. That will surely be done in a proper way, so that people can see that the judges' views are being given to Parliament—both the Commons and the Lords—and that Parliament will then decide what to make of them. Appointed judges will not have been elected to pass laws or sit in the legislature. That distinction remains important, which is why we shall join the Government in resisting these amendments.

**Tony Wright** (Cannock Chase) (Lab): I was going to make two quick points, but I am now going to make three. The first, which I had not intended to make, is that, having heard the previous exchanges on this issue, I now have worries about recorders sitting in the House of Commons. Of course, I am not referring personally to the hon. and learned Member for Harborough (Mr. Garnier), but there is a principle involved here. We have embarked on a process of logical constitutional development, and at some point we shall have to follow it through to its logical conclusion. I do not want to alarm the hon. and learned Gentleman, but that is clearly the direction in which we shall have to travel.

My second point is that the amendment would simply subvert the principle behind the entire Bill, which is to try to clarify the constitutional relationships here. Having embarked on the process, we clearly have to do that. I note in passing that the Lord Chief Justice, Lord Woolf, has recently been arguing for the logic of what is being proposed. One of the reasons why he is still having an argument with the Lord Chancellor about who should decide whether judges should take part in politically contentious inquiries is that he says that the logic of what we are doing in the Bill is to separate the judiciary from politically contentious areas. If we follow that logic, it is clearly implausible to reinsert these provisions into the Bill.

Thirdly, when we talk about peerages in this context, we get into a terrible muddle. That is because we always confuse the question of whether a peerage is designed to enable people to give service in a second legislative Chamber, or to confer an honour. We have to decide, in the case of judges and everyone else, whether we want to confer an honour or to deploy those people for service in a second Chamber. We are not resolving that issue in

*[Tony Wright]*

the Bill, but I simply note that we shall have to do so at some point; otherwise we shall keep returning to contradictions such as this.

**Mr. Garnier:** The hon. Member for Cannock Chase (Tony Wright) is perfectly right, and I think that the Minister failed to understand the logical extension of his own arguments. If the hon. Member for Cannock Chase wants to be a purist, fine. In that case, a person should be either a Member of Parliament of one kind or another, or a member of the judiciary. The hon. and learned Member for Dudley, North (Ross Cranston) and I are no doubt quivering in our boots every night, lest we be expelled either from the House or from the courts. However, I think we can probably cope. We give our services as part-time judges—recorders—as a public service, not because it earns us huge sums of money. It also informs the work that we do here as legislators, and vice versa.

I do not however want to dwell on that argument in the two or three minutes that we have left for this debate. While accepting the purist logic of the hon. Member for Cannock Chase, I disagree with the conclusion that he has reached. I believe that there is a value in Members of the House of Lords sitting as judges as well as being members of the legislature. I fully take on board the point made by the hon. Member for Southwark, North and Bermondsey (Simon Hughes) about amendment No. 339. As I understand it, full-time judges are already excluded from becoming Members of the House of Commons or the Northern Ireland Assembly, and I assume that the amendment was tabled to provide us with an opportunity to debate the wider issue. It is certainly not an amendment based on logic, if one reads the wording.

There is some merit in not disqualifying the senior judges from the Committee work of the House of Lords or, in particular, from the Joint Committee work of both Houses. I am looking around the Chamber to see whether I can spot Members who have served on Joint Committees at the same time as I have. In fact, the hon. and learned Member for Redcar (Vera Baird) and I served together on the Joint Committee considering the draft Corruption Bill. That was chaired by a retired Law Lord, but sitting Law Lords have chaired such Committees. *[Interruption.]* If Lord Bridge was a sitting Lord, I take that back. [HON. MEMBERS: "Lord Slynn."] That is right. Lord Bridge died a little while ago. The new Bill would not prevent Lord Slynn from continuing that work, but, say, existing Law Lords chair Committees from time to time, and do a very valuable job. We would lose that. Members may say "Bad luck", but I think it would be a pity to throw out that benefit without any obvious benefit on the other side.

I support new clause 7 in so far as it clarifies what is possibly implied in the Bill. The Government, the Prime Minister and the Queen are not precluded from making supreme court judges peers, but once they are peers they are precluded from voting and sitting in the House of Lords. I take the point about the confusion between an honour and a job, but I trust that once the Bill is in force the Prime Minister will allow peers to be made supreme court judges.

*It being three hours after the commencement of proceedings on the Bill,* THE CHAIRMAN *put the Question already proposed from the Chair, pursuant to Orders [17 and 31 January 2005].*

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 122, Noes 315.

**Division No. 61]** **[3.41 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bourn'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burnside, David
Butterfill, Sir John
Cameron, David
Campbell, Gregory *(E Lond'y)*
Cash, William
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Greve, Dominic
Hague, rh William
Hammond, Philip
Hawkins, Nick
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Pickles, Eric
Prisk, Mark *(Hertford)*
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Sayeed, Jonathan
Selous, Andrew
Shepherd, Richard
Simmonds, Mark
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Waterson, Nigel
Watkinson, Angela

Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Yeo, Tim *(S Suffolk)*

**Tellers for the Ayes:**
**Mr. Geoffrey Clifton-Brown and**
**Mr. John Randall**

## NOES

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barron, rh Kevin
Battle, rh John
Begg, Miss Anne
Beith, rh A. J.
Bell, Sir Stuart
Bennett, Andrew
Betts, Clive
Blears, Ms Hazel
Blizzard, Bob
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bruce, Malcolm
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Burstow, Paul
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Carmichael, Alistair
Challen, Colin
Chidgey, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Ewing, Annabelle
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibson, Dr. Ian
Gill, Parmjit Singh
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Green, Matthew *(Ludlow)*
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hancock, Mike
Hanson, David
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Heath, David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Iranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moore, Michael
Moran, Margaret
Mountford, Kali
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Oaten, Mark *(Winchester)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
O'Neill, Martin
Opik, Lembit
Osborne, Sandra *(Ayr)*
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Rendel, David
Robertson, Angus *(Moray)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Salmond, Alex
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'ds & Kincardine)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis

Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr Howard
Strang, rh Dr Gavin
Stuart, Ms Gisela
Stunell, Andrew
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, Matthew *(Truro)*
Taylor, Dr Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Thurso, John
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr Rudi
Ward, Claire
Wareing, Robert N
Webb, Steve *(Northavon)*
Weir, Michael
White, Brian
Whitehead, Dr Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Winnick, David
Wishart, Pete
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Vernon Coaker and**
**Mr. Tom Watson**

*Question accordingly negatived.*

*Clause 109 ordered to stand part of the Bill.*

## Clause 105

REMOVAL FROM MOST SENIOR JUDICIAL OFFICES

**Mr. Leslie:** I beg to move amendment No. 3, in clause 105, page 46, leave out from end of line 17 to 'unless' in line 19 and insert

'or, if the Lord Chancellor is not a member of that House, by another Minister of the Crown at his request.

(4) No motion for the presentation of such an address may be made'

**The First Deputy Chairman of Ways and Means (Sylvia Heal):** With this, it will be convenient to discuss Government amendments Nos. 4 and 16.

**Mr. Leslie:** These amendments are consequential on the removal of the requirement that the Lord Chancellor be a member of the House of Lords, which was debated in Standing Committee and agreed yesterday on the Floor of the House.

As drafted, clause 105 provides in that in the House of Lords only the Lord Chancellor may make a motion for the presentation of an address by Her Majesty to remove a senior judge in Northern Ireland.

Government amendment No. 3 provides that, where the Lord Chancellor is not a member of the House of Lords, he or she may request another Minister of the Crown to make a motion to that House for the presentation of an address to Her Majesty for the removal of a person from office as a senior judge. Clause 105 also provides that, before making such a motion in the House of Lords, the Lord Chancellor shall lay before that House a copy of the removals tribunal's report. Therefore, to make that consequential change, Government amendment No. 4 provides that that could be done by the other Minister making the motion.

Government amendment No. 16 makes similar consequential amendments to the post-devolution arrangements governing removal from most senior judicial offices in Northern Ireland. Those arrangements are prescribed in section 12B of the Judicature (Northern Ireland) Act 1978, as substituted by section 6 of the Justice (Northern Ireland) Act 2002.

These amendments are essentially consequential on yesterday's decision by the Committee to remove clause 2 of the Bill.

**Sir Patrick Cormack:** The Minister rightly says that these amendments are consequential on yesterday's decision by the Committee, but he will concede that the Bill must return to the other place after our deliberations here. There will therefore be further opportunity for their lordships to reflect on what has been said in this House, and to pronounce upon it. If the other place reinserts clause 2, or something similar, and requires the Lord Chancellor to be a Member of the House of Lords, I hope that the Government will not insist on their proposals.

It is highly unlikely that we will have to wait until 2006 for a general election, but even so the Parliament Act cannot be invoked for this Bill, as it began in the House of Lords. The Government are likely to get most of what they want, even though the Bill, when it was first presented, was very rough. I therefore hope that they will not reject any insistence by the other place that the Lord Chancellor should be a Member of the House of Lords.

I should be grateful to hear what the Minister has to say about that.

**Mr. William Cash** (Stone) (Con): I am concerned about the reference in proposed section 12B(1) of the Judicature (Northern Ireland) Act 1978 to holding office "during good behaviour". What do those words mean? Our Parliament was established as a result of the deal struck when the Stuarts abdicated in 1688, and one piece of the resulting legislation was the Act of Settlement of 1700. That and other contentious issues in respect of who governs this country lay at the heart of the great historical events—the civil war, the driving out of James II, the battle of the Boyne, and so on—which collectively are known as the Glorious Revolution.

Another important question at that time was the extent to which judges determined the laws of the land, and the basis on which they did so. The question of whether a judge should be removed because he had infringed the principles of good behaviour were well understood at that time. I am glad to say that the principles that judges accept, certainly on matters of law, are adhered to, as far as we know, in every respect. However, the substitution of quando bene gesserint, which means during good behaviour, for durante bene placito regis, which means at the pleasure of the king, was a fundamental shift. The expression "at the pleasure of the king" was removed because it was clear that the king had such overriding control that he could remove a judge who had the temerity to disagree with the king's assessment of policy on, for example, the suspending power, the dispensing power and so on. The expression "during good behaviour" raises the question of misconduct.

4 pm

At the end of the Bill there is an interesting amendment that has not yet been discussed. I cannot put my finger on it straightaway, but I would like the Minister to explain the amendment to section 11(3) of the Supreme Court Act 1981 and the way in which misconduct will be dealt with. The Minister may know what I am referring to, but I realise that he may not have a clue.

The significance of the amendment is simply that misconduct in the context of judicial office would today be considered to be corruption, conflict of interests and so on. Not so long ago, things got a bit tricky when a question arose as to whether a judge had a conflict of interests because of his interest in a charity, but I will not go into that now. Generally speaking, I am entirely satisfied that our judges, whether here or in Northern Ireland, are of impeccable character and would not infringe the rules of misconduct, corruption and so on.

Misconduct, under the original proposition of "during good behaviour". I shall not repeat the Latin for that—was well understood at the time as going much further. It was part of the settlement in 1700 that judges would have regard to the importance of maintaining the stability of the constitution and to the political and constitutional principles underpinning the deal.

What would happen under clause 105 if the question arose—we sincerely hope that it would not—of removing the Lord Chief Justice, Lords Justices of Appeal, judges of the High Court or any other judges who fall within the rubric? Can we be certain that the question of what constitutes good behaviour is clearly understood? We could thus understand from the Minister that good behaviour is not confined simply to what we might generically describe as corruption, which I am certain would not be the case, but that the matter is much wider and involves questions relating to the Oath of Allegiance or matters of that kind.

We might end up in a situation where a judge decided wilfully, or perhaps deliberately—there are various gradations—that the decisions reached by, for example, the European Court of Justice had overriding power of interpretation as compared with the rules that we understand to apply. We discussed them yesterday, and I believe that the Government have accepted the point that I have been making for several years: at the end of the day, the judges of this country are under an obligation, under our constitutional doctrines in the House, to give effect to the latest, inconsistent, clearly and unambiguously expressed Act of Parliament, which would say, for example, that notwithstanding the European Communities Act 1972, we would legislate in relation to immigration and asylum, thereby immediately removing all the current controversies. I should be grateful if the Minister addressed that question. *[Interruption.]* I shall be glad to give way to my hon. and learned Friend the Member for Harborough (Mr. Garnier) if he wants to intervene.

**Mr. Garnier:** I wanted to intervene and then thought better of it, but I shall now take the opportunity my hon. Friend offers me.

It seems to me that clause 105 deals exclusively with the judiciary of Northern Ireland. No doubt the right hon. Member for Upper Bann (Mr. Trimble) will help us further on that point. I was under the impression that justice—the appointment of judges and so forth—had been devolved to Northern Ireland and indeed may have been suspended. Again, the right hon. Gentleman may be able to help us. That is why I thought better of my intervention. My question was unformed so I thought it better not to put it, but if my hon. Friend the Member for Stone (Mr. Cash) would like to continue his remarks without concerning himself with mine, I shall take advice and either keep quiet or make another intervention in due course.

**Mr. Cash:** I am grateful to my hon. and learned Friend. He touches on an important point. As I said yesterday, with regard to clause 4 and devolution in Scotland, it is unequivocally the case—certainly according to the best constitutional authorities; Bradley and Ewing is a good example—that if we want to legislate in Westminster as the United Kingdom Parliament, irrespective of the passage of the Scotland Act 1998, as a matter of constitutional law, we have the right to do so. There is no doubt of that. The same applies in respect of Northern Ireland, perhaps even more so. I defer to the right hon. Member for Upper Bann (Mr. Trimble) on that point.

This is an important and serious matter, because judges, whatever their eminence and in whatever part of the United Kingdom we are talking about, are governed by the same criteria. The question of misconduct in respect of clause 105 is specifically related to Northern Ireland, but without prejudice to the fact that the United Kingdom Parliament has overriding jurisdiction. The tribunal with responsibility for considering removal, which we shall discuss later, has to go through a series of judgments, which include judgments made by persons of equal standing.

I need not elaborate further. I invite the Minister, if he would be good enough, to give us a proper definition of the words "during good behaviour" in this context. After all, if we are dealing with what the Prime Minister and the Lord Chancellor are likely to do and we then go through the motions of tribunals and the rest, it would be at least important to know that the words "good behaviour" are understood not merely in terms of criminal activity, corruption or whatever, but in relation to dealing with the fundamental question of who makes the final judicial decision—the note on which I left the Minister last night in the final moments of our debate on the rule of law.

**Mr. Grieve:** In noting what the Government intend to do in respect of these amendments, it might be helpful if the Minister could also amplify the wording of proposed new section 12B on tenure of office. I accept that this is presumably derived from past example, but I am surprised that the only person who could move the motion for the presentation of an address to Her Majesty is the Prime Minister in the House of Commons or, under the old scheme, the Lord Chancellor in the House of Lords and, under the new scheme, his substitute.

Are we to understand therefore that no other Member of the House can table or move such a motion of their own volition, particularly in the other place? If that is the outcome, I am startled. I always understood that such questions were ones for Parliament to determine.

*[Mr. Grieve]*

Clearly, it may be appropriate for Ministers to trigger the process, but it is not designed to exclude the right of Members of Parliament to move such motions.

**Mr. Leslie** *indicated assent.*

**Mr. Grieve:** I see the Minister is nodding, so he will doubtless be able to provide me with complete reassurance, but I find the wording of proposed new subsection (3) slightly surprising in those circumstances because it appears to exclude that possibility even if that may not be its intention. I should be grateful to the Minister if he would deal with that.

As for the rest of the amendments, the Minister will be aware why we wish to preserve the office of Lord Chancellor, but I fully accept that such amendments are necessary, as that office will disappear at the end of the process. Doubtless, if the other place decides to reverse the amendments that the Government have tabled here, the Minister will have to reconsider the matter.

**Mr. Leslie:** The hon. Member for South Staffordshire (Sir Patrick Cormack) said that he regretted decisions that we took earlier in Committee and postulated the hypothetical scenario in asking what would happen if the other place were to reintroduce clause 2 on the requirement for the Lord Chancellor to be a Member of the House of Lords and, if it were to do so, whether we would have to reverse these consequential changes. He will not be surprised to hear me say that, as with most hypothetical scenarios, that is entirely hypothetical and it would be premature for me to suppose that that will be the consequence of the other place's deliberations on our amendments, which we made with good grounds and a strong majority opinion in the House. I hope that the other House would respect the view of the elected Chamber on that matter, so it is not unreasonable that we have introduced these consequential Government amendments, which could allow someone other than the Lord Chancellor, if the post holder sits in the Commons, to move motions for the removal of judges in the other place.

The hon. Member for Stone (Mr. Cash) asked a wider question that seemed to suggest that we were broadening the debate from simply discussing these Government amendments. The definition of good behaviour in clause 105 is not technically touched on by these Government amendments, but I am happy—if it is in order, Mrs. Heal—to answer his points since it appears that we may be having a substantive debate at this stage. He asked about the definition of good behaviour, good conduct and so forth. I am sure that he has more historical knowledge about the origin of many of those phrases. I gather that, around the time of the Glorious Revolution of 1688, there was a change from judges holding their offices at the king's pleasure to them doing so during good behaviour. I do not think that the phrase "good behaviour" is defined elsewhere in statute, but it is commonly understood. For example, the last judge who was removed for misbehaviour was apparently a circuit judge who was convicted of smuggling, although I am not sure when that happened. A clear breach of the judicial oath would fall under that category, but decisions must be based on each specific case.

4.15 pm

**Mr. Cash:** I am sure that the Minister is not dodging the question, but he is not addressing it. I am well aware of the point about corruption and criminal activity, but the point that I am trying to get out of him—I am insisting on asking this time—is whether the expression "during good behaviour" covers deliberately deciding to adopt a source of interpretation that is inconsistent with the conventions of our constitutional arrangements in this Parliament and this country. Does he understand what I am saying? If he does not, he will have to come back to the matter.

**Sir Patrick Cormack:** The Minister had better write my hon. Friend a letter.

**Mr. Leslie:** It might have been appropriate to table an amendment on the matter, but I do not think that the inconsistency or contradiction that the hon. Member for Stone presupposes exists.

The hon. Member for Beaconsfield (Mr. Grieve) asked whether any Member could move a motion for the removal of judges, but I remind him that we are debating the amendments in the context of clause 105, which relates specifically to Northern Ireland. A feature of the settlement in Northern Ireland means that the measure will exclude Members from having the right to move an address in relation to judges in Northern Ireland, but we are not introducing such a provision for judges in England and Wales. It will still be open to any Member to move a motion regarding such judges in theory, but if a motion were moved on behalf of the Executive, that would clearly be the responsibility of specific Ministers in circumstances described elsewhere in the Bill.

**Mr. Grieve:** I am aware that we have set up different structures for Northern Ireland, some of which are dependent on devolution coming into operation. Parliament will continue to have direct responsibility for the Northern Irish judiciary in the interim, so I am worried to learn that it will not be possible for any Member of the House to move a motion because that will be completely at the Executive's discretion. That is a worrying state of affairs and the Government should rectify it.

**Mr. Leslie:** I am sure that the hon. Gentleman recognises that the wider features of the Northern Ireland settlement mean that arrangements for Northern Ireland are different from those for England and Wales and I am sure that we will discuss such matters when we consider other clauses. We have set out our proposals in clause 105, but the Government amendments do not necessarily impinge on the point that the hon. Gentleman raised.

**Mr. Cash:** I am sorry to be so persistent on this point. As my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack) suggested, perhaps an exchange of letters would be the simplest way to deal with the problem. I refer the Minister, as a starting point, to page 372 of the important tome "Bradley & Ewing", which sets out the issues clearly. It says:

"assuming that there was no intention to alter the effect of the Act of Settlement by the revised wording now contained in the Supreme Court Act 1981, it is theoretically possible for a judge to

be dismissed not only for misconduct, but for any other reason which might induce both Houses to pass the necessary address to the Crown".

I am especially interested in the words

"but for any other reason"

because there is not a question simply of misconduct. These are weighty matters and, if I may say so, this is an example of the deep waters into which we are getting. The Bill is setting out in statute provisions that have been covered by profound constitutional arrangements that have developed over centuries. It does not follow that every single thing that has been done in the past was right, but the Bill is not being handled in the correct way.

**Mr. Leslie:** I understand the hon. Gentleman's point. As he has done in several debates, he brandishes his copy of "Bradley & Ewing" and keeps his finger at page 372—he is very attached to that weighty tome. Perhaps correspondence might be a good idea, although my understanding is that Parliament is sovereign in all matters on which it legislates. That principle should overcome some of his concerns.

We have departed somewhat from the Government amendments. I remain of the view that they are robust and valid and hope that the Committee will accept them.

*Amendment agreed to.*

*Amendment made:* No. 4, in clause 105, page 46, line 25, leave out from 'and' to end of line 26 and insert

'a person making such a motion in the House of Lords shall lay a copy of the report before that House before making the motion.'.—*[Mr. Leslie.]*

*Question proposed,* That the clause, as amended, stand part of the Bill.

**Mr. Trimble:** I rise to comment briefly on the clause in the hope that the Minister will explain the scheme of things. Having only glanced at the legislation, my understanding is that the provisions of clauses 105 to 107, which apply to removal from senior judicial offices in Northern Ireland, will take effect until such time as the Justice (Northern Ireland) Act 2002 comes into operation, whereupon they will be replaced by the provisions of sections 6 to 8 of that Act. I think that that is what is intended.

**Mr. Leslie** *indicated assent.*

**Mr. Trimble:** I see the Minister nod, which is rather disappointing for me, because when I first read the clauses, I thought to myself, "Oh, goody—they've written the First Minister and the Deputy First Minister out of the process." Under the 2002 Act, the First Minister and the Deputy First Minister have a significant role, but it is a role with which I was never comfortable, which is one of the reasons why I opposed the relevant provisions of the 2002 Act and the Justice (Northern Ireland) Act 2004.

The provisions on the appointment and removal of judges will be bad in practice. They open the door to far too much political influence on the process. The present system, although superficially it appears to involve politicians in the administration of justice, works well in fact, whereas the Government's proposals, which are allegedly designed to remove the appearance of political interference, will in fact result in greater political interference. That might not be the intention. Although the intentions behind the legislation may be good, I think that the consequences in almost every case will be a deterioration in the quality of the system.

I rose simply to make sure that my understanding of the legislation is correct. I am sorry to find that it is and that my hope that the First Minister will no longer be involved is to be dashed.

**Mr. Grieve:** I am sorry to return to an issue that I raised during debate on amendments to the clause, but until our debate started, I had not picked up on it, and nor, I suspect, had the Minister. When I asked him whether the clause would fetter the right of a Member of either House to move a motion for the removal of a judge, he initially nodded assent, but was then handed a note from the Box saying that that was indeed the position for England and Wales, but not for Northern Ireland. That makes me anxious. I fully appreciate that there is a devolution settlement in Northern Ireland. When it is introduced—and I am mindful of the views of the right hon. Member for Upper Bann (Mr. Trimble) and his criticism of the arrangements—it is intended, for better or for worse, to work as an interim arrangement. As the Minister knows, interim arrangements in Northern Ireland can last a long time.

**Mr. Trimble:** The substance of the interim arrangement that the hon. Gentleman does not like is part of the 2002 Act. By criticising that arrangement he is also criticising the arrangement in that Act, and I am wholly with him on that point.

**Mr. Grieve:** I am grateful to the right hon. Gentleman. I remember the 2002 Act, having played a part in its passage through the House. I remember discussing those issues at that time and expressing concern. Indeed, I think that I did so on that very point, but my mind is not completely clear about every detail of a Bill that we discussed two years ago. In the meantime, a devolution system is not in operation, so the Parliament of the United Kingdom keeps special responsibilities in respect of the Northern Ireland judiciary. In those circumstances, it is strange that the only way in which a Lord Chief Justice, Lord Justice of Appeal or judge of the higher court can be removed is by passing a resolution of both Houses in the usual way but that the only two people who can move the motion are the Prime Minister and, in the other place, the Lord Chancellor or his nominated substitute.

Let us consider an example. A judge behaves controversially in Northern Ireland and his conduct is called into question. A decision is made to remove him, following a report by a tribunal, but for reasons of political expediency, the Prime Minister decides that it would not be appropriate to do so. Under the present arrangements, it would be impossible for a Member of either House to move a motion to remove that judge. I am happy to acknowledge that the chance of such a circumstance arising is fairly remote, but we are abdicating our responsibility as a Parliament and as a House by surrendering our right to move a motion, while we still have responsibility for the matter, to the Prime Minister and the Lord Chancellor or his nominated substitute.

*[Mr. Grieve]*

When the devolution arrangements come in, because they allow greater autonomy for the Northern Ireland Executive, it could be argued that the Prime Minister is required to provide ratification of a procedure that remains with Northern Ireland for the most part. In those circumstances, there is a different argument about whether other Members of Parliament should get involved. In the interim—I suspect from the way in which the Minister presented the case, that this is unintentional—we are surrendering a responsibility that we ought to keep.

**Mr. Cash:** My hon. Friend is making an interesting point. With reference to the good tome that I have brought with me, motions can usually be moved by any Member of the House, so allowing only the Prime Minister to do so is a significant shift. That consolidates the point that my hon. and learned Friend the Member for Harborough (Mr. Garnier), other Members and I have repeatedly made. These are deep waters. Furthermore, I touch on the fact that in Scotland judges hold office ad vitam aut culpam, meaning that they cannot be removed except on the ground of misconduct. But the tribunal describes the position as unfitness for office

"by reason of inability, neglect of duty or misbehaviour",

so the deeper we go into the subject, the more problems are thrown up. The Prime Minister might easily take an entirely different view from a Member of the House.

**Mr. Grieve:** I agree with my hon. Friend. Pending devolution, responsibility lies squarely with Parliament and the Government. As the maintenance of a sound judiciary is very much one of our parliamentary responsibilities, I am coming to the conclusion—it was not my position when we started debating the clause; it had never occurred to me—that unless the Minister gives me an assurance that he will revisit the matter and table necessary amendments if required, I shall invite the House to divide on clause stand part. The House should not abdicate to the Prime Minister, the Lord Chancellor or anybody else its central responsibility, if it considers that a judge within its area of jurisdiction is misbehaving, to move a motion for his removal.

I hope the Minister will respond positively. The matter has arisen in the course of debate, but it is more than academic.

4.30 pm

**Mr. Garnier:** I am encouraged by my hon. Friend. I have not found all the amendments tabled by him and my hon. Friend the Member for Huntingdon (Mr. Djanogly) wholly agreeable, but most have been interesting. On this occasion, we are opening up an interesting area of constitutional crisis.

The Government have made many mistakes, but they never do anything by mistake. Here we are witnessing the sucking of power from the Chamber to the Executive. We all know that the Executive not only sit in, but sit on the Chamber. When Ministers say, "This is a matter for Parliament" or "This is a matter for the House", of course they mean nothing of the sort. What they mean is, "We, the Government, have made a decision and our obedient Back Benchers will troop through the Lobby, as directed by us and the Chief Whip."

Nobody is under any misapprehension about that. I know the rules of the parliamentary game as well as the Minister does. However, we ought occasionally to remind ourselves that it is a charade, and that when the Minister prays in aid the votes of Parliament, he is merely exercising his power as a member of the Executive to control the House of Commons. I find it extremely worrying. I appreciate that it may be for only a short time in interim legislation, but it is worrying that a Prime Minister or a Government could arrogate to themselves exclusively the ability to do what Members of the House have traditionally been able to do, certainly since 1688.

**Mr. Cash:** Would my hon. and learned Friend also go along this path? The situation in Scotland, because of the different definition of the basis of misconduct, which I gave earlier, is different from that in England and Wales and in Northern Ireland, where there is a similar definition of good behaviour. Taking the responsibility away from the House of Commons and giving it to the Prime Minister raises some extremely tricky questions, which include the question of the tribunal and the basis on which it would arrive at its decision. The Prime Minister—

**The First Deputy Chairman:** Order. That is very lengthy for an intervention.

**Mr. Garnier:** Under the next clause we may be able to discuss further the points that my hon. Friend was making. I am concerned that a limited part of the Executive—the Prime Minister—will keep to himself the ability to present a motion for the removal of a judge. In so doing, he will, at the very least, inconvenience—I use that word in an old-fashioned sense—Westminster Members of Parliament from Northern Ireland of both sides of the traditional divide who may wish to express an opinion about the conduct of a particular judge. He may want to do that, as my hon. Friend the Member for Beaconsfield (Mr. Grieve) said, for overriding political reasons, because it is convenient to move the peace process on in a particular way at a particular time. It is not right, however, that we should allow the appointment and removal of judges to be a creature of some other political game.

**Mr. Tyler:** Does the hon. and learned Gentleman accept that, under clause 105(4), the critical issue is surely not what action is taken by whom but what the tribunal itself has determined? Therefore, his comments on this clause, I hesitantly suggest to such an experienced Member, are more appropriate to the next clause.

**The First Deputy Chairman:** Order. I remind Members that the question of tribunals comes later in the debate.

**Mr. Garnier:** The hon. Gentleman has been correctly rebuked by you, Mrs. Heal, but on the other hand he illustrates the difficulty that, under our artificial procedures, we are allowed only to debate things in

lices. The Bill needs to be considered as a whole. We nay be able to have a fascinating conversation about the natter on Third Reading, but by then, of course, it will e too late.

**Mr. Grieve:** My hon. and learned Friend might agree nat the hon. Member for North Cornwall (Mr. Tyler) as this point, as the word "tribunal" does feature in lause 105:

"Neither the Prime Minister nor the Lord Chancellor"—

r his substitute, as it now is—

may make a motion for the presentation of such an address nless a tribunal".

That, of course, provides adequate protection from vrongfully removing a judge from office, but no rotection at all from leaving a judge in office when he hould not be there.

**Mr. Garnier:** Exactly. That is the point. It is a matter f considerable concern to me that we are allowing he Executive to take on such additional powers. That aving been said, I think that the hon. Member for North Cornwall (Mr. Tyler) wants to make his ontribution.

**Mr. Tyler:** I only want to intervene briefly to say that he obverse could apply. If the tribunal has made hat recommendation, it would be a peculiar decision by ny member of the Executive, whether Prime Minister r Lord Chancellor, to go against the advice. That is roperly a matter for a subsequent clause, however.

**Mr. Garnier:** The hon. Gentleman says that it would e a peculiar Prime Minister. It is not unknown to have eculiar Prime Ministers.

**Mr. Trimble:** It is not at all unknown for Prime Ministers to make peculiar decisions on matters relating o Northern Ireland.

**Mr. Garnier:** The right hon. Gentleman is right: eculiar Prime Ministers make sensible decisions from ime to time, but peculiar Prime Ministers occasionally nake peculiar decisions, and we are the victims of them.

**Mr. Leslie:** Part 5 of the Bill provides for the removal f judges in Northern Ireland in the period prior to evolution of justice to the Northern Ireland Assembly. Clause 105 inserts a new section 12B into the Judicature Northern Ireland) Act 1978, to provide for the removal f judges from the most senior judicial offices in Northern Ireland. As at present, the Lord Chief Justice, Lord Justices of Appeal and High Court judges may be emoved by the Queen on an address by both Houses of Parliament.

Then we come to the point that has raised the interest f the hon. Member for Beaconsfield (Mr. Grieve), amely, a motion for an address may be made to the House of Commons by the Prime Minister and to he House of Lords by the Lord Chancellor—or, under he earlier amendments, if the Lord Chancellor is not Member of that House, by another Minister of he Crown at his request. In responding to the hon. Gentleman's inquiry, I confirmed that while for England and Wales any Member of Parliament can make the motion on the removal of judiciary, in Northern Ireland that is not a feature of the settlement arrangements in that jurisdiction.

The hon. Gentleman worries that that will in some way fetter the freedoms and discretions of Members of Parliament in moving motions in Parliament. Let me respond to that. In the case of a statutory requirement such as this, an address could not have legal effect. If it was not proposed by the Prime Minister and/or the Lord Chancellor, Her Majesty could not act upon it. Such statutory provisions are not unusual. For instance, some financial motions—the Whips will know of them—can be moved only by Ministers in this House. Her Majesty's placing of her prerogative at the disposal of the House sometimes requires an indication from a Privy Councillor that consent is signified. On some occasions, particular types of motion require different hon. Members, in their different roles, to make their views known. In this case, I accept that the position is not in line with the England and Wales arrangements, but there is a particular reason for that.

**Mr. Grieve:** That is precisely the question—I do not wholly understand what the reason is. As I infer it, it is this: the Government, on the basis of the history of this matter and their intention to move towards devolved structures, simply reproduced in clause 105 the system that would have applied when the devolved structures were in operation, even though they are not. That is not an adequate reason. For the moment, as we continue to carry the can for the discharge of judicial functions in Northern Ireland, it is unnecessary to remove the power of a Member of this House or the other place to move the motion. The Minister should ensure that that right is here; at least then, when the time comes to set up the devolved structures, it would be understandable for him to come to the House to say that it has to be given up. If he wants to convince me that he is right, his explanation must centre on explaining why we cannot have that right in the interim.

**Mr. Leslie:** I disagree with the hon. Gentleman. This issue was debated at length during the passage of the Justice (Northern Ireland) Act 2002. There are reasons for the differences between the arrangements for England and Wales and for Northern Ireland. A particular feature of the settlement that followed the changes made in the Belfast agreement is that there were, and are, differences in the devolution arrangements, as even the hon. Gentleman accepts. I understand his point, but that is not the proposal that we are making.

**Mr. Trimble:** I think that the Minister is, uncharacteristically, in error. What we are discussing is in no way related to the current suspension of the Northern Ireland Assembly. If it resumed tomorrow, the provisions in the 2002 Act would not apply. They are not part of the settlement to which the Minister refers, but they are part of an entirely separate arrangement about the possible future devolution of justice and policing matters to the Northern Ireland Assembly. That will not happen without the agreement of both sides of the community in Northern Ireland, and at present there is absolutely no prospect of that happening in the foreseeable future. We have turned our

*[Mr. Trimble]*

face very firmly against it. In that situation, to introduce measures that would come into effect only in the distant future is a retrograde step, and to pass this off as following on from the 1998 agreement is not right.

**Mr. Leslie:** I am reluctant to reopen the debate that took place not only on the 2002 Act, but in advance of that through the Belfast agreement. The right hon. Gentleman has his particular view and I respect that. However, the arrangements are not unduly constraining on a decision of this House or of the other place in making its views known about the judiciary and the removal of members from it.

**Mrs. Gwyneth Dunwoody** (Crewe and Nantwich) (Lab): I am concerned that we may be giving away a genuine power in exchange for nothing. Will my hon. Friend the Under-Secretary simply tell us whether the right hon. Member for Upper Bann (Mr. Trimble) is correct? He says—he spelled out the precise reasons—that the effect that the Under-Secretary outlined is incorrect. Is he right?

4.45 pm

**Mr. Leslie:** I do not believe that the Government should agree with the right hon. Gentleman's position—[*Interruption.*] Let me explain why. The clause provides for a mechanism for the House to begin the process of moving an address to Her Majesty for removing members of the senior judiciary and for a specific arrangement for Northern Ireland, and I believe that it is a corollary of the settlement that followed the Belfast agreement and the Justice (Northern Ireland) Act 2002. If the Committee determined that it did not like the arrangement, hon. Members could not only vote against it today, but pass an Act to amend it in exceptional circumstances.

It would be for Parliament to overturn the arrangement and, in a pre-devolution environment, make the necessary arrangements for all hon. Members to express their views through a majority opinion. After all, Governments do not always win the day on Divisions. I can think of occasions when Governments have been defeated. If a majority of hon. Members believed that the issue was so important that we needed to overturn the arrangement, they could have their day and express their view.

**Mr. Garnier:** I am sure that the Under-Secretary believes every word that he says, but the problem is that he did not serve, as I did, on the Standing Committee that considered the 2002 Act. I am sure that he has a note telling him about the matter but, as far as I can recall, those issues were not canvassed at length. Like the Bill that we are considering, that measure was severely guillotined and therefore many important subjects were not discussed. The Under-Secretary has yet to provide us with a reason. He said, "I believe"—that is not a reason but an assertion of the state of his mind. I need to know the reason.

**Mr. Leslie:** I shall be more explicit for the hon. and learned Gentleman. The Belfast agreement, which led to the criminal justice review report, suggested that specific arrangements should be included in the 2002 Act. They are in that Act but have not yet been implemented. That is why we are making those specific points now.

**Mr. Trimble:** It is important to clarify the matter. The Belfast agreement of 1998 does not refer to the devolution of policing and justice. It set up a justice review, which was not a matter of negotiation or settlement. Neither my party nor any other party agreed to it. It involved a group of academics and officials. The Government unilaterally decided to adopt the report—there may have been pressure from some parties, but not mine, to agree to it—and the provisions for removal were to come into operation on devolution, which has not happened and will not happen. Why, therefore, introduce before the devolution of policing and justice a provision that relates to post-devolution, when the Government know that devolution is controversial in Northern Ireland? I hope that the Under-Secretary will stop trying to pass off the clause as part of the agreement; it is not.

**Mr. Leslie:** I have a different understanding from that of the right hon. Gentleman about the contents of the criminal justice review, its recommendations and the way in which they should be implemented in Northern Ireland. I act on the advice that I receive on those matters.

**Mr. Grieve:** I thank the Under-Secretary for giving way, which will give him an opportunity to read the next note that has landed on his lap.

The 2002 Act did not envisage the position that clause 105 sets out, but that of an operating devolved Administration. As the Under-Secretary knows, the chances of a devolved Administration, especially after recent announcements by the Prime Minister and others, are low for the foreseeable future. Surely that in itself is a reason why a measure that might have been justified as an extremely short-term arrangement, lasting a few months pending the devolved structures coming into operation, cannot possibly be justified in terms of removing a fundamentally important right of this House and the other place, when there is no foreseeable date for the new system to come into operation. I hope that, even at the eleventh hour, the Minister will think again and give an assurance to the Committee that he will table an appropriate amendment to restore our right, and that of the other place, to move a motion to remove a judge if we think it right to do so.

**Mr. Leslie:** The Bill has yet to pass through its other stages and we shall have an opportunity to look at this matter again on Report. However, under advice, I am of the opinion that the arrangements that we are proposing reflect the criminal justice review report. If, on studying these matters further, I reach a different opinion, there will certainly be opportunities to return to them at a later date. We do not yet have a date for the Report stage, but there will be opportunities to look at the issue at that point.

**Mr. Cash** *rose—*

**Mr. Leslie:** I think that that is all I can say for now, but I suppose I should give way to the hon. Member for Stone (Mr. Cash).

**Mr. Cash:** One last intervention, if I may.

There are several gates involved here, as the Minister will appreciate. First, there is the question of whether an address may be presented by any Member of this House. On the question of the Prime Minister's involvement, I know that we are going to discuss the tribunal later, but it is directly related to this issue. When the Minister looks at the manner in which the tribunal will function, and of whom it will be composed, he will realise that when the Lord Chancellor comes to exercise his powers under subsection (5) he will have to do so after the tribunal—which will be constituted as set out in clause 107—has performed its functions. The more gates there are, the more difficult—

**The First Deputy Chairman:** Order. I think that the hon. Gentleman has made his point.

**Mr. Leslie:** I remain to be convinced of these arguments, but I will look at them again. I might, however, come back to the House on Report to say that we should stand by the way in which we have drafted this arrangement. I understand that it relates to the pre-devolution settlement and not necessarily to the post-devolution arrangement, as the right hon. Member for Upper Bann (Mr. Trimble) has said. This might be a matter on which I should review the texts involved. He is more familiar with them than I am, but this is the advice that I have received. I know that this is part of the 2002 Act and that it features in part in the criminal justice review, so I shall look at those particular matters again—but, for the time being, I feel that it is of value for clause 105 to stand part of the Bill. It makes provision for far more important issues than simply this narrow point about Members of Parliament and the ability of the tribunal to sit. I hope that clause 105 can stand part of the Bill.

*Question put*, That the clause, as amended, stand part of the Bill:—

*The Committee divided:* Ayes 277, Noes 162.

**Division No. 62]** **[4.53 pm**

**AYES**

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Battle, rh John
Begg, Miss Anne
Bell, Sir Stuart
Bennett, Andrew
Betts, Clive
Blears, Ms Hazel
Borrow, David
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Challen, Colin
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morris, rh Estelle
Mountford, Kali
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
O'Hara, Edward
O'Neill, Martin
Osborne, Sandra *(Ayr)*

Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Ward, Claire
Wareing, Robert N.
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Ayes:**
**Mr. Tom Watson and Vernon Coaker**

**NOES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chidgey, David
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Laws, David *(Yeovil)*
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Llwyd, Elfyn
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mates, rh Michael
May, rh Mrs Theresa
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Shepherd, Richard
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Wilshire, David
Yeo, Tim *(S Suffolk)*

**Tellers for the Noes:**
**Andrew Selous and Mr. Geoffrey Clifton-Brown**

*Question accordingly agreed to.*

*Clause 105, as amended, ordered to stand part of the Bill.*

## Clause 106

### REMOVAL FROM LISTED JUDICIAL OFFICES

**Mr. Grieve:** I beg to move amendment No. 351, in page 47, line 7, leave out 'except after consultation with' and insert 'without the agreement of'.

Clause 106 deals with the mechanism of removal from listed judicial offices in Northern Ireland. Under subsection (1):

"A person holding a listed judicial office other than as a judge of the High Court may be removed from office (and suspended from office pending a decision whether to remove him) but only in accordance with this section."

Under subsection (2):

"The power to remove or suspend him is exercisable by the Lord Chancellor",

and I have no problem with that. Under subsection (3):

"He may only be removed if a tribunal convened under section 107 has reported to the Lord Chancellor recommending that he be removed on the ground of misbehaviour or inability to perform the functions of the office."

The problem arises there. It is quite clear that the Bill provides that he can be removed or suspended only

"after consultation with the Lord Chief Justice".

I have to tell the Minister that I do not consider that to be an adequate safeguard.

Provision is made for the tribunal to make a preliminary finding and pass on the recommendation, but given that the system in England and Wales is based on an attempt to separate the mechanisms of discipline from political interference, I would have expected that the removal by the Lord Chancellor could take place only with the agreement of the Lord Chief Justice of Northern Ireland. Will the Minister explain why it was not thought right to include that point in part 5?

It is also worth considering what, in reality, the tribunal amounts to. I apologise for possibly straying into clause 107, but it is necessary to do so. As I understand the constitution of the tribunal, it would be possible for the Minister to appoint a majority of its members. Although clause 107 provides for certain individuals to serve on such a tribunal, it does not provide a ceiling limit on the numbers who do so serve. In those circumstances, there is all the more reason for the Lord Chief Justice of Northern Ireland to be involved in the decision-making process. If he believes that a judge should not be removed, I would find it inconceivable for the Lord Chancellor to go ahead nevertheless. In that case, the proper safeguard should surely be that they are both in agreement on the matter.

If it were suggested that acceptance of the amendment could lead to a conflict between the Lord Chief Justice and the Lord Chancellor, I would regard that—providing the system were working properly—as extremely far-fetched. If that did happen, we would effectively have a constitutional crisis, and in those circumstances it would be right for Parliament to know how and why the Lord Chief Justice and the Lord Chancellor had such diametrically opposite views on the subject.

I do not want speak to this amendment at great length, but I do not want the Committee to think that that suggests that I do not consider it to be very important. I do: it is of fundamental importance, and I shall divide the Committee if the Minister does not give me suitable reassurance that the matter will be considered again. I simply do not understand why the tribunal should go the Lord Chancellor, and why the Lord Chief Justice should have only a consultative role. I believe that the Lord Chancellor and the Lord Chief Justice should act together in this matter.

**Ross Cranston:** I did not rise to the bait in respect of clause 107, but I do want to contribute to this debate. As the hon. Member for Stone (Mr. Cash) said, these are deep waters, but I hope that their very depth will protect me to some extent.

I want to make three points, but first I should declare an interest. I am a member of the Bar of Northern Ireland and also hold the rank of Queen's Counsel there. I have never practised in Northern Ireland and the rank that I hold is not an indication of my merit, as it followed automatically when I became Solicitor-General in 1998.

When I visited Northern Ireland as Solicitor-General, I was struck by the quality of the judiciary there. For judges, the situation was very difficult and they were under close protection all the time. The fact that the Bench was drawn from the whole community in Northern Ireland impressed me, as did the way in which the judiciary handled emergency cases. Although there was no jury in those cases, judges were both conscientious and careful.

My first point is that clause 106, and the equivalent provisions in the Justice (Northern Ireland) Act 2002, as amended, will never be invoked in practice. Only in very exceptional cases will a member of the lower judiciary in Northern Ireland be found guilty of the misbehaviour that will cause these provisions to be applied.

My second point has to do with the substantive provisions in the clause, and it is that very high barriers are in place in respect of the removal of a judge. A tribunal has to be convened and, although I do not want to stray too far into the territory covered by clause 107, the composition of that tribunal is set out in clause 107(5). That subsection provides that the exclusive membership of the tribunal must "consist of" the Lord Chief Justice or a Lord Justice of Appeal in Northern Ireland, a judge of Northern Ireland High Court, and a lay person. I think that the hon. Member for Beaconsfield (Mr. Grieve), in his earlier remarks, may have made an error in that regard.

The tribunal is therefore extremely powerful, and the first hurdle that must be negotiated is that there must be a tribunal decision.

**Mr. Grieve:** If the hon. and learned Gentleman is correct in his reading of clause 107, I am reassured. However, he used the word "exclusively", whereas I saw in the Bill only the word "consist". That is why I suggested that the tribunal had to consist of those members specified, but that it could also consist of other members.

**Mr. Leslie** *indicated dissent.*

**Mr. Grieve:** The Minister shakes his head to indicate that I am mistaken. The anxiety that I felt when I read that part of the clause is therefore allayed.

**Ross Cranston:** The hon. Member for Beaconsfield has done the Committee a service and the provision can now be read in terms of Pepper *v.* Hart—that the Bill sets out the exclusive membership of the tribunal.

The first thing that must happen is that the tribunal must be constituted. It must then conclude that there has been misbehaviour on the part of a judge, or that that

*[Ross Cranston]*

judge is unable to perform the expected functions. Therefore, the tribunal would act in a quasi-judicial way, making that decision on the basis of facts. It would be a reasoned decision.

The third hurdle is that there must be consultation and the amendment refers to that. I am not aware of the detailed jurisprudence in Northern Ireland about what that means, but in England and other common law jurisdictions consultation means consultation. It does not mean asking and getting a reply. It means serious consultation. There are three serious hurdles in the clause.

**Mr. Cash:** The hon. and learned Gentleman will know that consultation, although it must be serious, means no more than that someone must listen to what is said. It does not mean that someone must do something as a result of it. Serious consultation means that someone must listen, but it goes no further than that.

**Ross Cranston:** No, it means that someone must listen seriously. I accept that it does not mean that someone must do as they are told; but it means that someone must listen to what their consultees have told them.

I disagree with my hon. Friend the Member for Cannock Chase (Tony Wright), one of my neighbours in the west midlands, who spoke about the logic that would lead to people who sit as recorders—as I do and as at least one Opposition Member does—being excluded from the House. On the subject of logic, if one starts from the wrong premise and follows it logically, one may end up in hell. In this country, our constitutional arrangements do not work logically; they work pragmatically and we proceed incrementally. Sometimes that means that the arrangements may be muddled or inconsistent, as in this case, between jurisdictions, but that is the nature of our constitution. I can see that, logically, the amendment might have a certain attraction, but as a matter of pragmatic incrementalism, which is what our constitution is based on, it is not appealing.

**Mr. Tyler:** In contrast with the hon. and learned Gentleman, I was brought up to believe that the road to hell is paved with good intentions. I suspect that that might have happened with these proposals.

This is an important amendment, and I and my colleagues share the view of the hon. Member for Beaconsfield (Mr. Grieve) that we need some assurance on the matter. It may seem narrow geographically and in terms of the total range of the Bill, but it is symbolically important. Consultation and agreement are the last-stop position in a decision-making process. Reference has already been made to the various hurdles. It is important to have a proper balance for what is clearly a safety valve to be used—as the hon. and learned Member for Dudley, North (Ross Cranston) said—in exceptional circumstances. If the House legislated only on circumstances that are not exceptional, we would lighten our legislative load considerably. The provision may cover exceptional circumstances, but it sends out an important signal. If there is to be a veto at the end of the process, we should consider carefully whether it should best be put in the hands of the appropriate Lord Chief Justice rather than a Minister of the Crown.

I pray in aid my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith), the Chairman of the Constitutional Affairs Committee, and I am delighted that he is in his place. The Committee said:

"any new system of discipline will need to be firmly within the control of the judiciary in individual cases, and we believe that the Lord Chief Justice should be the person primarily responsible for it. The relevant provisions of the Bill will need to be very carefully examined."

That should apply to the whole United Kingdom and should include Northern Ireland, as well as other parts. I hope that the hon. and learned Gentleman is about to persuade me otherwise, but I suspect not.

**Ross Cranston:** I simply point out that the Lord Chief Justice is one of four members of the tribunal and, obviously, a persuasive voice in the proceedings of that tribunal.

**Mr. Tyler:** I am delighted to hear that. I, too, am very persuasive, but I suspect that in a few moments that will not necessarily result in the conclusion of the debate going in my favour. Persuasion is not enough—*[Interruption.]* The Minister thinks that I may be persuaded. I am delighted about that.

The measure gives a rather important signal: who is to have the last word? That is significant in all parts of the United Kingdom. The relationship of the Executive to the judiciary is at the heart of the legislation and, as the Minister knows, we have great sympathy with the bulk of the Bill, but it is more than a symbol. There is significance in this point and we would err on the side of judicial independence.

Earlier, the hon. Member for Stone (Mr. Cash) was lecturing us about the glorious revolution of 1688. I, too, studied that period, and although I was never a lawyer and aspire to no legal expertise, I believe that that change, from the king's pleasure to the way in which we now operate in this kingdom, is extremely important, because if we were directly to translate the king's pleasure of the pre-1688 disposition to the present day it would be the Executive's pleasure—the Government's pleasure—that would be the deciding factor as to whether somebody remained in post. That is not a satisfactory position.

I hope that the Minister will be able to give us the reassurances that have already been sought on the issue. It is more than symbolic, and it is extremely significant that we should get it right.

**Mr. Trimble:** I listened with great interest to the contribution of the hon. and learned Member for Dudley, North (Ross Cranston), although I am not sure that his intervention during the last speech was entirely accurate. He may want to look at that provision again. What particularly interested me in his original contribution was his comment that we worked pragmatically rather than simply following logic wherever it might lead. That struck me as a reworking of the famous dictum of Oliver Wendell Holmes, and I endorse it entirely. It is of course part of the reason why I do not like the whole Bill. The whole Bill stems from a rather jejune attitude to the separation of powers, rather than respecting the way in which our traditions have actually evolved, but that is a broader matter.

I agree entirely with the comments of the hon. Member for Beaconsfield (Mr. Grieve) and would like to add to them that examining the legislative history of the provision that is now clause 106 (5) would be worth while. One turns to the Justice (Northern Ireland) Act 2002, where the equivalent provision is section 7(5), which, as enacted, reads that a person holding a listed judicial office

"may not be removed or suspended without the agreement of the Lord Chief Justice".

The Act was clear that it had to be the agreement of the Lord Chief Justice, rather than consultation. The lowering of the procedural hurdle occurred in the Justice (Northern Ireland) Act 2004, on whose Bill Committee I had, unfortunately, to sit—but that is another matter. The phrase "without the agreement of" was deleted from clause 5 and the phrase "except after consultation with" was inserted.

We disapproved heartily of the 2004 Act. We did not consider that the change was made on its merits; it was made simply because it was one of a number of items on the Social Democratic and Labour party shopping list. The SDLP wanted to prove that it was more effective than Sinn Fein and that it could bully the Government into making changes in the law to suit the SDLP rather than the changes the Government considered appropriate or advisable. For their own reasons, the Government decided to give way to that pressure and amended that Bill.

As I said previously, the 2002 Act is not in force and will not be in force even if devolution is resumed in Northern Ireland. The Act will come into force only after resumption and a subsequent decision by the Northern Ireland Assembly on a cross-community vote to agree to the devolution of justice and policing matters, which as I said to the Minister, is not going to happen. It will not happen because my party will not agree to it, and I believe that the Democratic Unionist party would adopt the same position. It will require considerable changes that do not seem likely to happen before we would agree to the devolution of policing and justice matters.

This is not a temporary arrangement that will operate in six months or a year, when policing and justice matters are devolved. This is something for some way in the future, so why it has been brought into the present? It is not a matter of any agreement between the parties—there never was any agreement between them before the 2004 Act or the 2002 Act—and it is not in any way part of any settlement. Crucially, when the Government first looked at the issue, they decided—their decision is embodied in the 2002 Act—that these procedures should operate only with the agreement of the Lord Chief Justice, which is more than just consultation.

On this matter, the Government's first thoughts, which were their own thoughts, were better than what they decided to do as part of a squalid political deal with the SDLP at a later date. For that reason, I urge the Government to accept the amendment moved by the hon. Member for Beaconsfield. At the very least, they should go back and take a good, hard look at the issue and explain to us why they have introduced these provisions, which will not go live in Northern Ireland—at least the rest of the 2002 Act provisions will not go live—and the Minister will need to assure us that there is a reason for introducing them and that no untoward political influence of the sort that resulted in the 2004 Act is behind them.

**Mr. Garnier:** The right hon. Member for Upper Bann (Mr. Trimble) has, not for the first time, alighted on some serious points and, by explaining the history of the Northern Ireland legislation, exposed the Government's paucity of thinking when they came to construct clause 106, and the amendment is a further means by which we can expose the inadequate thinking that lies behind the Bill.

The hon. and learned Member for Dudley, North (Ross Cranston) sought to persuade us that the way in which the Bill was drafted and constructed had a pragmatic basis, but we know very well that the entire volume is an ex post facto justification for the Prime Minister's decision to remove Lord Irvine. We have had all those arguments, but the Bill is the result of two years' thinking about how to undo or make politically and constitutionally acceptable that act of political assassination. We are having to wade through the consequences of that in Committee, and it is a pity, first, that we do not have enough time to do so properly, and secondly, that the Minister, at least judging by our previous discussion, is not entirely briefed on the subject.

**Mr. Leslie:** Perhaps the hon. and learned Gentleman could help the Committee by getting to the point.

**Mr. Garnier:** I think that these late nights are getting to the young man, but I shall continue.

The amendment is perfectly sensible. Surely, if the Government are as keen as they tell us they are to ensure the separation between the Executive, Parliament and the judiciary, it must be perfectly proper for the Lord Chief Justice to be required to agree with any disciplinary activities that the Bill intends. If the separation of powers is to be a properly respected concept, the senior judge in Northern Ireland must agree to the removal or suspension of a judge in Northern Ireland. After all, that is only the reverse of the picture that the Government wish to paint in this jurisdiction. Clause 94(2)—we will consider the clause in greater detail in due course—says that the Lord Chief Justice of England and Wales

"may exercise any of the following powers but only with the agreement of the Minister".

If there is to be agreement one way, why should there not be agreement the other way in the other jurisdiction?

That is a minor matter compared with the question of removal. The Lord Chief Justice must get the agreement of the Minister—the Lord Chancellor, as we now know he will be called—if he wants to give advice, a warning or a formal reprimand to a judge in this jurisdiction. However, the Lord Chief Justice of Northern Ireland cannot do any of those things because only the Lord Chancellor can do that, after merely consulting the Lord Chief Justice of Northern Ireland.

5.30 pm

Clause 94(5) states that the Lord Chief Justice may suspend an English judge for any period if

"the person has been convicted of a criminal offence, . . . it has been determined under prescribed procedures that the person should not be removed from office, and . . . it appears to the Lord Chief Justice with the agreement of the Minister that the suspension is necessary for maintaining confidence in the judiciary."

What is good for one jurisdiction should be good for the other.

I was not impressed by the attractively put argument of the hon. and learned Member for Dudley, North that this is a funny old world and we have a funny old constitution, so we tinker about with it in a funny old way. The Government are knocking the constitution to bits on the back of an envelope. When we get to a Bill, we should at least do things properly.

**Mr. Cash:** My hon. and learned Friend referred to several anomalies, and I am rather pleased about the extremely small alliance of Opposition Members that has built up. These matters are important and have been cobbled together in the Bill. They are not being treated as seriously as they should on behalf of the people of this country, and especially those in Northern Ireland, who will suffer their consequences in due course.

The hon. and learned Member for Dudley, North (Ross Cranston) is a fairly near neighbour of mine. He said that we should not get too worried about most of this stuff because the measures are unlikely to be used in practice. He then said that they would be used in exceptional cases, at which point one might have reasonably drawn a sharp intake of breath. We would assume that the measures would deal with only exceptional cases, but part 5 of the Bill and the accumulated legislation that lies behind it are devoted to doing just that. It is exceptional for such things to go wrong, but it is important to handle exceptional cases correctly, so I am glad that the amendment is giving us the opportunity to examine the provision.

Clause 106(5) states that a judge may not be removed or suspended

"except after consultation with the Lord Chief Justice."

We would like the words "without the agreement of" substituted for the phrase "except after consultation with". However, I ask, "Without the agreement of the Lord Chief Justice about what?" Subsection (3) gives us a clue. I am grateful to the right hon. Member for Upper Bann (Mr. Trimble) for having schedule 1 to the Justice (Northern Ireland) Act 2002—the relevant legislation—immediately available, because I did not have it to hand. It is headed "listed judicial offices" and details all those who fall into the category. I hazard a guess that few hon. Members have had the opportunity to examine it today. The list starts with a judge of the High Court and continues down through county court judges to a range of other persons, many of whom hold an office that might be described as fairly low but is not low at all, because it is of immediate and great importance to the average person in Northern Ireland: such offices include the chairmen of a range of tribunals. The list is extremely long and therefore permeates the whole of Northern Ireland society. When I read that the tribunal will recommend in its report that a person

"be removed on the ground of misbehaviour or inability to perform the functions of the office",

I feel bound to draw attention to one or two points about the grounds for removal and what sort of recommendations will be made.

Under new section 12B(1) of the Judicature (Northern Ireland) Act 1978, the Lord Chief Justice and Lord Justices of Appeal hold office "during good behaviour". Although I do not think that we need to be pedantic, it is interesting to note that, under clause 106(3)(b), the recommendation that will lead to removal from office is based

"on the ground of misbehaviour".

Immediately, therefore, we see a distinction: good behaviour is set forth as the rule, but at the point of removal, the question has become whether there is misbehaviour.

Perhaps there is a simple explanation. We can be confident that the draftsman knows what he is doing and that, as my hon. and learned Friend the Member for Harborough (Mr. Garnier) pointed out, the Government do nothing without a good reason, so it would be incredibly stupid of us to imagine that they do not have a good reason based on an assessment of the precise meaning of the wording. I go further and say that parliamentary counsel can certainly tell the difference between "good behaviour" on the one hand, and "misbehaviour" on the other.

**Mr. John Taylor** (Solihull) (Con): I am following my hon. Friend's argument as carefully as I can. Is he suggesting that there is a twilight zone of behaviour that falls short of good behaviour, but has not yet become as debased as misbehaviour? If so, what would he call it?

**Mr. Cash:** That is an important point. Perhaps he was fortunate, but my hon. Friend did not hear the debate on the previous clause, when I raised the question of what misconduct involves. Those are questions that will be decided by the tribunal. There is indeed a twilight zone, and it may well emerge in the exceptional circumstances to which the hon. and learned Member for Dudley, North referred. That will be the only basis on which such matters are decided. The more unique the circumstances, the more important it is that we get the provisions right. I am puzzled by the discrepancy between the expressions used—"good behaviour" and "misbehaviour"—and I would like an explanation.

Hon. Members might recall that in the previous debate I referred to Scotland, where there is a different historic tenure to that which applies in the rest of the United Kingdom, including Northern Ireland. In Scotland, the historic tenure is ad vitam aut culpam—judges cannot be removed except on the grounds of misconduct. However, inferior judges in the list of judicial offices in the United Kingdom, including Northern Ireland, receive lesser protection. The legal position is that circuit and district judges can be removed from office by the Lord Chancellor, if he thinks fit, for incapacity or misbehaviour. I am certain that parliamentary counsel and the Minister will realise that that is another deliberate change to the existing arrangements, and I should like to know why.

With respect to the question of tribunals in Scotland, the removal of judges, if the First Minister is involved under devolution arrangements which, as I have already said—

**The Chairman of Ways and Means (Sir Alan Haselhurst):** Order. I am sure that the Committee is always pleased to hear from the hon. Gentleman. I am not sure, however, that he should speak in quite such a dilated manner about the amendment, which is very particular. A certain amount of comparative evidence may be raised, but I suspect that we have reached the boundaries, as this is a narrow amendment relative to the persons mentioned in the Bill.

**Mr. Cash:** I entirely understand that point, Sir Alan. The framework of the clause, however, allows an interaction with the questions of criteria. According to a legal text, a judge from the Court of Session could be investigated if he were unfit for office

"by reason of inability, neglect of duty or misbehaviour."

In relation to the question of what he is being removed or suspended for under clause 106(3)—

**The Chairman:** Order. That is not the question. The question is about the role of the Lord Chief Justice in this matter, not the reason why a decision, agreement or consultation may be called for.

**Mr. Cash:** I understand your point, Sir Alan.

**The Chairman:** I hope that the hon. Gentleman will do more than understand it. I hope that he will follow it.

**Mr. Cash:** I will indeed, Sir Alan. If the amendment were accepted, a judge could not be removed or suspended without with the agreement of the Lord Chief Justice. In its existing form, clause 106(5) says that he cannot

"be removed or suspended except after consultation with the Lord Chief Justice."

It would defy my understanding of the rules of debate if I were not allowed to argue that the question of removal or suspension should include reference to clause 106(3). In conclusion, the words "neglect of duty" have been omitted from that subsection, although the draftsman included the words

"misbehaviour or inability to perform the functions".

That mirrors precisely the Scottish provision. The omission of "neglect of duty" must therefore be deliberate, and I should be grateful if the Minister would explain why.

5.45 pm

**Mr. Leslie:** Clause 106 provides the Lord Chancellor with the power to remove from office a member of the judiciary in Northern Ireland below High Court judge level in the period prior to devolution of justice to the Northern Ireland Assembly. Removal is possible only for reasons of misbehaviour or inability, and can take place only on the basis of a recommendation from a tribunal convened under clause 107 and following consultation with the Lord Chief Justice of Northern Ireland. The clause takes into account the arrangements under the Justice (Northern Ireland) Act 2002, as amended by the Justice (Northern Ireland) Act 2004, for the removal of a member of the judiciary after devolution of justice functions. Under the 2002 Act as amended in 2004, the Lord Chief Justice is not required to consent to removal.

The provisions in Northern Ireland in relation to the post-devolution removal of a member of the judiciary reflect the recommendations of the Northern Ireland criminal justice review report. That report, which arose out of the Belfast agreement, was tailored to Northern Ireland's circumstances and was subject to wide consultation and acceptance by the Government. The report did not recommend that the Lord Chief Justice must consent to the removal of a judge. That means that Northern Ireland will be different from England and Wales. That is what devolution is about. It does not mean, though, that we are less committed to the central principles of independence, fairness and transparency. There can be different ways to achieve different aims.

Amendment No. 351 is not necessary. Each UK jurisdiction will find its own way towards independence, fairness and transparency for its judiciary, in the most appropriate way and in accordance with the needs and circumstances of its own jurisdiction. The process that I outlined happens to be the right way forward for Northern Ireland.

**Mr. Trimble:** I repeat to the Minister the point that I made on the earlier set of amendments. It is not sufficient simply to pray in aid the 2002 Act. The Act is not in operation, and we are dealing here with legislation that will operate only until the 2002 Act comes into force, whereupon the provisions of the Bill will fall. Why, when the 2002 Act does not apply, has a policy decision been made to bring forward into the current regime provisions which, under the law as I understand it, will come into operation only at some dim and distant point in the future when the 2002 Act comes into operation, if it ever does?

**Mr. Leslie:** The reason we are introducing the proposals at this stage is that we are discussing the reform of the office of Lord Chancellor. The proposals are needed in order to bolster judicial independence in all jurisdictions in which the office of Lord Chancellor changes. We know that if the arrangements were not changed, as at present, the Lord Chancellor could act unilaterally for lesser judges, and for High Court judges or above with an address to Parliament. There would be no tribunal requirement. This is our way of ensuring that we are bolstering the independence of the judiciary in the jurisdiction of Northern Ireland, making it consistent with the 2002 Act, as amended in 2004.

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Does the Minister agree that the decision to remove under clause 106 would be justiciable, in the sense that it would be subject to judicial review if it was made in an arbitrary or unreasonable way? Can he think of any circumstances in which it would not be arbitrary or unreasonable if, having been consulted, the Lord Chief

*[Mr. Oliver Heald]*

Justice said, "No, this shouldn't happen", and in the teeth of that opposition, the Lord Chancellor went ahead and did it?

**Mr. Leslie:** All these matters are justiciable and could be subject to requirements for reasonableness, but I will not discuss hypothetical situations and what is or is not reasonable. That will be for the courts to test, and there is plenty of case law, the Wednesbury principles and so on, to which we can return. The provisions in the clause, which the amendment would change, are the right way for Northern Ireland to give extra protection to bolster judicial independence. I shall explain why I believe that.

The removals tribunal that we will set up in Northern Ireland, which is not being replicated in England and Wales, is different and adds extra layers of protection for judicial independence—for instance, the fact that the judicial members of the removals tribunal are appointed by the Lord Chief Justice of Northern Ireland, who is capable of appointing himself to that tribunal. The tribunal could be chaired by the Lord Chief Justice of Northern Ireland, if so desired, and he would be involved throughout the tribunal process. That is not the arrangement for England and Wales.

We have consultation instead of concurrence with the Lord Chief Justice, as we would have in England and Wales. We do not need that in Northern Ireland because the Lord Chief Justice of Northern Ireland would have had his bite of the cherry earlier through the removals tribunal process, which is stronger than we have arranged for England and Wales. They are different jurisdictions, they follow different paths, and that is the nature of the split in jurisdictions between those points, and of devolution.

**Mr. Trimble:** The Minister has said that part of the justification is that the Lord Chief Justice had a bite at the issue at an earlier stage. That is true of a tribunal under clause 107(5),

"to consider the removal of the holder of any other protected judicial office",

where tribunals consist of

"a person who holds, or has held, the office of Lord Chief Justice or Lord Justice of Appeal",

which gives the Lord Chief Justice a chance of being there, not a certainty. Under clause 107(4), however, a tribunal

"to consider the removal of the Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court is to consist of . . . a person who holds high judicial office . . . and does not hold (and has never held) the office of Lord Chief Justice, Lord Justice of Appeal or judge of the High Court".

Therefore, the Lord Chief Justice possibly comes in under subsection (5), but certainly does not do so under subsection (4).

**Mr. Leslie:** The provisions mirror arrangements that were debated at length in relation to the 2004 Act and, before that, the 2002 Act. We are introducing them at this stage because they give that extra measure of protection to bolster independence of the judiciary. Were we not to do that at this stage, and were we to change the office of Lord Chancellor, we would not have the programme for removals in place to give that protection to judicial independence.

**Mr. Cash:** There is another question of protection—the protection of people in Northern Ireland in this context or elsewhere. We are dealing with the question of whether there has been some misfeasance—I use that word because of the confusion that has been created by the wording that the Minister has chosen. Why are the words "neglect of duty" not also included in subsection (3)? Can he clarify what is the difference between good behaviour and misbehaviour? If he cannot do that now, will he please be good enough to write to me?

**Mr. Leslie:** Those parts of the clause mirror provisions in other Justice Acts: in this case, the Justice (Northern Ireland) Act 2002, as amended by the Justice (Northern Ireland) Act 2004. I hear the hon. Gentleman's point and your strictures, Sir Alan, not to widen the debate too far from the amendment. On the difference between good behaviour and misbehaviour, however, I am not sure that there is the hidden middle ground between those points that he seems to suggest. The current law is that judges hold office during good behaviour, and if they are guilty of misbehaviour, they can be removed. That reflects that misbehaviour is of course the opposite of good behaviour. It is as straightforward as that.

I hope that I have explained to the Committee why we feel that it is right to bolster judicial independence in Northern Ireland in this particular way, with the removals tribunal and the involvement of the Lord Chief Justice of Northern Ireland. Yes, it is different from the arrangements in England and Wales, but that is for good, historic reasons. It suits the situation amply and provides an extra level of protection, enhancing the protection of judicial independence.

**Mr. Heald:** On the good behaviour point, subsection (3) refers not just to "misbehaviour" but to

"inability to perform the functions of the office."

Does not the absence of good behaviour include incapability as well as misbehaviour?

**Mr. Leslie:** I do not want to get into the definition of misbehaviour, further to my previous comments. We might be able to correspond about the matter, and I know that the hon. Gentleman enjoys correspondence. I will probably engage in a long series of written representations with him on that point.

I hope that I have explained why we do not feel that amendment No. 351 is legitimate at this point, and we hope that in due course the Committee will support clauses 106 and 107.

**Mr. Grieve:** I very much regret the approach that the Minister has taken on this. Faced with a major piece of constitutional legislation that provides for reform of the role of the Lord Chancellor, the Minister and the Government have been obliged to place in one statute, in stark juxtaposition, different structures for different parts of the United Kingdom. The Minister is forced to stand up and say rather limply to the Committee, "We have got to preserve this, because it is what has been

deemed appropriate for the people of Northern Ireland in past legislation that we have enacted." However, the problem that he shies away from tackling is that all that past legislation was introduced with the intention that it would operate under a devolved structure that will now not happen for the foreseeable future. For this House then to abdicate its responsibility and leave the people of Northern Ireland with a vastly inferior system of scrutinising the activities of the judiciary through Parliament is extremely unhelpful and wrong.

**Mr. Garnier:** My hon. Friend is being too generous. Before the right hon. Member for Upper Bann made his first intervention on the Minister, the Minister said that this happens to be the best system for Northern Ireland, as though it had emerged out of the ether. Nothing in the Bill is there except by design, so either the Government have thought about it and got it wrong, or they have not thought about it and stuck it in regardless.

**Mr. Grieve:** My hon. and learned Friend is right. I infer, I think correctly, that the Government's desire to draft the Bill in this way has nothing to do with an objective analysis of whether this is the best system to impose on the people of Northern Ireland, or with protecting their interests. They did it because they fettered themselves, as they see it, in the past by setting up structures that may or may not be appropriate for a devolved structure of government, but certainly are not for as long as power is retained at Westminster. Then they say to the House, "You can't tinker with it."

I completely disagree with the Minister about this. It would be much better if any removal or suspension had to take place with the agreement of the Lord Chief Justice. Furthermore, it is wrong that this House should be deprived of the opportunity to table a motion for the removal of a judge from office. On that basis, we are being completely consistent. For those reasons, Sir Alan, I wish to press the amendment to a vote.

*Question put,* That the amendment be made:—

*The Committee divided:* Ayes 168, Noes 276.

**Division No. 63]** **[5.57 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beith, rh A. J
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Campbell, Gregory *(E Lond'y)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M
Dorrell, rh Stephen
Doughty, Sue
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Laws, David *(Yeovil)*
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Llwyd, Elfyn
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mates, rh Michael
May, rh Mrs Theresa
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Sanders, Adrian
Sayeed, Jonathan
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Wilshire, David
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Andrew Selous and**
**Mr. Geoffrey Clifton-Brown**

**NOES**

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'tr'y NE)*
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Battle, rh John
Bell, Sir Stuart
Benn, rh Hilary

Bennett, Andrew
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Blunkett, rh David
Borrow, David
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Challen, Colin
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dhanda, Parmjit
Dismore, Andrew
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hood, Jimmy *(Clydesdale)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Mountford, Kali
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Hara, Edward
Osborne, Sandra *(Ayr)*
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Ward, Claire
Wareing, Robert N.
Watson, Tom
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Noes:**
**Ms Bridget Prentice and Jim Fitzpatrick**

*Question accordingly negatived.*

*Clauses 106 to 108 ordered to stand part of the Bill.*

## Clause 94

### DISCIPLINARY POWERS

*Amendments made:* No. 21, in page 40, line 38, leave out 'Minister' and insert 'Lord Chancellor'.

No. 22, in page 40, line 39, leave out 'Minister' and nsert 'Lord Chancellor'.

No. 23, in page 41, line 2, leave out 'Minister' and nsert 'Lord Chancellor'.—*[Mr. Leslie.]*

**Mr. Leslie:** I beg to move amendment No. 11, page 41, ne 4, leave out subsection (3) and insert—

'(3) The Lord Chief Justice may give a judicial office holder ormal advice, or a formal warning or reprimand, for disciplinary urposes (but this section does not restrict what he may do nformally or for other purposes or where any advice or warning not addressed to a particular office holder).'.

**The Chairman of Ways and Means:** With this it will e convenient to consider Government amendments Nos. 12 to 15.

**Mr. Leslie:** These are mainly drafting amendments, ut the provisions that they amend are important.

Clause 94 puts the judicial disciplinary system for ngland and Wales on a statutory basis for the first me. The judicial disciplinary system will involve the ord Chancellor and the Lord Chief Justice working ogether. The Lord Chancellor will have the power to emove judicial office-holders below the level of the igh Court, with the agreement of the Lord Chief ustice. The Lord Chief Justice will have power to give ormal advice, warnings or reprimands to judicial office-olders as a result of the disciplinary process, with the greement of the Lord Chancellor.

The provisions faithfully reflect the concordat agreed ith the judiciary. They build on the judicial isciplinary system that already exists, but involve the ord Chief Justice more fully in decisions to reflect he fact that he will henceforth be the head of the udiciary in England and Wales. The Lord Chancellor's ontinuing role in disciplinary matters reflects the need or a Minister to be accountable to Parliament, and a epresentative of the public interest. The more detailed ramework of the disciplinary process will be contained regulations made by the Lord Chief Justice, with the greement of the Lord Chancellor, under clause 96. he regulations will be subject to the negative procedure Parliament.

The Lord Chief Justice also has power, under clause 8, to make subordinate rules, with the agreement of the ord Chancellor, which must be published but are not ubject to parliamentary approval. That is because we nvisage that the rules will contain a lot of detail on how omplaints and disciplinary procedures will work, and ey may need to be revised and reissued fairly equently.

15 pm

Government amendment No. 11 removes a possible roblem arising from the drafting of clause 94 by aking it clear that subsection (2), which states that the ord Chief Justice may exercise his disciplinary power

nly with the agreement of the Minister"

nd in accordance with "prescribed procedures", does ot affect what he may do informally. That ensures that e existing arrangements for informal guidance and ounselling can continue within the new framework.

Government Amendments Nos. 12 and 13 correct references to "disciplinary procedures" by replacing them with references to "prescribed procedures". Disciplinary procedures will be prescribed by the Lord Chief Justice under clauses 96 and 98. The former clause allows him to make regulations with the agreement of the Lord Chancellor, and subject to Parliament's negative procedure; the latter clause allows him to make rules with the agreement of the Lord Chancellor.

Government Amendment No. 14 clarifies the effect of suspending a judge. Clause 94 allows the Lord Chief Justice, with the agreement of the Lord Chancellor, to suspend a judge in certain circumstances when that judge is subject to disciplinary procedures. The amendment makes it clear that a judge who is suspended may not exercise the functions of his office, but that his other rights—concerning pay and pension, for example—are unaffected.

Government Amendment No. 15 makes it clear that disciplinary regulations made by the Lord Chief Justice will define when someone is subject to prescribed procedures or is under investigation for an offence. That will govern the exercise of the new power in clause 94(7), which allows the Lord Chief Justice, with the agreement of the Lord Chancellor, to suspend a judicial office holder in those circumstances.

These are tidying-up amendments, but they also relate to the important issues with which clauses 94 and 95 deal. I therefore urge the Committee to support them.

**Mr. Grieve:** Is not the difference between "disciplinary procedures" and "prescribed procedures" merely an exercise in semantics? I am slightly puzzled by the Minister's belief that it is necessary to alter the wording, and I am not sure, having listened to him, that I have completely grasped why he believes that.

**Mr. Leslie:** It is necessary for completeness' sake. Although such alteration might not be vital for the purposes of reading the Bill, it is necessary in a technical sense to ensure that this part of the Bill is consistent with the other parts in which references to "prescribed procedures" are made. With that in mind, I hope that the Committee will support the amendments.

**Mr. Grieve:** The Minister has succeeded at this late stage in becoming persuasive. I did have the slight suspicion that the use of the word "prescribed" rather than "disciplinary" had its origin in the enormous reluctance in certain government circles to call a spade a spade. Being subjected to "prescribed procedures" sounds a little less onerous than being subjected to "disciplinary procedures". Save for that, the other amendments are coherent and merit support. I am particularly pleased that it will be possible for the Lord Chief Justice to have an informal system of dealing with judges, but I have to say that I did not read clause 94(3) as preventing that. However, if the Minister thinks it advisable to spell out such a possibility openly, so be it; doing so does not detract from the intention behind subsection (3).

**Keith Vaz:** I want to speak briefly about this issue now because the various remaining amendments might be dealt with quite quickly. That shows that the Government were right to give the Committee of the whole House the opportunity to debate the Bill over two full days. The Government were also right to table these particular amendments, because it is important that an informal procedure be put in place that allows the Lord Chief Justice to speak directly to a judge who might be the subject of disciplinary procedures. Obviously, clear procedures also have to be in place, and I am glad that the regulations to be produced by the Lord Chief Justice will be the subject of consultation. I am not clear—I hope that the Minister will tell us in his reply—whether that means consultation with the Lord Chancellor. I hope that the wider judiciary will be consulted. If we want a fair system that enables judges to be treated with respect and dignity, it is important to consult the judiciary as widely as possible.

At some stage, I hope that we can also deal with the broader issue of the training of judges. It is important to give them the widest possible training on a wide range of issues. The provisions that we are debating now deal specifically with the incidents mentioned in clause 94(1), (2) and (3). I want us to reflect on the wider issues and ensure that, when judges are appointed, they are acquainted with the reasons why they might be disciplined. The clause allows the disciplinary procedures to be put into effect and the amendments would allow the informal procedures to take place, which is very important, but it does not detract from the importance of being absolutely clear about why a judge is being subject to any of these proceedings.

**Mr. Garnier:** What makes the hon. Gentleman think that the reasons are not already clear to judges?

**Keith Vaz:** I hope that they are, but in keeping with the spirit of compromise and the passion displayed by the hon. Member for Beaconsfield (Mr. Grieve), who urges the Government to build everything into the Bill, I stress that the Government are doing precisely that. We are clarifying the position and making it clear where the informal procedures can take place, which is perfectly right and proper.

**Mr. Grieve:** I have to disappoint the hon. Gentleman, because it is simply not the case that I have encouraged the Government to put everything into the Bill. Indeed, one of the major problems of the legislation—it will become more apparent on the last day of our consideration of the Bill—is that moving away from convention makes it appear that everything has to be spelled out line by line if progress is to be made. However, until the Minister proposed the amendment on providing informal advice to, or reprimanding, judges, it had never crossed my mind that it might not be possible to achieve those aims through the Bill. I rather took the view that the Bill could achieve them, so the amendment was necessary only because the Bill could not.

**Keith Vaz:** That goes to the heart of problem about the way in which the Opposition have treated the Bill. I believe that the majority of Opposition Members would, because the Government have consulted, probably agree with most of what is contained in the Bill. Here we have a particular example of the Government clarifying the position by amending the Bill. If any of the circumstances mentioned in clause 94 were applicable, I am absolutely certain that the Lord Chief Justice would put his hand on the judge's shoulder, sit him down and offer some informal advice. That happens already, but what is wrong with proceeding, as the Minister suggested, by specifying it clearly on the face of the Bill that such informal advice should be given? Let me tell the hon. Member for Beaconsfield that he is being given something here: why not take it with open arms, thank the Government and move on?

**Mr. Cash:** What the hon. Member for Leicester, East (Keith Vaz) has just said defies belief. On the issue of suspending a person from judicial office where he is "subject to criminal proceedings", I agree as a matter of fact and fully understand the position. It gets far more difficult, however, when we are dealing with questions relating to much less well defined circumstances, which I and my hon. Friend the Member for Beaconsfield (Mr. Grieve) believe would be much better left as they are. It does not improve or clarify the situation to give a judicial office holder "advice", a "warning" or "formal reprimand" for disciplinary purposes. In what circumstances are they to be given—in the context of good behaviour or misbehaviour?

**Keith Vaz:** It is clearly in the context of this clause, which is why the amendment relates to this clause. If the context were different, this amendment would not have been tabled.

I am surprised at the hon. Member for Stone (Mr. Cash), who spent all of yesterday telling us that the Bill needed clarity and a defined purpose. He was worried about what the EU would do, given all the treaties that exist. However, it appears that he will not accept what the Government are trying to do with this Bill.

**Mr. Cash:** There is no need to go over what happened yesterday, other than to say that all these matters—the rule of law, the question of advice, warnings and full reprimands, and so on—have arisen because the Government chose to include them in the Bill. The Government are therefore hoist by their own petard: they have forced us to ask questions on matters that we believe would be better left to people of good judgment, as used to be the case.

A year ago, in my previous capacity, it fell to me to consider these matters when this pantomime started up, and we had the Gilbertian farce involving the Lord Chancellor and whether he was going to sit on the Woolsack. Since then, difficulties have arisen that I predicted were unnecessary. The Government have created a rod for their own back with this Bill—or, I should say, a rod for the British people's back.

**Mr. Gummer:** My hon. Friend the Member for Stone (Mr. Cash) will understand that I do not think that this matter has anything to do with the EU, but I hope that the Minister will pay attention to what I want to say. One of the difficulties that arises through trying to clarify matters in so detailed a way is that people's

tural and proper behaviour gets lost. That has been ident when the House had legislated about its wn and other people's arrangements, and about ansparency in general.

Transparency is crucially important, but results e often better when people feel that it is their sponsibility to interpret general principles in the rticularity that is sometimes called for. The Bill makes more difficult for sensible decisions to be made ecause it tries to categorise them too much.

I do not intend to divide the Committee on this issue, ut I hope that the Minister will talk to his colleagues nd accept that we have come a long way by using onventions in these matters. Those conventions work xtremely well, and the Bill is not only unacceptably etailed but—if I may say so—rather un-British.

**Mr. Leslie:** First, my hon. Friend the Member for eicester, East (Keith Vaz) was concerned about the etails of the rules governing disciplinary proceedings nd the processes that must be followed. He said that here must be ample consultation, and I assure him hat the rules require the agreement of the Lord hancellor and that they must be published. In any ways, the further enshrinement of the rules' rticularities is useful, not only for the members of the diciary who may be subject to them but for raising the onfidence of the wider public.

The right hon. Member for Suffolk, Coastal Mr. Gummer) is one of those Conservative Members ho have said that we should not categorise rigidly all levant rules and decisions. That is why we tabled an mendment to ensure that the Lord Chief Justice's more formal activities will not be constrained. Our aim is to rike the right balance. If legislation is insufficiently ecific, we get criticised for leaving gaping holes, hereas we get criticised for being rigidly constraining if e put too much detail in. I hope that we have managed strike the balance well and achieved broad consensus n the disciplinary arrangements.

30 pm

As for the question raised by the hon. Member for one on his current favourite subject—good behaviour s opposed to misbehaviour—we have not changed the rinciples that are to be followed. The Bill does not alter rrangements for the test for removal from office, for xample. The present arrangements will continue. If e hon. Gentleman wants to continue our discussion, would happy to correspond with him on the issue. I ope that the amendments will receive the support of the ommittee.

*Amendment agreed to.*

*Amendments made:* No. 12, leave out lines 14 and 5 and insert

'prescribed procedures in relation to the conduct constituting e offence.'.

No. 13, in page 41, line 28, leave out 'disciplinary' and sert 'prescribed'.

No. 14, in page 41, line 29, leave out subsection (8) d insert—

'(8) While a person is suspended under this section from any fice he may not perform any of the functions of the office (but s other rights as holder of the office are not affected).'.

No. 24, in page 41, line 20, leave out 'Minister' and insert 'Lord Chancellor'.—*[Mr. Leslie.]*

*Clause 94, as amended, ordered to stand part of the Bill.*

**Clause 95**

DISCIPLINARY POWERS: INTERPRETATION

*Amendment made:* No. 15, in page 42, line 14, leave out subsection (7) and insert—

'(7) The times when a person becomes and ceases to be subject to prescribed procedures for the purposes of section 94(4) or (7) are such as may be prescribed.

(8) "Under investigation for an offence" has such meaning as may be prescribed.'.—*[Mr. Leslie.]*

*Question proposed,* That the clause, as amended, stand part of the Bill.

**Mr. Leslie:** Clause 95 provides detailed definitions of when, to whom and in which circumstances the new disciplinary powers set out in clause 94 will apply. It is therefore an essential part of delivering reformed functions for the Lord Chancellor and defining the new relationship between the Executive and the judiciary.

Clause 95 defines—for the purpose of clause 94—first, when a judge is subject to criminal proceedings or to any proceedings for an address in Parliament. That helps to define when suspension powers may be used. Secondly, it defines the meaning of "judicial office" and "senior judge". Thirdly, it makes clear what is meant by "sentence" for the purpose of the suspension provisions. Clause 95 provides that the terms "subject to disciplinary procedures" and "under investigation" may be defined in regulations.

**Mr. Garnier:** How does the definition in clause 95(2) differ from that for any other person?

**Mr. Leslie:** Clause 95(2) states:

"A person is subject to criminal proceedings if in any part of the United Kingdom proceedings against him for an offence have been begun and have not come to an end, and the times when proceedings are begun and come to an end for the purposes of this subsection are such as may be prescribed."

I suspect that—

**Mr. Garnier:** The "person" is a judge, as referred to in clause 94. However, I am not sure why the definition of proceedings, and when they start and end, should be different for a judge than for any other person.

**Mr. Leslie:** The hon. and learned Gentleman raises a fair point. I shall look into the matter further, but I suspect that it is probably necessary to have the definition in the Bill at that point for the sake of completeness, so that those who are referring to clause 94 may have a proper understanding of the position.

**Mr. Cash:** The Minister may have noted that clause 94(3) gives a list of the circumstances in which notice of a motion is given in each House of Parliament. In a previous discussion, we established the points that we wanted to make about the role of the Prime Minister in the matter, compared with Members of Parliament.

*[Mr. Cash]*

Must we assume that, in all the circumstances listed in clause 95(3)(a) to (d), the Prime Minister would be the person who initiated the notice of the motion? That is not entirely clear from our earlier discussions.

**Mr. Leslie:** As I explained earlier, in our debates on other clauses, the arrangements for England and Wales are different in so far as there is not such a restriction on particular Ministers, although of course if the activity is carried out on behalf of the Government, particular Ministers—for example, the Lord Chancellor and the Prime Minister—might be involved. I hope that that helps to answer the hon. Gentleman's question.

**Mr. Grieve:** I have a slight difficulty in following the expression:

"'Sentence' includes any sentence other than a fine (and 'serving' is to be read accordingly)."

I am slightly concerned about that. Obviously, fines can be imposed for minor matters; indeed, I suspect that quite a few senior judges may have received small fines for motoring offences yet still remain on the bench. However, one can also be fined—and fined only—for serious criminal offences. Will the Minister explain what would happen if a judge received a fine for a serious matter? Is he in some way excluded from those rules and regulations?

**Mr. Leslie:** That would depend on the nature of the criminal offence. Obviously, the reason that we have a sophisticated process whereby the Lord Chief Justice can act on questions of discipline right the way through, from the formality of removal to discipline, to informal advice and counselling, is precisely to mirror the fact that different gradations of issue can arise. I have no further definitions than the one in the clause, so if there are other aspects on which the hon. Gentleman feels we should elaborate I shall be more than happy to correspond with him further.

**Simon Hughes:** I want to join the hon. and learned Member for Harborough (Mr. Garnier) in suggesting that if we can shorten the Bill we should do so. It strikes me that subsection (2) of clause 95, which we discussed earlier, repeats the general presumption of English law, so we could lose that provision as we do not really need it. In general, it is good practice not to have things that we do not absolutely need. We have had great discussion of things that we may or may not need. If the Minister asked his officials to remove from the Bill provisions that we do not need, rather than including provisions that we merely might need, we would have a shorter Bill and everybody would be more pleased.

**Mr. Leslie:** I hear what the hon. Gentleman says, but I stand by my feeling that completeness is always the better approach. I am inspired to suggest that the question of sentence and fine does not have a duration; there is no period during which a judge could be suspended, so that is why there is a particular definition on sentence. In some ways, that would also relate to questions about proceedings against a member of the judiciary beginning and coming to an end. In part, that is one reason why subsection (2) is in the Bill, although I speculate on the wisdom of drafting the Bill in that technical way.

**Mr. Grieve:** It could be argued that somebody is serving a sentence if they are paying off a substantial fine in monthly instalments. For that reason, I should be grateful if the Minister would write to me on that point. There may be a good reason for the strange comment that sentence does not include a fine, but looking at the rest of the clause, I am at a loss to understand what it is. If the Minister could reassure me on that point, I should be most grateful.

**Mr. Leslie:** I shall certainly write to the hon. Gentleman. The reason that we emphasise sentence is that there is a period during which suspension may apply to a member of the judiciary. By and large, however, it is good to include interpretations and definitions in the Bill, which is why I hope that clause 95 will stand part of it.

*Question put and agreed to.*

*Clause 95, as amended, ordered to stand part of the Bill.*

To report progress and ask leave to sit again.—*[Paul Clark.]*

*Committee report progress; to sit again tomorrow.*

## ADJOURNMENT (FEBRUARY)

*Motion made, and Question put forthwith, pursuant to Standing Order No. 25 (Periodic adjournments).*

That this House, at its rising on Thursday 10th February, do adjourn till Monday 21st February 2005.—*[Paul Clark.]*

*Question agreed to.*

## Orpington Green Belt

*Motion made, and Question proposed,* That this House do now adjourn.—*[Paul Clark.]*

6.40 pm

**Mr. John Horam** (Orpington) (Con): This debate is on the green belt in Orpington and the House is rather short on visual aids, so I want briefly to show this map to the Minister as it indicates fairly plainly—if it will stop unrolling—how much of Bromley is green belt. Indeed, my constituency is in the southern part of Bromley and, as hon. Members can see, it is almost all green belt—probably about two thirds of Orpington is green belt.

**Mr. Deputy Speaker (Sir Alan Haselhurst):** Order. I understand the hon. Gentleman's temptation to begin in that way, but I must remind him that visual aids are not permissible; every contribution must be capable of being reported faithfully in *Hansard.*

**Mr. Horam:** I appreciate your point entirely, Mr. Deputy Speaker, but I thought that that was a possible way to demonstrate—however briefly and subject to your censure—that about half of Bromley's acreage is taken up by green belt and that about two thirds or three quarters of Orpington is green belt. Green belt is very important to my constituents.

As the Minister knows, the green belt has been protected from development ever since it was first created in the 1950s, and that remains essential because it is the only bulwark against development and the despoliation of the environment. One of the major reasons why people want to live in Orpington and Bromley is precisely their greenness. "Clean and Green" is the borough of Bromley's slogan and not without reasons. We have in the green belt a world heritage site—Darwin's home, Down house—and the Minister will also be interested to know that Richmal Crompton, the novelist, wrote about "Just William" and "William and the Outlaw" precisely in the sort of green belt area that I am talking about. It is an area with major bluebell woods and orchards and it is much valued by my constituents. However, that green belt is under threat and has been considerably damaged already.

The immediate threat comes from Irish Travellers. The official figures from the Office of the Deputy Prime Minister show that there were 38 authorised pitches and 60 unauthorised pitches for Travellers in the borough of Bromley at the last count on 19 July 2004. The Government's official figures also show that Bromley had more authorised and unauthorised pitches than any other borough in London—98 in total. Southwark was next with 66 pitches. Bromley has already made considerable provision for Travellers. Indeed, those official figures—they are, of course, about eight months out of date—underestimate the situation, which is developing. Current estimates suggest that there are probably 60 unauthorised pitches on the Waldens farm site alone.

All of the unauthorised pitches are in the green belt, the effect of which can be seen in some of the photographs with which I have not plagued the House. I realise that you would rule them out of order, Mr. Deputy Speaker, but I have given them to the Minister. In that little selection of photographs, she will see the before and after situation, with four years intervening, in an area known as Layhams road, which vividly illustrates the effect. In the first instance, there is a clear, open field. Four years later, when Bromley council had lost a High Court case, the area is filled with caravans, roads and fences. Indeed, that is precisely what happens.

Caravans are moved in, tipping begins, and at £150 a truckload considerable profit can be made from allowing refuse to be tipped on a site with no one paying rates or rent of any kind. Hardcore is then put down and fencing is put up. New entrances are made on to the road with large diggers. Fences are torn up. Rubbish and detritus of all sorts accumulate because there is of course no refuse collection.

The desolation of the environment is bad enough, but intimidation also occurs. People who live in the area find that some, although certainly not all, of the Travellers practise intimidatory behaviour. I am afraid that criminality has also crept in. It is no accident that burglary has increased in the immediate area around Waldens farm. Every house but one has been burgled in the past two years, and whenever police have raided the Irish Travellers' site at Waldens farm, stolen goods have been recovered in fairly large quantities.

One must remember that Waldens farm was a Kentish orchard. Allotments were situated on the site and people went there to walk and generally to enjoy the countryside. It was a place for pleasure, but it is now an intimidating area that is heavily dug up. New caravan sites are appearing there all the time. My constituents' first worry is simply the desolation of the environment and the intimidation that goes with it.

This is not happening to a community with little experience of Travellers. There is a long history of Traveller activity on the borders of London and Kent, so the local community is experienced at dealing with Travellers. Many Travellers have settled down in the area and rented or bought homes, and there are 38 authorised pitches on two sites at Star lane and Old Maidstone road, which are well settled. Relationships between the English Travellers, who have been there for many years, and local residents are not at all bad. Indeed, the community probably has the largest number of settled Travellers in London, and perhaps even the United Kingdom, which explains why the local community is able to handle the English Travellers who have lived there for many years. If such a community is worried about what is happening, we have real cause for concern.

The new element that has come about in the past three or so years is the Irish Travellers, who have moved in with some force. For example, the council notes that most of the registration numbers on the cars, caravans and trucks are from the west of Ireland. What information does the Minister have about the influx of Irish Travellers? What talks have been held between the Irish Government and her Department on how large the problem has become? My information shows that the problem has occurred because the laws in Ireland on trespass and parking in unauthorised places have been tightened up. We in south-east London are clearly suffering the consequences of the Irish Government's measures, and residents think that that is unfair. It is the Government's job to protect their

*[Mr. Horam]*

citizens, but they are not doing their job if they have not explored the Irish element of the problem as well as the English element.

The Irish Travellers usually move in at the weekend when council offices are closed and the establishment of their sites—the building of fences and laying down of paths and ways in—is less likely to be disturbed. They then apply for retrospective planning permission, which the council usually refuses, so they then appeal. On appeal, the Travellers' case is usually handled by experienced barristers—indeed, I understand that a Birmingham law practice specialises in such cases. The appeals are often funded by legal aid. Although the Minister might know more about this than me because she was once a Minister in the Lord Chancellor's Department, I believe that the Department for Constitutional Affairs has a fund to finance such appeals by Travellers. They appeal under human rights legislation, and because the appeal process currently takes a long time to complete—because of the logjam in the system with which the inspectors must deal due to changes to legislation—it can take nine months from the beginning of an appeal to its end. The whole process drags on and years, rather than months, pass by during which nothing seems to be resolved.

The despoliation of the green belt is my constituents' first concern, but their second is the absolute unfairness of the situation. It appears that there is one law for the citizen and another for the Traveller. A constituent whose family have lived in the area for three generations and who has a small farm is being denied permission to extend his farming activities by the local council. The council's decision is correct, or at least understandable, because the land is in the green belt and the extension of activity would be observable from one or two local houses. Twenty-two jobs are at stake on the farm. My constituent is extremely concerned that he is not to be allowed to proceed even though he has gone through the procedures properly, whereas Travellers are doing business nearby and simply ignoring the law. Similarly, a farmer whose farm is close to Waldens farm and who is trying to renew his old barn is not being allowed to do so: under the planning rules, the council has to turn him down because green-belt land is involved. On the one hand, the Travellers simply ignore all the planning laws; on the other, people who have lived in the area for a long time and who observe the law are turned down. I am sure that the Minister can understand their sense of indignation and outrage at the lack of fair play.

My constituents also feel completely powerless. It seems that they can do nothing about what is happening. The council fights, but is unable to do anything. The Government appear to be ignoring the situation. My constituents are in an extremely difficult position and I pay tribute to them for the remarkable patience that they have shown. They have organised and held public meetings, which I have attended. The meetings were packed with people determined to show that they will fight to defend the green belt, but they want to stay within the law and behave properly. They have formed a co-ordinating committee to liaise with the council and put considerable pressure on the council. Local residents around Layhams road—another of the sites with which I have had to deal—are doing the same. They are showing great responsibility and patience, but that patience is not endless. The fact is that they are not getting the support that they really need as law-abiding citizens and long-standing residents of the area.

The council has responded to the residents' understandable concern. Following my presentation of a 1,000-signature petition, council leader Stephen Carr agreed to give the issue high priority, and I believe that he has stuck by that resolution. I also single out Mr. Bob McQuillan, the chief development control officer, for the part that he has played. He has gained local residents' respect for his common-sense approach and his tireless efforts to deal with the problem.

The council has shown a considerable degree of intelligence in its approach. Precisely because going through the planning route takes so long—years—and because the process is so expensive for the council, especially the cost of appeals, the council has applied for an injunction in the case of Waldens farm. Fortunately, last summer the judge came down on the side of the council and made it plain that the Irish Travellers were breaking the law. They were not abiding by planning law and were therefore in the wrong. The judge gave the council the right to remove caravans if it could be proved that they had arrived after 1 July last year, when the hearing was held, and as a result of that ruling three caravans were removed. However, the case illustrates the slowness of the process because 60 caravans remain. The council will now have to go through the lengthy and costly procedure again to try to get rid of the rest.

That is the situation on the ground, but it is not close to resolution. The Government have been extremely slow to deal with the problem. Their first effort consisted of a proposal to introduce temporary stop notices on 29 November. Frankly, they are useless and, although I am not certain that the Government have conceded the point, it is apparent to practitioners in the field that those notices are simply ignored by Travellers, just as other planning restrictions are ignored. The proposal to introduce notices has been the main reaction from the Office of the Deputy Prime Minister, but it is quite inadequate. It was clear to the Prime Minister that the Department was failing to grasp the issue, because at Prime Minister's Question Time on 15 December, shortly after the temporary stop notice consultation began, he told my hon. Friend the Member for Billericay (Mr. Baron):

> "The question is whether the new power of local authorities to get a stop notice quickly and to implement it quickly will be sufficient, or whether we have to take the further steps that the hon. Gentleman suggested."—[*Official Report*, 15 December 2004; Vol. 428, c. 1668.]

That has proved to be the case, because shortly after, on 21 December, a new consultation document was produced, literally two weeks after the first consultation on temporary stop notices began. Events have therefore moved on, and it is obvious that the Prime Minister's office decided that the ODPM was not doing its job. *The Times* quoted a Government source as saying:

> "There is an ODPM versus Blair and Milburn split."

It is not unusual to hear of that split but, whatever happened, I welcome the Government's change of tune. The new consultation documentation is more comprehensive than the original one, which simply dealt with temporary stop notices.

The consultation period ends on 19 March. The consultation document produced by the Government says nothing about increased powers for local authorities to deal with breaches of planning law. If an overall package is to work, it must include increased powers for local authorities, so that once the number of sites has been settled they can deal with the unauthorised sites that might otherwise accumulate. Without such a measure, the situation will remain unstable and the present unsatisfactory arrangements will persist. That is the first thing that is wrong with the consultation document—it simply does not talk about increased powers for local authorities.

The document focuses on local authorities providing sites, but it says nothing about providing a cap once reasonable provision has been achieved. Councils will not know whether they have done enough, and neither will residents. A council might try to meet the problem, but it will not receive a guarantee from the Government that thereafter it can take a tougher line with people who break the law. Moreover, the document talks about housing need being determined by regional housing boards. I imagine that that will not be the case in London, as we have a Mayor. The views of regional housing boards on housing will not pertain in the metropolitan area, and the matter will be decided according to the London plan and the views of the Mayor. Whoever decides the matter, it will not be decided by the elected representatives of the people of Bromley. It will be decided by another body, whether the elected Mayor or the unelected bureaucrats of the regional housing board. They, not local people, will decide how many sites are to be provided in Orpington and Bromley.

The consultation document talks about Travellers settling down, as they have done in Orpington over the years, on permanent sites. If that is allowed to happen, there will be a permanent residential development of the green belt. We are no longer talking about temporary sites for Travellers on the move but residential development within the green belt. If that is permitted to Travellers, it should be allowed to other people, and if others are stopped, so should Travellers be. Again, it is a matter of fairness.

There is no real discussion of the issue of English and Irish Travellers. As I indicated, it appears that the traditional situation that pertained in an area such as Orpington, which is long established and has worked reasonably satisfactorily, has been disrupted by the influx over the past three or four years, for reasons about which I can only speculate, but which I am tempted to set out to the Minister. There is no discussion of that.

*It being Seven o'clock, the motion for the Adjournment of the House lapsed, without Question put.*

*Motion made, and Question proposed,* That this House do now adjourn.—*[Paul Clark.]*

**Mr. Horam:** The Government should address the problem if they are realistic about dealing with it.

Finally, there is a separate issue that complicates the matter—that is, the fragmentation of land. In the area of Waldens farm and Layhams road, the two major unauthorised sites, the ownership of land has become very fragmented, which means that the ownership is unclear. We established at one point that the Treasury owned some of the land at Waldens farm. Such fragmentation enormously complicates the problem, because there is no sense of ownership. That encourages Travellers to feel that they can do what they want. For that reason, the council has been thinking about compulsory purchase, an expensive option.

Irrespective of the Traveller issue, fragmentation of land in the green belt is a problem. People buy up little plots of land, something unfortunate or unsightly happens, and the general attitude is that it does not matter very much because it is only a small plot—but eventually the whole green belt is subsumed in untidy, unhygienic, unsightly plots.

The consultation finishes on 19 March. I will be responding to it, as will local residents in Orpington. I have asked to see the Minister about the matter on a number of occasions, and the Minister for Housing and Planning replied:

"I have indicated in previous letters to you that I am unable to comment on the merits of specific planning applications and appeals because of the appellate responsibilities of the Secretary of State. It would therefore not be appropriate for me to meet in person with members of the local community surrounding Waldens Farm because they will have a direct interest in the outcome of any planning case."

However, he went on to say:

"Whilst I would not discount the possibility of meeting up with you in future . . . "

I am happy to give a commitment to the Minister that I would discuss not particular issues, but general issues, if she or the Minister of State were willing to receive a deputation of local residents.

As part of the consultation process, it is not enough for written evidence to be collected from various stakeholders. We need some flesh and blood—some real people talking to the Minister and taking part in the consultation, people who have to put up with the problems on a daily basis and who personally experience the noise from generators, the filth, the mess, the despoliation of the environment and so on, which is a daily part of their life, as well as the intimidation and the other problems that I have mentioned. Ministers should hear of their experience from their own mouths.

I shall not say anything about my party's policy on the matter, as I do not want to make it a party political issue. It is a community issue. I hope that the Minister will respond accordingly.

The housing policy of the Office of the Deputy Prime Minister is also causing problems in the green belt. I showed the Minister the size of the green belt in Orpington and Bromley. She may be aware that the council has estimated that the capacity for house building in Bromley is about 500 a year, and it has been giving permissions accordingly. Developers are not quite meeting that figure but are getting close to it. That has been the situation for some time. However, following the Barker review of housing, we seem to have gone back—that is the only way we can interpret it—to a predict-and-provide approach. The Mayor of London has produced estimates of future jobs in London, which involve a certain amount of housing, so it seems that he, too, is in a predict-and-provide mode.

We have gone back to that rather old-fashioned method of looking at housing, which I thought was outdated, rather than looking at the capacity that exists

*[Mr. Horam]*

in the borough of Bromley to provide housing. As a result, the council now faces Government and mayoral demands for higher density, which may be entirely inappropriate. If more high-rise property is suddenly imposed on a little square of 1930s or 1950s bungalows, such as Oregon square in Orpington, the character of such an area is destroyed. In addition, the so-called sequential test has been introduced, whereby the council must examine all its land, starting with brownfield sites, and then say, "We can't get enough housing on the brownfield or infill site, so we'll have to consider green belt land." That is a further threat to the green belt, although we do not know how extensive it may be. It is a consequence of trying to put more into Bromley than it can take because of some alleged need, the basis of which we question.

My council therefore recently passed a motion in the council chamber saying that it does not accept the Mayor of London's annual housing target for London of 30,000 new homes per year, as his plan suggests, and that it notes with concern the sustainability of large new developments without the necessary and additional infrastructure and the impact that that and the suggested higher density would have on Bromley. Infrastructure is therefore also a problem. Not enough mention is made of the fact that new housing needs new schools, health centres, roads, public transport and so on. None of that seems to be examined in the plans.

I also note that the Environmental Audit Committee, of which I am a member—it is of course all-party and has a Labour majority—said only last week that the Barker review of housing supply represents a direct attack on the principles of a democratic planning system and that many of the sustainability measures in the sustainable communities plan are little more than window dressing. The MPs found it astounding that neither the Department for Environment, Food and Rural Affairs, which has regrettably been sidelined on the housing issue, nor the Office of the Deputy Prime Minister has done anything to assess the overall environmental impact. There is a conflict between preserving the quality of the environment in a sensitive and important area such as Bromley and Orpington and the endless drive for more housing with which we are confronted.

As I have shown, it is vital that we protect the green belt, which has now existed for nearly 50 years. It performs a vital function as the lungs of London. Government policies are damaging it, by neglect in the case of Travellers, and by possible future threat in the case of their housing policy. That is unacceptable to the people of Orpington. There must be a better way. I have every intention of carrying on the fight to keep the green belt in its present state until we can find a better way of dealing with these problems.

7.8 pm

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper):** I congratulate the hon. Member for Orpington (Mr. Horam) on securing a debate on the green belt around his constituency. Obviously, the issues that he raised are important to him and his constituents. I want to try to respond to many of his points. As he is aware, I cannot comment on the individual cases that he has mentioned, many of which are currently in the planning system. He will know that the role that Ministers play in the planning system makes it inappropriate for us to comment at an early stage on any individual planning cases, but I am keen to try to address some of his general points and some of the principles that have arisen.

The Government recognise that there are serious problems in some areas with unauthorised encampments and developments and where there are tensions between local Gypsy and Traveller groups and the neighbouring settled community. Interestingly, while the number of unauthorised encampments has stayed roughly steady, although varying from season to season, over a series of years, the number of unauthorised developments has increased significantly where Gypsies and Travellers buy up pieces of land where planning permission has not been granted. That obviously causes a series of problems for Gypsies and Travellers and for the local residential community, which is why we set up a significant review of Gypsy and Traveller accommodation across the country.

In the course of that review, it has become clear that there are two underlying problems in the planning system. First, it is simply not delivering enough sites for Gypsies and Travellers—the independent research has confirmed that. Secondly, local authorities do not have sufficient enforcement powers to act swiftly to prevent damage on inappropriate sites. We cannot deal with one aspect and not the other: we need to address site provision and enforcement side by side, and that is what we are doing.

The hon. Gentleman's remarks about the consultation documents that have been launched recently suggest that he has misunderstood the current system and the measures that we are taking forward. I shall try to respond to the points that he made and to set out the Government's approach.

We need to deal with the areas where there are problems. Sometimes they involve antisocial behaviour or community tensions. Sometimes Gypsy and Traveller groups face prejudice and discrimination. Sometimes people who are travelling from place to place cannot find a place to stay for any extended period and have difficulty in getting access to health care or education for their children. We should also recognise that there are plenty of areas where sites work very effectively and there are good relationships between communities.

On the enforcement regime, we are keen to address two issues. First, problems can arise as a result of the way in which the land is subdivided and parcelled off into separate units, perhaps with separate planning permissions or fencing having been put up inappropriately. Parts of greenbelt sites may be sold off and fenced in, leading to problems with further development and planning applications. In theory, local authorities can respond to some extent by placing article 4 directions to prevent certain aspects of the development. However, in practice that is often cumbersome because of the need to serve article 4 directions on a person, whom it may take some time to identify. In addition, article 4 directions are subject to a process whereby they have to be confirmed by the Secretary of State. We hope to consult shortly on changes that would allow them to be served on sites rather than people and widen the circumstances in

which they do not need the Secretary of State's approval. That will address only one aspect of the problem, but it might be a helpful step forward in certain circumstances.

Secondly, development can often take place very quickly in inappropriate locations before the council has a chance to react or implement planning enforcement measures. Local authorities have a wide range of planning enforcement options, including planning contravention notices, enforcement notices, stop notices, breach of condition notices, court injunctions and powers of entry on to the land. They also have the power to enter and remove unauthorised development undertaken in breach of an enforcement notice if the action has not been taken by the landowner within the period allowed for compliance and to recover expenses from the landowner.

Certain local authorities respond much more swiftly than others. Some have 24-hour operations and can apply for injunctions and take enforcement action extremely quickly, while others do not have systems in place to be able to respond quickly when there are breaches and developments occur in inappropriate locations. There is a gap in that respect, and we see wide variations across the country. There is also a gap in the enforcement powers of local authorities, which is why we are introducing a temporary stop notice. The hon. Gentleman mentioned temporary stop notices and I believe that he has misunderstood the position on them.

Temporary stop notices are not yet in place. They were introduced in the Planning and Compulsory Purchase Act 2004 in response to concerns that hon. Members raised in our debates on the measure. We recently completed the consultation on the detailed implementation and hope to introduce the new powers shortly. It is therefore wrong to say that they have failed or been ignored, because they have not yet been used.

I stress that we are considering new powers that which local authorities can use. We have consulted on them and believe that they will make a difference, because they allow local authorities to take swift action without recourse to the courts. They can then consider the circumstances and determine further action such as long-term injunctions or other sorts of enforcement and stop notices. Local authorities often feel that they do not have time to prepare such action fast enough while the development is already happening. Temporary stop notices will fill a significant gap in local authorities' powers.

Temporary stop notices do not get round the need for local authorities to have the right skills and expertise to tackle such matters but they give them a new and significant power to prevent damaging development in inappropriate locations. However, we must acknowledge that such powers will not be effective in the long term unless we simultaneously do more to provide somewhere for Gypsies and Travellers to go and ensure that there are enough local and regional sites.

The hon. Gentleman asked about Irish Travellers and whether there was an increase in their number because of action that had been taken in Ireland. I had heard that point previously and we asked Office of the Deputy Prime Minister officials to consider it. Some went to Ireland to examine provision there and hold detailed discussions. Their experience does not support the hon. Gentleman's points. I am happy to write to him with further details but it does not appear that a response to specific measures in Ireland has had an impact here.

We must recognise that we need to ensure increased accommodation and sites for Gypsies and Travellers. Accommodation should be treated with other housing needs in the mainstream of the housing and planning system. Instead of attempting to give special treatment to one group or another, we need a fair system that treats everyone in the mainstream. That is why we have said that Gypsy and Traveller accommodation needs to be part of the housing needs assessments that local authorities conduct for everybody. We are also consulting about a replacement for circular 1/94, to which the hon. Gentleman referred.

That replacement would not be an alternative to temporary stop notices but something that must go alongside them. We want an expansion in site provision to accompany improved enforcement and local authorities' tighter enforcement powers through temporary stop notices.

**Mr. Horam:** Will the Under-Secretary deal with my point about local democracy? Who will decide on the housing need?

**Yvette Cooper:** Let me explain our approach to the revision of circular 1/94. As I said, we are consulting on the matter because it was becoming clear that the circular was not working effectively. It allowed local authorities to set criteria for the sites for which planning permission might be granted to Gypsies and Travellers. However, in many areas, the criteria were so tightly drawn that it was inconceivable that any plot of land in the local authority area would fulfil them. Sites were therefore impossible to identify in practice.

The new consultation circular says that local authorities need to undertake a proper assessment of need and that the regional spatial strategies need to establish the level of sites needed. The reason for involving the regional planning bodies is that, in some areas, one local authority might have a great deal of provision while a neighbouring one might have very little. The latter authority could effectively be free-riding on the provision next door, making life more difficult for the authority that is providing a lot of sites compared with other areas. The issue therefore needs to be considered at regional level, and the regional spatial strategies need to be used to assess the level of provision required.

Local authorities' spatial planning policies must also address these issues, identify specific sites and set out achievable policy criteria that offer a chance that planning permission will be granted, rather than making that impossible because of the way in which they define those criteria. Local authorities will be obliged to identify sites according to need, and it is up to those authorities to draw up the plans. If they do not do so, there is a process whereby the regional planning body can get involved and, ultimately, for planning inspectors to consider the plans and ensure that they meet the need identified in the area. Local authorities will have the strongest role to play in this regard.

We cannot get away from the fact that, if enforcement powers are to be effective, we need to be able not only to move people off inappropriate sites but to identify

*[Yvette Cooper]*

appropriate sites for them to go to. We must recognise that this is not an easy process, but we cannot walk away from the problem.

**Mr. Horam:** An area such as Bromley is either built up or it is green belt. The problem for London as a whole is that most of it is already built up. Practically, therefore, it is extremely difficult to find sites for Travellers. Is the Minister saying that any consideration of this problem will cover an area much wider than a London borough, for example, and take in the whole of the south-east? That would be the logical thing to do, would it not?

**Yvette Cooper:** I have visited sites in London, which is obviously an extremely built-up area. There are Gypsy and Traveller sites in London boroughs, although some boroughs do considerably more than others in this regard. The fact that there are heavily built-up areas as well as green belt areas in individual boroughs and local authority areas does not mean that it is impossible to find appropriate Gypsy and Traveller sites.

Obviously, the individual areas will have to be considered in some detail, and it is not for me as a Minister to say what should happen in any particular local authority. That needs to be considered as part of the local authority's development planning process and of the regional process. We must be clear that we cannot walk away from any need that exists, because, if we do, we shall simply see more unauthorised development and more unauthorised encampments, resulting in greater community tension. That would not be fair to the local residents who have inappropriate developments near where they live, or to the Gypsies and Travellers who have nowhere to go. We need to address this issue.

The hon. Gentleman mentioned the green belt. I know that the inspector has looked at the unitary development plan for Bromley and introduced the first part of her report, which raises certain questions for the borough. As I understand it, she has prompted Bromley to demonstrate the site supply that it said was there and suggested that the borough needs to face up to its affordable housing needs. She has proposed that density levels could be increased, so as to reduce the threat to greenfield sites. I understand that the density levels in Bromley are extremely low compared with some London boroughs, both in inner and outer London. That is clearly an issue that needs to be addressed when Bromley decides what it needs to do. Obviously it cannot ignore the housing needs problem and must respond to the London plan and issues facing London and the south-east as a whole.

I recognise that green-belt areas may be subject to particular pressures. We have made clear the importance of safeguarding such areas and the need to increase density in response. The Deputy Prime Minister recently announced further measures in that regard. I have described what I consider an extensive approach to problems involving Gypsies and Travellers. We need to improve both enforcement and accommodation.

**Mr. Horam:** What does the Minister think has caused the influx of Travellers, all of whom appear to come from Ireland? I know that there have been some investigations involving her Department, but what has caused all this? It is a problem throughout the south-east.

**Yvette Cooper:** As I said, the information that my officials have does not tally with the hon. Gentleman's suggestions about Travellers from Ireland. I think that the decline of site provision, particularly in certain areas, is a issue. Changes were made in 1994, when the old duty on local authorities was in place, and since then there has been a decline in the number of publicly provided pitches. As I also said, I think we have seen little change in the overall number of unauthorised encampments, whereas there has been a change in the number of unauthorised developments where Gypsies and Travellers are choosing to buy their own property to develop on it without planning permission.

We will pull together all the work done as part of the review, in regard to both the temporary stop notice and the revised planning circular. We are also considering other possibilities, including funding through regional housing boards and registered social landlords for site provision in particular areas.

The hon. Gentleman asked whether a meeting would be possible. As my right hon. Friend the Deputy Prime Minister has said, it would be inappropriate for Ministers to meet to discuss individual planning cases. I think that that extends to delegations of people who are themselves involved in individual planning cases and may have lodged objections, thus being participants in an ongoing planning process. I am, however, happy to meet the hon. Gentleman, as I have met a series of hon. Members from all parties, to discuss policies and principles. As he will understand, we shall need to be clear about the matters that we cannot discuss, but I think it would be too difficult, and inappropriate, to meet people involved in objections and campaigns relating to specific cases. That would raise the question of whether Ministers, to show that they were being fair, should meet delegations from other groups. We have ways of ensuring that Ministers do not comment on or discuss individual planning cases, while being seen to be fair. But, as I have said, I shall be happy to discuss further with the hon. Gentleman such issues as temporary stop notices and the revision of circular 1/94.

These are complex and difficult issues, but we must face them. It would be irresponsible of us not to do so and not to recognise the need to solve the problems of both site provision and enforcement to achieve a better outcome not just for local residential communities but for Gypsies and Travellers.

*Question put and agreed to.*

*Adjourned accordingly at twenty-nine minutes past Seven o'clock.*

# House of Commons

*Wednesday 2 February 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## INTERNATIONAL DEVELOPMENT

*The Secretary of State was asked—*

### Education Provision

1. **Jim Sheridan** (West Renfrewshire) (Lab): How his Department is helping to provide education for the poorest children. [212228]

**The Secretary of State for International Development (Hilary Benn):** The Government are committed to help to get as many boys as girls into school by 2005, and all children into primary school by 2015. Last week, I published "Girls' education: towards a better future for all", which sets out our plans to spend £1.4 billion on education over the next three years. That money will support partner Governments, including those that want to get rid of school fees, as well as the fast-track initiative and UNICEF's girls' education initiative.

**Jim Sheridan** (West Renfrewshire) (Lab): I thank my right hon. Friend for his answer and congratulate him and his Department on their work. It is, however, a sobering thought that more than 100 million children are currently without education, over half of them young women. Will my right hon. Friend expand on what education projects he is involved in to help young women who face barriers that young men may not face?

**Hilary Benn:** That is an extremely important question. Most children who are not in school with a teacher, a classroom and a desk are indeed girls. A practical example of our projects is the one on which we are embarking with UNICEF in Nigeria, focusing on states in the north of the country. It will invoive, for instance, buying school uniforms to help to get girls into school. That is one of the obstacles that families face—not just formal school fees, where they exist, but the cost of books, materials and uniforms.

We need people to knock on the door in the morning and say, "Come on, we are off to school", to make sure that girls attend. It is also important to deal with problems of water and sanitation. If there are no separate toilets for girls, many parents will not let their girls go to school. The same applies if there is no clean water. There is also the problem of girls who have to work.

We are trying to deal with all those issues and we are increasing investment substantially to give Governments the capacity to provide the education that children deserve.

**Dr. Jenny Tonge** (Richmond Park) (LD): The Secretary of State will know that to qualify for debt relief, Uganda had to introduce fees for primary education. As a result, many children, especially girls, did not receive any education during that period. Will the Secretary of State assure us that other countries and other children will not suffer the same fate to qualify for debt relief?

**Hilary Benn:** Whatever has been done in the past, there is absolutely no point in providing debt relief if one of the consequences is that it becomes more difficult for children to go to school. That is why we have said that if the developing country Governments whom we are helping to send more children to school with our increased investment want to abolish fees, we will support them.

I can give another example of what we have already done. When Kenya's new Government, elected in 2002, wanted to get rid of school fees, we helped to pay the cost—Britain paid £10 million—along with other countries. As a result, 1.2 million more children are now at school with desks, textbooks and teachers than was the case in 2002. That is a practical expression of our commitment.

**Mrs. Ann Cryer** (Keighley) (Lab): Will my right hon. Friend look into the lack of provision of village schools in Mirpur, an area in Azad Kashmir? In fact, I am motivated by enlightened self-interest: the provision of such schools where there are none would assist the economic well-being of my constituency.

**Hilary Benn:** My hon. Friend raises an important point about the need to ensure that education is provided everywhere, including in rural areas—not least because we know that sending girls to school improves their health. They will have fewer children, who will grow up healthier and will be more likely to go to school themselves when they reach school age.

We are working with the Pakistan Government, helping them to improve health and education. We are currently working with particular states on which we are focusing our effort, but I am very conscious of the importance of rural education everywhere, including in Azad Kashmir.

**Mr. Stephen Dorrell** (Charnwood) (Con): Does the Secretary of State agree that policy on development assistance is not just a matter of the total quantum of development aid from the Government? Is it not—perhaps more important—also about the quality of the aid programmes that are supported? What the right hon. Gentleman has said about the importance of education as part of the development programme is welcome, but can he tell us what he is doing to ensure that the same importance is attached to education in the

aid programmes of our multilateral aid partners, particularly the European Union and the United Nations?

**Hilary Benn:** I agree about the importance of not just increased but better, more effective aid. In the near future we will meet in Paris to address precisely the question that the right hon. Gentleman has raised, to ensure that all aid—including the increased aid that is being provided—is used as effectively as possible.

In ideal circumstances, if a developing country partner Government have the capacity to use aid effectively to implement their own plans to get children into school—and much of our work is intended to improve that capacity—that is the best course of action. If we have to work in other ways because the capacity is not there or because we cannot trust the other Government to use the aid effectively, we will use other methods as well. As the right hon. Gentleman says, however, all of us—bilateral and multilateral donors—must ensure that every pound, dollar and euro that we put in has the maximum effect in achieving objectives that the whole House will share.

## UN Reform

2. **Chris Bryant** (Rhondda) (Lab): What assessment his Department has made of the implications for international development of the high level panel's recommendations for reform of the UN. [212229]

**The Secretary of State for International Development (Hilary Benn):** I welcome the report of the high level panel, which, together with the report of the UN millennium project, will be discussed at the UN millennium review summit in September. Both reports stress that security and development are closely interlinked: neither is possible without the other. In particular, I welcome the proposal for a peacebuilding commission to enable the UN to help prevent or resolve conflict. The Government plan to launch a public consultation on the panel's findings later this month.

**Chris Bryant:** The panel's excellent report makes the point that poverty and infectious diseases pose just as much of a threat to international security as serious crime and terrorism. It also makes the point that there is not enough co-ordination of international development around the world and that the UN still has some way to go to ensure that co-ordination is always effective. How do the Government view proposals to change the UN, so that we can ensure that international development is at the top of the priority list?

**Hilary Benn:** The millennium summit in September will provide an opportunity for the world to focus on all those questions. The UN is only as strong and effective as its member states permit it to be. That is certainly the case when it comes to taking decisions in the UN Security Council about what action to take in respect of states that are failing. From a development point of view, we must be interested in the issues that were raised by the high level panel in dealing with conflict. Many poor people live in states that have failed, are failing or are being destabilised by AIDS, TB, malaria, systems that do not work and Governments who do not function effectively. All of us have a responsibility to use the opportunity that the debate around the high level panel will present to ask ourselves questions about the effectiveness of what we do and the effectiveness of the international system that we have created.

On humanitarian issues, my hon. Friend may be aware that I have made some specific proposals to reform the way in which the UN works because I think that we could do it better.

**Mr. Michael Connarty** (Falkirk, East) (Lab): I am grateful to the Secretary of State for that reply. Does he accept that we have gone through a period in which the United Nations has been destabilised and devalued because of unilateral decisions on security, and that there is an opportunity now to establish the UN again as the principal organ for international development and aid and to deal with the problems in a balanced way, so that security considerations for individual countries do not undermine its power in the international development sector? Will he give a commitment that our Government will try to do everything possible to put the UN back at the centre of international politics?

**Hilary Benn:** As my hon. Friend knows, Britain has for a long time been a very strong supporter of the UN. It is the best instrument that we have for trying to deal with the difficult questions that the world faces. However, that does not take away from the responsibility that we face collectively, through the UN, to live up to the principles in the charter that was established at the end of the second world war to provide protection, support and help to those in need. As he knows, those are very difficult questions, on which member states sometimes disagree, but we must ask how we can make the system more effective. The UN should be in the lead, as it has been in responding to the earthquake and tsunami on Boxing day.

**Tom Brake** (Carshalton and Wallington) (LD): When the Secretary of State launches his consultation, will he ensure that there is extensive consultation on the panel's call for global public health capacity to be rebuilt, and that the Indian Government in particular are involved? Their Health Minister stated yesterday that emigration of health specialists from India to the United Kingdom is having a damaging effect on their health system. Indeed, no fewer than 9,000 of them emigrated in 2003 to the UK.

**Hilary Benn:** We certainly welcome participation in and responses to the consultation from all who want to contribute, including other Governments if they are so inclined. The hon. Gentleman raises an important issue about health capacity. The question that developing country Governments are increasingly asking themselves, rightly, is: why are people leaving? He knows the answer. It is to do with poor pay, working conditions and the lack of opportunity to use the medical knowledge that their training has given them. In some cases, it is to do with the lack of accommodation to work as a GP in a rural community. We must address those questions, as well as strengthen, as we are doing, the code of practice in the UK to ensure that we do not recruit directly from developing countries. However, unless the factors that drive people to

leave developing countries and to work elsewhere are addressed, countries will find it difficult to hang on to the skilled health professionals whom they have trained.

## Montserrat

3. **Mr. Colin Pickthall** (West Lancashire) (Lab): If he will make a statement on the humanitarian situation in Montserrat. [212230]

**The Parliamentary Under-Secretary of State for International Development (Mr. Gareth Thomas):** Montserrat continues to make progress in its recovery from the volcanic activity of the mid-1990s. Now that essential public services are in place, the island authorities are working to attract new inward investment and tourism, which will be further aided when the island's new airport becomes operational in the spring. During my visit last June, I pledged a further £40 million-worth of assistance, bringing our total aid to almost £250 million since the start of the crisis.

**Mr. Pickthall:** I thank my hon. Friend for that reply. Given that Montserrat still faces serious problems as a result of its reduced population, particularly of young people, what prospect is there of the United Kingdom, and perhaps the European Union as well, seriously encouraging business and commerce—jobs—into the island to help retain its young people and, hopefully, to help encourage some who were dispersed from the island following the eruptions in recent years to return home?

**Mr. Thomas:** My hon. Friend is right to say that the key to retaining young people on the island is opening up more job opportunities, but we also need to improve access to the wider Caribbean. That is why the airport is important. It is due to open in the spring. It was built not only with UK Government money, but with Commission money. We are also working closely with the Government of Montserrat on identifying further ways to create opportunities for business, including increasing businesses access to finance to enable them to set up and expand, and increasing access to business expertise. We are further working with the Government of Montserrat on the island promoting itself as a tourist destination.

**Rev. Martin Smyth** (Belfast, South) (UUP): I welcome what the Minister said about those improvements, but is he concerned to learn that those who found a home in the United States under the temporary settlement provision have been told that they should now leave? Some of them are unwilling to return to a country of which a large part is uninhabitable and where the fear of earthquake tremors remains?

**Mr. Thomas:** The hon. Gentleman is right—some 290 Montserratians left the island and went to the United States under the temporary protected status option and their right to stay under those terms ends on 27 February. Many of them are looking to regularise their status in the US, but those who cannot do so have the opportunity, as British passport holders, to go to the UK or elsewhere within the European Union, or to return to Montserrat. The Government of Montserrat are considering what else they need to do to make Montserrat an attractive destination for those who might return there.

**Jeff Ennis** (Barnsley, East and Mexborough) (Lab): Obviously, many of the problems in Montserrat were created by volcanic activity and the destruction of the infrastructure, particularly in the south of the island near the former capital of Plymouth. It is good news that the airport will open shortly, but when will the new port be developed, which will ensure that we can get back to the island the cruise ships that will provide economic prosperity for the islanders?

**Mr. Thomas:** As my hon. Friend will know from his visit to the island and his work with the all-party group on Montserrat, at the moment the port is able to cope with all the various traffic through it. However, in conjunction with the Government of Montserrat we are looking at whether further expansion of the port is necessary. They will clearly have to work up a proper business case for that proposal. We are also working with them on the nearby development of Little Bay, the new capital, which will be the potential catalyst for more private sector development on the island.

## Tsunami

4. **Mr. Liam Byrne** (Birmingham, Hodge Hill) (Lab): What lessons his Department has learned from dealing with the consequences of the tsunami of 26 December 2004 in the Indian ocean. [212231]

**The Secretary of State for International Development (Hilary Benn):** We will seek to learn lessons in reviewing the Department for International Development's immediate response to the tsunami once the relief phase is over, as we do for all significant humanitarian crises. We will also encourage the international community to do the same. The main issues, in my view, are co-ordination, transport and logistics and information. We will, of course, also monitor the effectiveness of our continuing support over the coming months.

**Mr. Byrne:** I thank my right hon. Friend for that reply. In common with many families, I spent most of Boxing day worrying about relatives travelling in the region. Since the tsunami, have we not also learned fresh lessons about the generosity of the British people? Readers of the *Birmingham Evening Mail* have already raised £120,000 to send to people in need; others have given up their comforts here to go in person and help those abroad. Is it not a clear signal that one of the greatest assets that we have in responding to these disasters is the skill and generosity of our compatriots?

**Hilary Benn:** My hon. Friend is absolutely right and I am sure that the whole House would want to pay tribute to the generous instinctive response of the British people. One of the lessons that we have all been reminded of, if we needed to learn it, is that we now understand that our neighbours are not just the people who live in our street in the local community; they are also the people whose names we do not know and whose faces we have never seen and who live on the other side

of the world, and with whom we feel an instinctive common bond when they are in distress. If we can do that in response to the tsunami, I refuse to believe that we cannot bring the same passion, commitment, energy and determination to tackle what I call the silent deadly tsunamis that kill thousands of people every single day.

**Michael Fabricant** (Lichfield) (Con): The right hon. Gentleman is quite right to point to the generosity and compassion of our compatriots in respect of the work done to relieve the suffering caused by the tsunami. He is also right about the instantaneous reaction that we made to it. But what steps can his Department put in place to ensure that long-term relief is carried out adequately and correctly and that it is properly targeted? We also need to ensure that there is no corruption and we must prevent aid money drifting away into Government departments overseas rather than relieving the suffering of those for whom it was intended.

**Hilary Benn:** One way to achieve that is through the generous donations that the British public have made through the relief agencies—Oxfam, Save the Children and others—that make up the Disasters Emergency Committee. That ensures that the money is not used only for immediate relief. So much money has been raised that it is possible to spend it on reconstruction. Secondly, the World Bank must lead, following the plans drawn up by the Governments. It is important to have clear structures in place to audit where the money goes and what it is used for. That provides a real opportunity for the Governments of the countries concerned to demonstrate their continuing commitment to fight corruption and to set up the structures in a way that responds to the question that hon. Gentleman quite rightly asked.

**Dr. Hywel Francis** (Aberavon) (Lab): As part of a Commonwealth delegation, I recently met citizens in the Indian ocean and witnessed some of the devastation caused by the tsunami. Does my right hon. Friend have any views on how the Commonwealth can best help the United Nations to assist the countries that have been devastated by this terrible event?

**Hilary Benn:** Together with many other countries, Commonwealth countries can help both through the support that they can give to the practical relief effort, including working with the affected countries to put a desperately needed early warning system in place, and by providing assistance with the reconstruction process. The whole world, the Commonwealth included, can be proud of how it has responded to fellow human beings in distress. It is also important, as hon. Members on both sides of the House clearly believe, to follow through the help in order to assist the countries that have been traumatised by the loss of life. I saw it for myself during my visits to Banda Aceh and Batticoloa in the east of Sri Lanka. It will take time for people to recover from the trauma and we all have an obligation to help them to do so.

**Sir Patrick Cormack** (South Staffordshire) (Con): Following up the Secretary of State's comment a few moments ago, how close are we to having an early warning system installed and what resources are being devoted to it?

**Hilary Benn:** That matter has been discussed by the Association of South East Asian Nations and at the Kobe conference on disaster reduction, which my hon. Friend the Under-Secretary attended. It is now widely agreed that an early warning system must be installed in the Indian ocean. We and others will support its establishment; it will not cost a huge amount of money. There is some discussion about exactly where the base for the early warning system will be. One of the most important lessons to learn is that we can put in place systems that will help those countries—should, heaven forbid, such a disaster happen again—to warn people to get out of the way if they can.

**Mr. Andrew Love** (Edmonton) (Lab/Co-op): There has been concern that aid has not been distributed fairly in Sri Lanka. When Kofi Annan visited recently, he was not allowed to go to the north and east of the country. Will my right hon. Friend reassure the House—and those of my constituents worried about the situation—that he is monitoring aid relief in Sri Lanka, and that aid is being distributed equally in both communities there?

**Hilary Benn:** I can offer my hon. Friend that assurance. I discussed this matter when I visited Batticoloa in the east of the country. That is in the middle of the territory held by both Government and Liberation Tigers of Tamil Eelam forces. We are keeping a close eye on the problem, about which concern has been expressed. There have been difficulties, but our view is that, by and large, relief is getting to the people who need it. When I was in Batticoloa, part of the relief was being provided by the crews of HMS Chatham and HMS Diligence. They had been putting up tents for people who had lost their homes and helping to clear out water tanks contaminated by sewage water. They are also helping to repair fishing boats. That is another example of the practical support provided by the UK to help those people in Sri Lanka so badly affected by the disaster.

**Mr. Julian Brazier** (Canterbury) (Con): The Secretary of State's answers are welcome, but I want to draw his attention to some less attractive lessons arising from the tsunami-affected area. Is he happy that the EU ended the special arrangements for imports from Indonesia and Sri Lanka just six days after the tsunami? Oxfam calculates that that decision will cost 100,000 jobs in Sri Lanka alone. Is not there a lesson in that for free trade and fair trade?

**Hilary Benn:** I acknowledge the hon. Gentleman's point about the timing of the decision, but he will be aware also that the general system of preferences will be accelerated to provide some offset against the impact of that decision. What matters now is that the resources that the world has put into the immediate relief effort should provide support to the affected countries in rebuilding their own economies. That applies in particular to the fishing fleets of Sri Lanka and Indonesia, which have suffered so much.

### Tsunami (Fish Imports)

5. **Mr. Graham Allen** (Nottingham, North) (Lab): If he will make representations to the Department for Environment, Food and Rural Affairs and the EU to

change the tariff regime on fish imports from Sri Lanka and the Maldives to assist the rebuilding of the fishing industry following the tsunami. [212232]

**The Parliamentary Under-Secretary of State for International Development (Mr. Gareth Thomas):** We recognise the importance of helping fishing industries to recover following the tsunami in Sri Lanka and the Maldives and we are working with the European Commission to accelerate the new generalised system of preferences that is the key means through which the EU grants preferential market access to imports from developing countries. The move to bring forward the GSP from July to April 2005 will benefit several countries affected by the tsunami.

**Mr. Allen:** Most of the tuna that we eat in this country comes from Sri Lanka and the Maldives. Does my hon. Friend accept that, even before the tsunami, the general tariffs levied on the fishing industries in those countries were having a detrimental effect? In the wake of the tsunami, will he discuss with his colleagues how we can ensure a more equitable means of taxation of tuna imports, so that fishing villages in those countries can be helped to recover?

**Mr. Thomas:** As my right hon. Friend the Secretary of State made clear earlier—and as I said in my answer to my hon. Friend's original question—the fact that the new GSP is being accelerated is a sign of the European Commission's concern about the tsunami's impact on the fishing industry in those two countries, and of its desire to help. To complement that measure, the Commission is considering relaxing the rules governing origin requirements under the GSP. I understand that it will discuss with EU member states this Friday whether additional trade policy measures are required to help the tsunami-affected countries. We will, of course, look sympathetically at such measures.

**Mr. Alan Duncan** (Rutland and Melton) (Con): Is it not verging on the obscene that poor countries that benefit enormously from trade with us and other nations face obstacles to the sale of their products? May I invite the Minister to reaffirm his support for the contents of last year's Treasury document about the global economy? Is it not a fair reflection of that document to say that it asserts a presumption in favour of free trade, but calls—as do the Opposition—for a measure of transitional protection for less-developed poor countries, which need time and support to build their capacity to trade on fair terms?

**Mr. Thomas:** The hon. Gentleman is right to say that we need freer and fairer trading rules. The new GSP arrangements are a step in that direction, as I have made clear. We are looking at what special and differential treatments we need to offer developing countries to help them as part of the Doha development round process. As I said, the European Commission is also willing to discuss with member states affected by the tsunami what other trade-related measures it can introduce to help get fishing industries on the road to recovery.

**Mr. Duncan:** If that is the case, will the Minister take issue with the undue simplification of the matter contained in charity advertisements, which even liken free trade to the blight of AIDS, droughts and tsunamis? Is not it absurd to appear to condemn free trade as such when it has the greatest potential to be a motor for wealth creation in poor countries? The enemy is not free trade, but economic weakness. Will the Minister reassert his belief in free trade in principle and join us in saying so—and in saying that we want free trade to be fairer and fair trade to be freer?

**Mr. Thomas:** As I have made clear to the hon. Gentleman, we want freer and fairer trade. I welcome his conversion to that cause. It is a pity that he and his party did not seek to do anything about it when they were in government.

## PRIME MINISTER

*The Prime Minister was asked—*

### Engagements

Q1. [212243] **Mr. Julian Brazier** (Canterbury) (Con): If he will list his official engagements for Wednesday 2 February.

**The Prime Minister (Mr. Tony Blair):** Before I list my engagements, I am sure that the whole House will join me in paying tribute to the brave service personnel, both Royal Air Force and Army, who were on board the RAF Hercules that tragically crashed on Sunday. At this sad time, our thoughts and prayers are with the families of all those on board. As the Chief of the Air Staff made clear on Monday, it will be for the board of inquiry to establish the cause of the crash and it would be wrong for anyone to speculate at this point. The investigation will be complex and it may take some time to establish the exact cause of the crash.

It is doubly tragic that the crash happened on a day of such hope in Iraq. The Iraqi people showed great courage in exercising their democratic rights and I know that all of us welcome the birth of Iraqi democracy.

This morning, I had meetings with ministerial colleagues and others and, in addition to my duties in this House, I shall have further such meetings later today.

**Mr. Brazier:** The world rightly admires the courage of the Iraqi people in the recent election. However, I wish to press the Prime Minister on his attitude to our armed forces, whose courage helped to make that result possible. What reply did he give to my constituent, the sister of a severely wounded soldier, when she wrote and asked him how he had found time in his busy week to drop a personal line to Ozzy Osbourne when he fell off his quad bike, when not one member of the Cabinet has written to or visited her brother or any of the other 600 British soldiers wounded under the Prime Minister's direction in Iraq?

**The Prime Minister:** I am sorry that the hon. Gentleman makes his point in that way. Everybody in the House believes that our armed forces are courageous people who have done an immensely worthwhile job in

Iraq. We should be and are proud of them. We grieve for the families who have lost their loved ones and we will give every support that we possibly can to those who have been wounded in action. That is the case for me and I believe that it is true for the Government, but it is also true for every Member of this House.

Q2. [212244] **Mr. Clive Soley** (Ealing, Acton and Shepherd's Bush) (Lab): Will the Prime Minister think back to all those Jeremiahs who have tried to talk down the success of the British economy, despite the fact that we have just had our 50th quarter of progressive growth? Will he comment on why he thinks those Jeremiahs keep getting it wrong?

**The Prime Minister:** Not merely have we had the longest period of consecutive economic growth, but 2 million more people are now in work. Low unemployment has saved us some £21 billion since we came to office. Most of all, the new deal has helped 1 million people off benefit and into work. That is a remarkable achievement for that programme and that is why this Government, unlike the Conservative party, will keep that programme in being, to help people off benefit and into worthwhile work.

**Mr. Michael Howard** (Folkestone and Hythe) (Con): May I, on behalf of the Opposition, express my deepest sympathy with the families of the brave men who lost their lives when the Hercules went down on Sunday? It is an acutely painful reminder of the sacrifices made at our behest and on our behalf. We mourn their loss and pay tribute to their courage.

Last week, the Government announced their plans for detention without trial on the order of the Home Secretary. This morning, we have put forward an alternative approach based on the proposals of the Newton committee, set up by the Government to consider these issues. It would involve giving those decisions to a court, not to a politician, allowing intercept evidence to be used and detaining those found guilty in prison, not at home. Will the Prime Minister undertake to look carefully at those proposals before taking any further steps along what I believe is a dangerous path for the Government to follow?

**The Prime Minister:** Yes, of course we will. It is important that we look at proposals from any quarter. I have not had an opportunity to study those proposals in detail, but I should say that it is our intention to have a judicial process. The difficulty will arise over the use of intercept evidence in court, and the question, if the security services are obliged to produce that evidence in court, will be whether they feel that they cannot do that without compromising intelligence sources. That is the problem that we have tried to wrestle with for the past few years.

I think that everyone who takes a responsible attitude to these matters realises that any such powers should be used only with the greatest hesitation and only in circumstances that really demand them. My concern is that if we have people in this country whom the security services believe to be a threat to the security of the country, nothing must stand in the way of protecting the security of our people.

**Mr. Howard:** There are difficulties with intercept evidence, although they have been overcome in almost every other country. There are even greater difficulties with detention without trial. Of course we must fight terrorism, but we must also be vigilant in defence of our freedom. It is of the utmost importance that in doing what is necessary to protect life we do not lose sight of the need to protect our way of life. Will the Prime Minister agree to meet me to see whether we can agree on a way forward that will command wide public confidence on these vital issues?

**The Prime Minister:** I am perfectly happy to meet the right hon. and learned Gentleman, and indeed any of his colleagues, to talk about these issues. Of course it is true that there is a balance to be struck between protecting our way of life and protecting our citizens. The legislation that we introduced, which was ruled unlawful by the House of Lords, is legislation under which 17 people have been detained. I do not minimise the importance of that; I simply set it against the 700 people who have been arrested for various offences connected with the possibility of terrorism since September 11.

We are desperate to avoid a situation in which, later, people turn round and say, "If only you'd been as vigilant as you should have been we could have averted a terrorist attack." I think it is right to call this a new form of global terrorism—it is different. Let us be clear: 200 people died in another European capital city, Madrid, but if the terrorists' plan had succeeded, they might have killed more than 1,000 people. That is the difficult balance that we are trying to strike. I entirely agree that we have to strike it so that there is respect for civil liberties as well as our security. We have tried to do that.

The right hon. and learned Gentleman said that other countries had easily overcome the issue of intercept evidence, but I have to say that that is not my understanding. It has been difficult for them and it has not always worked. I am happy to have discussions with him and his colleagues about the issues, to see whether we can find a common way through the problems. Obviously, it would be of assistance to the country if we could do that. I ask him to understand, however, that we propose these measures only after the deepest thought.

**Ms Gisela Stuart** (Birmingham, Edgbaston) (Lab): Yesterday, I met a constituent of mine who came from Iraq. He proudly showed me his ink-stained finger and told me how he and his family had voted and how it was one of the proudest and happiest days of their life. Will the Prime Minister give the House an assurance that we will continue to support the Iraqi people for however long it takes, so that they can establish a democratic and peaceful Iraq?

**The Prime Minister:** I thank my hon. Friend for that. She is right. It was heart-warming to see millions of Iraqis, whatever the intimidation and the threats against them, disprove everybody who put forward the theory that there are some people who are in favour of democracy and others who are not. The truth is that given the chance, human beings everywhere want to live in a democracy, not a tyranny. What the Iraqis have done is magnificent, but my hon. Friend is right. We must stay there—not quit the course, but stay the course—and make sure that we see them establish democracy, with their own security forces, their

economy under their own control, in charge of their destiny, as a democratic country. If they do that, the impact will be felt not just in Iraq, but across that region and even on the security of this country.

**Mr. Charles Kennedy** (Ross, Skye and Inverness, West) (LD): On behalf of my right hon. and hon. Friends, I extend our sincere sympathies to the families of the RAF and Army personnel who so tragically lost their lives in the course of their brave duty in Iraq last weekend.

In the exchanges a few moments ago, the Prime Minister mentioned his desire to build a judicial process. Can we take that to mean that he recognises that it can never be acceptable for a Government Minister acting alone, at his sole discretion, to be able to imprison an individual, and that that decision must always be for a judge, not a politician?

**The Prime Minister:** It is right to point out, though, that under the existing procedure such a decision is subject to a review by a court headed by a judge. The issue is the one raised by the Leader of the Opposition, which is to do with the nature of the evidence that can be put before the court. The problem, as I have tried to explain, is whether by putting the evidence before the court, we compromise the sources upon which it is based.

**Mr. Kennedy:** I recognise that there are differences of view. We opposed the original legislation that led to the current position, whereas the Conservatives did not. We would all accept that it is the fundamental duty of Government to protect their citizens. The issue is that in so protecting their citizens, the Government must also uphold their fundamental civil rights. Would not it be a better way forward for the Government to create a new offence of acting towards planning acts of terrorism? If prosecution was still impossible, any control orders should be issued by judges, not by politicians, should be time-limited and should, of course, require the highest possible burden of proof.

**The Prime Minister:** The very issue whether it was possible to do that by creating a new offence was one thing that we considered and found that it did not work. The right hon. Gentleman is right to say that we must protect the civil liberties of British citizens, as well as take action in respect of our security. The question is, when those two things come into conflict, how we navigate our way through in order to give our citizens the maximum security. The problem that we had with the previous legislation is that people said it applies to foreign nationals but not to British nationals. That is why we decided to take that on board and apply it both to British nationals and to foreign nationals in respect of the different type of solution that we have now put forward.

I say to the right hon. Gentleman and to the whole House that the one thing I will not do as Prime Minister is engage in anything that I think puts the security of our country at risk. That is paramount for me. Since September 11 we have had hundreds of arrests in respect of that new type of terrorism. We must take seriously, therefore, the threat that it poses. I agree that only in the most extreme circumstances should we curtail the normal rights of our citizens, but in this limited way this is an extreme set of circumstances. We must be sure, therefore, we are protecting our citizens' security.

**Clive Efford** (Eltham) (Lab): Will my right hon. Friend reaffirm his commitment to building schools for the future, to decent homes for tenants and providing state of the art facilities for sports in our communities? In my borough over the next 10 years my local authority will transform every secondary school by investing £325 million, which was opposed by the local Tories. It is spending more than £200 million providing decent homes for tenants, which was opposed by the Tories, and building a £20 million leisure centre in my town centre, which was opposed by the Tories. Apart from admiring their kamikaze-style manifesto— *[Interruption.]*

**Mr. Speaker:** Order. The Prime Minister can try to reply to that.

**The Prime Minister:** I think that I catch the drift of my hon. Friend's question. The Tories in his area are not a very good lot, I think, and that is pretty typical because, overall in the country, they are now committed, through their plans, to cutting £1 billion from the sustainable communities programme, and that means cuts in housing support, in social housing and in regeneration, which, as I saw for myself the other day in east Manchester, are programmes that have done an immense amount of good. It is truly tragic that the Conservative party has learned nothing from seven years of opposition.

Q3. [212245] **Mr. Andrew Robathan** (Blaby) (Con): I was in Iraq for Sunday's elections and I was hugely encouraged by the determination of the Iraqi people to vote for their future. I met many British servicemen and women doing an excellent job on our behalf in the service of this country under difficult and dangerous circumstances, so I asked them if they were registered to vote, and eight out of 10 said no. Is the Prime Minister aware that his policies have disfranchised the armed forces and that his Defence Ministers know full well the situation and are deliberately dragging their feet, doing nothing about it? Will he personally ensure that every serviceman and woman and their spouses receive a service voter registration form by the end of this month in time for the pending general election?

**The Prime Minister:** I will personally look into that and ensure that service people are given the right to vote. I was not aware of the situation to which the hon. Gentleman refers. On a better and more consensual note, let me say that I am pleased that he and other Members of the House went to Iraq and saw the free elections there, and I entirely agree with him, both about the spirit in which the Iraqis voted, but also about the tremendous work done by our troops in the south of Iraq.

**Mr. Mark Hendrick** (Preston) (Lab/Co-op): Will my right hon. Friend join me in congratulating Paul Stephenson on becoming the new deputy commissioner of the Metropolitan police? My right hon. Friend will be aware of the excellent work that he has done as chief

constable of Lancashire in turning it into the top police force of the 43 in England and Wales, reducing crime significantly, and, due to his expertise and skill and the investment of this Labour Government, turning Lancashire into one of the safest counties in the country.

**The Prime Minister:** Paul Stephenson has done a superb job there and I am delighted at the appointment that he has now achieved. I am sure that crime will continue to fall in Lancashire, as it is falling elsewhere in the country.

**Mr. Michael Howard** (Folkestone and Hythe) (Con): Two years ago, the Government very sensibly changed the law to stop burglars suing householders unless the force used was "grossly disproportionate". Why was that test used?

**The Prime Minister:** Because we believed that in those circumstances it was necessary to do it because the actual law was unclear. The law, however, in relation to the right of defence against burglary has now been made crystal clear by the police and the Crown Prosecution Service. *[Interruption.]* Yes, it has. It is now absolutely clear that the only circumstances in which anyone will ever be prosecuted for attacking a burglar in their home are the most extreme circumstances. The police have said that and the CPS has said that, and the only people trying to raise doubt in the public mind are the Tories.

**Mr. Howard:** But what on earth is the need for two tests? Why should not the same test be used to decide whether householders should be prosecuted? Does not the Prime Minister realise that that is exactly what is proposed in the Bill that will be before the House on Friday?

**The Prime Minister:** The question is: are there householders who are being prosecuted for—[HON. MEMBERS: "Yes!"] The answer to that from the police and the CPS, who I think know rather better than the Conservatives, is no, they are not being prosecuted in those circumstances. When they went back over the last 15 years they could find only a handful of cases in which such prosecutions had been mounted, which is no doubt why back in November the right hon. Gentleman said:

"It is not necessarily the law that is wrong but the way it is being implemented."

He then went on to say:

"I know you're keen on this but I'm being straight-forward with you."

Unfortunately, no longer.

**Mr. Howard:** Why does the Prime Minister persist in saying that there have been only a few prosecutions? The CPS itself has said that the number that it is has given, 11, was only the result of an informal trawl, and *The Sunday Telegraph* found seven more examples in a search lasting less than an hour. The Government leaflet only adds to the confusion. It introduces a wholly new phrase, "very excessive and gratuitous force", to make the muddle even worse. Let me read him another extract:

"A rugby tackle or a single blow would probably be reasonable".

That sounds like guidance for the Whips Office. Does he not understand that the answer is not to issue confusing guidance, but to change the law? Is it not time to think again on this issue, for common sense to prevail and for him and his colleagues to join us here on Friday in backing the private Member's Bill?

**The Prime Minister:** It is correct that the CPS found 11 cases and that *The Sunday Telegraph* found seven. That is over 15 years, and only a handful of them ever resulted in prosecution. If the right hon. and learned Gentleman has gone through the list, as I have, he will have seen that each of those cases was wholly exceptional, as one would expect. The real point, surely, is this: the police and the Crown Prosecution Service, and to be fair, large parts of the media today, have made it clear that a person is entitled to attack a burglar who is in their own home. Therefore, the person who is actually trying to sow confusion for his own usual reasons of opportunism is the right hon. and learned Gentleman. The reason why he wants to focus on this issue is very simple. I have done a comparison between the number of burglaries when he left office as Home Secretary and now. Perhaps he can confirm it when he gets up. There were 200,000 more burglaries a year when he was Home Secretary than there are today—right or wrong?

**Hon. Members:** Answer.

**Mr. Howard** *rose—*

**Mr. Speaker:** Order. I have told the House before that the Leader of the Opposition does not have to answer any questions. *[Interruption.]* Order. There is no point in any hon. Members shouting "Answer"; he does not have to do it.

**Mr. Howard:** I will answer it, Mr. Speaker—*[Interruption.]*

**Mr. Speaker:** Order. Mr. King, you had better behave yourself, because if I suspend the House, the Prime Minister of the day will have to wait until I come back to the Chair. It is as simple as that.

**Mr. Howard:** All anyone needs to know about my record as Home Secretary is that crime fell 18 per cent. in those four years—more than ever happened before, and more than has happened since.

The question that I pose to the Prime Minister—I have already put it to him twice, and he has twice failed to answer it—is a very simple one: why do we need two different tests in the same area of law? The Government introduced the "grossly disproportionate" test to stop burglars suing householders. Why will they not use the same test to stop householders being prosecuted?

**The Prime Minister:** For the reason I have just given. The law is clear, and it has been made clear again by the police and the Crown Prosecution Service. Surely, the responsible thing for the right hon. and learned Gentleman and his colleagues to do, given that the police and the Crown Prosecution Service are both saying that it is only in the most extreme circumstances that people will ever be prosecuted, and given that it is

now absolutely plain that everyone understands that they can of course protect themselves against a burglar in their house, is clear. Would it not be more sensible, if he actually wanted to help people in this country, if he joined the police and the Crown Prosecution Service instead of pursuing his own usual petty opportunism?

**Martin Linton** (Battersea) (Lab): Will my right hon. Friend visit the Share Association, a voluntary organisation in my constituency that has had spectacular success in training and finding jobs for people with disabilities, because it works on the principle of what people can do and not what they cannot do? Is not that the principle that should guide us in any reform of the benefits system?

**The Prime Minister:** My hon. Friend is absolutely right. My right hon. Friend the Secretary of State for Work and Pensions outlined the proposals earlier. It is important to realise that, under this Government, about 1 million people have moved off benefit and into work. The flow on to incapacity benefit is already 300,000 down from the time when we came to office, but it is also true, as my hon. Friend rightly implies, that we now need to do more, because there are large numbers of people who are on incapacity benefit or will come on to it in future who could be helped back into work. We need to ensure that those who can work are helped back into work, and that those who genuinely cannot do so are given real support. That is what the proposals will do.

Q4. [212246] **Mr. Philip Hammond** (Runnymede and Weybridge) (Con): Since 1998, total grant to the Prime Minister's local council of Sedgefield has gone up by 68 per cent. Over the same period, the total grant to Runnymede borough council in my constituency has gone up by 0.4 per cent. How does he expect Runnymede borough council and other councils in a similar position to maintain high-quality public services and keep council tax low under such a grossly unfair grant distribution system?

**The Prime Minister:** It is not unfair. For example, if we take education, there has been an increase in funding of 26 per cent., or an extra £760 per pupil. Even on the figures that the hon. Gentleman cites, there has been an increase in the funding given to his local authority. I might point out that when the Government whom he supported were in office, they cut the funds available for local authorities. I agree that we can always do more, but we certainly bear comparison with his party.

Q5. [212247] **Anne Picking** (East Lothian) (Lab): Is my right hon. Friend aware that for the first time ever in the United Kingdom, women have smashed through the glass ceiling and are earning more than men in one area, which happens to be my constituency of East Lothian? However, does he agree that there is still a long way to go? Will he consider introducing compulsory pay audits to ensure, especially in the private sector, that women receive the same rate of pay as men for doing the same job?

**The Prime Minister:** First, let me congratulate the women in my hon. Friend's constituency. She is right that nationally the gender pay gap is at an all-time low, but it is still about 14 or 15 per cent. We established the Women and Work Commission to bring together the people who can help to advise us on how to close that pay gap. I am sure that my hon. Friend is aware that the minimum wage and the working families tax credit have benefited many women on medium and low incomes, so it is important that we keep those things going. I hope that we can act on the recommendations of the commission after it reports.

Q6. [212248] **Mr. Desmond Swayne** (New Forest, West) (Con): Should not potentially dangerous terrorists be imprisoned on the orders of a judge, rather than being in their living rooms and wearing a tag on the order of the Secretary of State for the Home Department?

**The Prime Minister:** I have answered that question. The simple answer is that there is a judicial process in the existing legislation that would be used in any future legislation. The question that I put back to the hon. Gentleman is that if the security services tell us that they have reasonable grounds—that is later checked by a judge—for suspecting that people are involved in plotting terrorist acts in this country, should we allow them to remain at large? Yes, we can put surveillance on them, but that cannot always be guaranteed to work. I pointed out that we have literally had to arrest a large number of people since September 11 for terrorist offences. We know from September 11, Madrid and Bali that these people are prepared to kill without limit. That is the dilemma and, with respect, it will not be solved by questions posed in a somewhat glib way.

Q7. [212249] **Vera Baird** (Redcar) (Lab): In the Tees valley, largely thanks to the new deal, unemployment is right down to less than 4 per cent., but there are still low-skilled people who could achieve more. Will my right hon. Friend congratulate more than 100 employers who have already signed up to our wonderful support for skills programme so that their employees in the workplace, free of charge, can learn basic skills? Can this training programme continue so that the people of Redcar, who were long neglected by the Tories, can achieve the tools to get a better life?

**The Prime Minister:** I certainly congratulate the employers in my hon. and learned Friend's constituency. I think that the overall number of apprenticeships has trebled over the past few years, so we must keep that going along with skills support and the new deal for the unemployed. We must ensure that the Jobcentre Plus programme, which is helping many people off benefit and into work, is not cut savagely. The Conservative party's programme, which we will obviously not endorse, would lead to massive cuts in the very front-line services that help to get unemployed people off benefit and into work. *[Interruption.]* The right hon. Member for Bromley and Chislehurst (Mr. Forth) might yawn about that, but people who are unemployed need that help to get back into work.

**Mr. A. J. Beith** (Berwick-upon-Tweed) (LD): Does the Prime Minister recognise how great is the anger of miners at Ellington colliery in my constituency at the

sudden decision by UK Coal to close the pit just when the men were getting on top of its flooding problem? Is he prepared to discuss whether there can be Government involvement in helping to save the pit, particularly in view of the amount of public money that has already been invested in it and the very severe blow that it will be to the economy of Northumberland if the closure goes ahead?

**The Prime Minister:** I entirely understand the problem to which the right hon. Gentleman draws attention, and I will be happy to talk to him about it. When he says "Government involvement", though, I suspect that that is a euphemism for Government money. We obviously have to be careful about additional sums of money that we commit. However, I am perfectly happy, in the interests of his constituency and the people who work at Ellington colliery, to meet him to talk about it, although I cannot give him any specific guarantees that we will be able to help.

Q8. [212250] **Mr. Ian Davidson** (Glasgow, Pollok) (Lab/Co-op): Is the Prime Minister aware that we may be approaching a general election? *[Interruption.]* I say that because I read it in the papers. Is he further aware that many voters are wondering whether to vote Labour next time? Does he agree that voters should reward all of us on the Labour Benches for all the good work that we have done by retaining a Labour Government, and then turn and punish the Government for any mistakes, errors or misjudgments they have made by voting no in the European referendum?

**The Prime Minister:** Well, if it were true that we were approaching a general election, may I respectfully suggest to my hon. Friend that it might be a good idea to support the Government policy of support for a positive role in Europe rather than the Conservative policy of Euroscepticism? However, he is absolutely right about the work that is being done in constituencies such as his to deliver lower unemployment, higher employment and investment in public services, and the work that we can carry on doing in making those investments in public services, as opposed to the savage cuts in services proposed by the Conservatives. Perhaps at least on that point we can both agree.

## DWP (Five-year Strategy)

.32 pm

**The Secretary of State for Work and Pensions (Alan hnson):** With permission, Mr. Speaker, I should like make a statement on the Government's five-year ategy, "Opportunity and security throughout life."

Since 1997, the Government have begun to transform e welfare state from a passive one-size-fits-all system an active service that tailors help to the individual, abling people to acquire the skills and confidence to ve from welfare to work. When the Conservatives ere in power, boom and bust twice led to employment reaching 3 million, and the numbers on capacity benefit trebled to 2.6 million. By 1997, one in e families had no one in work and one in three ildren were growing up in poverty.

There are now more people in jobs than ever before. nemployment is at its lowest for 30 years, with long-rm youth unemployment 90 per cent. lower than in 97. With almost three-quarters of the working age pulation in work, our employment rate is the highest any of the G8 countries. By supporting people in rk and providing financial security for those who nnot work, we have lifted 2.1 million children and 8 million pensioners out of absolute poverty since 97.

But we can and will go further. Today's strategy sets r course for the next five years. It is a difficult course at will take us beyond concern for the unemployed to lp those who are even further away from the labour arket and who have more complex and substantial rriers to overcome. Its goal is genuine inclusion—amping out the discrimination and disadvantage that events people from fulfilling their true potential.

The backdrop to the strategy is a healthier society here people are living longer. Two years from now, the mber of people over state pension age will overtake e number of children. In just over 30 years, the oportion of the population aged 65 and over will crease by 50 per cent., while the number of pensioners ed 80 and over will double.

If we are to meet the challenges of our ageing society, e cannot afford to squander the skills and ntributions of those who can and want to work but main outside the labour market. Our strategy tablishes a long-term aspiration of moving towards an ployment rate equivalent to 80 per cent. of the rking age population. That could involve supporting many as 1 million people on incapacity benefit into rk, as well as an extra 300,000 lone parents. We also visage 1 million more older workers in the labour ree, including many who will choose to work beyond e traditional retirement age.

As I have said—it bears repeating—between 1979 and 97 the numbers on incapacity benefit trebled. Had at trend continued, there would now be 4 million on capacity benefit instead of 2.7 million. New claims are wn by almost one third since 1997 and we have even perienced the first small fall in the total numbers. ople who claimed incapacity benefit have too often en told that they should not expect to work again. Yet know that perhaps a million claimants say that they uld like to work if they were given sufficient help and support. We also know that nine out of 10 people coming on to incapacity benefit expect to get back to work quickly.

There is growing medical evidence that for many conditions, such as back pain and depression, working is much healthier than being inactive, so failing to help those on incapacity benefit is bad not only for the economy, but for the people on incapacity benefit.

We already know that active intervention works. We have invested in Jobcentre Plus and the new deal to give people employment support regardless of the benefit they happen to be on. The Government's pathways to work pilots build on that platform and have achieved startling success, with six times as many people getting back to work help and twice as many people recorded as entering jobs, compared with the rest of the country.

The intervention is succeeding partly because it focuses on what people can do rather than on what they cannot. Although involvement is mandatory only for new claimants, more than 10 per cent. of those who take part are existing claimants who asked whether they could participate.

As my right hon. Friend the Chancellor announced in his pre-Budget report, the pathways pilots will soon be extended to cover one third of the country. Alongside the extension of pathways, today's strategy sets out the wider changes that are needed. Employers, health professionals and the Government must all work together more effectively to get people into work and help them stay there.

Employers must create healthier workplaces and play a bigger role in the rehabilitation of their employees. The Health and Safety Executive will trial and develop "Workplace Health Direct", which will provide support for occupational health in small and medium-sized firms. General practitioners and other health professionals must reinforce the message that work is a route back to health.

Against the background of the wider change, and when we have the extra support of pathways in place, we will implement a radically reformed incapacity benefit so that, like pathways, it focuses on what people can do rather than on what they cannot.

The main purpose of incapacity benefit is to support those who, through no fault of their own, are restricted in their ability to work because of a health condition, disability or injury. Financial security will always be essential. Society has a responsibility to provide financial support to people who are denied the opportunity to work because of health problems—and to do so for as long as necessary. That is why our reforms are not about cutting or time-limiting benefit.

However, the current incapacity benefit system is anomalous. Incapacity benefit classifies those receiving it as incapable of working, even before they have a formal medical examination. When they have the examination—the personal capability assessment—those who are entitled get no appraisal of their likely future ability to return to work. Furthermore, no distinction is made between terminal cancer and back pain. There are few incentives in the system to encourage those with more manageable conditions to consider their potential for work. Indeed, the benefit increases with time, thus creating an incentive to stay on it for longer.

*[Alan Johnson]*

Our five-year strategy sets out a better model for new claimants of the benefit. It represents the biggest change in benefit for sick and disabled people since Beveridge.

Our reforms will offer more support and help than is currently available for those with the most severe health problems and impairments, while ensuring that there are clear rewards for moving into work, and that the financial risks of trying out a job are minimised. In future, there will be an initial holding benefit—at jobseeker's allowance rate—payable until the personal capability assessment has been completed, which should be within 12 weeks.

This assessment will become the gateway to the new benefits, accompanied by an employment and support assessment which will provide a fuller evaluation of potential work capacity. The assessment will lead to one of two allowances. The majority will receive a rehabilitation support allowance, which will require claimants to engage in work-focused interviews, in return for which they will receive a conditional extra payment. At the interview, claimants will agree an action plan, and fulfilment of the plan will lead to a further conditional payment.

Recipients who co-operate fully will get more than the current long-term rate of incapacity benefit, but any who completely decline to engage will receive only the holding benefit minimum. Those with the most severe health conditions or disabilities will receive a disability and sickness allowance. Far from having their benefits cut, those recipients would get more money because they are at most risk of persistent poverty. But we are not writing anyone off, so their engagement in some work-focused interviews would be encouraged, in line with the pathways to work programme.

Our message is clear. There will be a basic benefit below which no one should fall; a speedy medical assessment linked with an employment and support assessment; increased financial security for the most chronically sick; more money than now for those who take up the extra help on offer; and less money for those who decline to co-operate.

As with the pathways programme, we will develop these reforms in partnership with all our stakeholders, including those on the benefit itself. The reforms will need to be shaped on the basis of the evidence of what works, with piloting playing an important role. The timetable for implementation will depend on the continued lessons learned from pathways, on the available resources, and on the timing of any necessary legislation. However, our goal is to have the main elements of the new system in place by 2008.

These reforms are, of course, only part of the much wider programme at the heart of our strategy for opportunity and security throughout life. Our approach must continue to provide tailored help and support at every stage of life, to offer real opportunity for those who can and want to work while ensuring financial security for those who cannot. We will continue to support families and children to ensure that every child has the best start in life and parents have more choice about how to balance work and family life. We will support parents in their parenting role by extending rights to paid maternity leave and enabling families to have access to affordable, flexible and high-quality child care. Our new deal for lone parents has already helped nearly 300,000 lone parents into work and taken the lone parent employment rate over the 50 per cent. rubicon for the first time ever. In fact, today I can announce that we have hit a new lone parent employment rate of 55.8 per cent.—a 10 per cent. increase since 1997.

Today's strategy sets out our intention to go further and to pilot a pathways to work model for lone parents—a more progressive model of active engagement and persuasion for all lone parents on benefit, based on clearer guarantees of advice and support. In line with our overall approach to rights and responsibilities, it will guarantee a clear financial gain from work, guarantee child care support, and guarantee the ongoing help of trained professional advisers—all in return for a responsibility to engage more intensively with our employment advisers. For those with children aged 11 or over, we will pilot the automatic payment of an activity premium, on top of all existing benefits, conditional on taking up agreed activity to help lone parents move into work.

Giving people the choice and opportunity to work for longer will also be crucial. That is not about raising the state pension age, but about helping people to work up to that age and offering better rewards for those who choose to work beyond it. Improved arrangements for state pension deferral will mean that a typical person who delays taking their state pension for five years could receive a lump sum payment of between £20,000 and £30,000, or an increase of 50 per cent. in their weekly pension for the rest of their life.

Working for longer, together with the increased confidence in saving that will result from the pension protection fund and other measures, will play an important part in helping people to save to meet their retirement aspirations. Guided by the work of the Pensions Commission, however, we will meet the long-term pensions challenges of our ageing society. We will set out the principles on which we will base our pension reforms separately in the near future.

In delivering this five-year strategy, my Department will continue to modernise its service delivery, reducing overheads, streamlining processes and delivering a more efficient organisation. Over the next five years, the Government will build on our employment record to open opportunity for those beyond the traditional definition of unemployment, and to move towards a ground-breaking aspiration of an 80 per cent. employment rate. We will build on the lessons learned from our successful pathways to work pilots to reform incapacity benefit and, with the support of employers and the medical profession, help and support incapacity benefit recipients who want to work to do so.

We will build on our progress in fighting discrimination, moving to a world in which opportunity and security are not dependent on age, disability or ethnic background. And we will build on our progress in tackling poverty, halving child poverty by 2010, continuing to lift pensioner income and helping another 300,000 lone parents into work.

With this strategy, we will build for the future—a future with opportunity and security throughout life. I commend this statement to the House.

**Mr. David Willetts** (Havant) (Con): I welcome the fact that the Secretary of State has come to the House to make a statement on his plans. After all the briefing and spin of the past few days, it is right that he should come here to clear things up, and we appreciate that.

We also agree with the Secretary of State that more must be done to help disabled people into work. Of course, we also have an obligation to provide decent support for people who are seriously disabled and cannot be expected to work. We believe that it is possible to save money on the cost of disability benefits, but that should be done by helping those who can work to do so. It would be wrong to cut benefits for people who are genuinely sick or disabled. I believe that those principles are shared on both sides of the House.

After eight years, however, the Government must expect to be judged not on their words but on their record. The Secretary of State talked today about tackling economic inactivity—but can he confirm that the number of economically inactive people has risen by 300,000 since Labour came into office, and that that accounts for nearly half the fall in unemployment over the same period? The Secretary of State says that the problem is people who have moved from unemployment on to incapacity benefits instead—but will he confirm that back in 1997 47 per cent. of people moving on to incapacity benefit were unemployed, and that that figure is now up to 60 per cent?

The Secretary of State said that the number of people moving on to incapacity benefits was down. Will he confirm, however, that the number of people leaving incapacity benefits is also down, and that the total number of people claiming the benefits is now 140,000 higher than it was in May 1997?

Therefore, everyone in the House agrees that there is a problem. We agree with the Prime Minister when he says,

"we can also reform incapacity benefit so that it returns to what it was meant to be: a benefit which compensates those who've had to give up work because of long-term illness or sickness. That's not what it is now. It's an alternative to long-term unemployment or early retirement."

The trouble is, that is what the Prime Minister said in May 1999.

Anyone who has followed this Government's endless reannouncements cannot help but think of that Bill Murray film "Groundhog Day". May I congratulate the Secretary of State on his brilliant timing? In America there really is a Groundhog day—and it is today. We are celebrating Groundhog day today in the House of Commons, and what better way for the Government to mark it than by making the same promises on welfare reform that they have made again and again and again? We have heard it all before.

When I read the document that the Government published today, it had a strange familiarity. Perhaps I may quote:

"Our priority is to forge an entirely new culture which puts work first and is based on a modern, integrated, flexible service for all. This means a fundamental shift in the way we support people—away from merely asking 'What money can we pay you?' to 'How can we help you to become more independent?' . . . we aim to implement new legislation to make it a condition of receiving benefit that, when asked to do so, people take part in an interview to talk about their prospects of finding work. For people with a long-term illness or disability claiming incapacity benefits, as for others who are claiming benefits, attendance at such an interview will be an integral part of their claim."

But that is from a document called "A new contract for welfare: support for disabled people", produced in October 1998. Can the Secretary of State tell the House whether he has read it, and can he tell us in what respect what he is saying today is any advance on what we were told six and a half years ago?

We know what the Secretary of State has been up to. He has been told by No. 10 to come up with some eye-catching initiative on incapacity benefits. He is an ambitious man, so of course he agrees. He goes back to the Department and says to his permanent secretary, "We've got to do something about incapacity benefits: what on earth should we do?" The permanent secretary says "Here's something I prepared earlier—six and a half years earlier." And the Secretary of State has brought it back to the House today.

Why is it that these promises of incapacity benefit reform never materialise, and why should anyone believe what the Secretary of State says today when we have heard it so often from his predecessors? It is because Ministers do not learn from their mistakes that they are condemned to repeat them. When the Government means-tested new claims for incapacity benefit, we warned that people already on the benefit would be deterred from leaving it because they would fear that they might have to go on to the new means-tested benefit at a lower rate. Our warnings have been proved correct. That is why the number of people on incapacity benefit has gone up since the Government announced their last so-called reforms. What steps will the Secretary of State take to counteract that perverse effect when he has another new regime for new claims? Does he recognise that it is possible that today's announcement could make the problem worse?

Incidentally, will the Secretary of State confirm that the measures that he has announced today apply only to new claimants, and will have no effect on the 2.7 million people who are already claiming the benefit? Why has he not announced any measures to help those already on it? Does he recognise that the fundamental difference between his approach and ours is that we want to help existing claimants? All he is talking about today is a policy that might possibly apply to new claims in 2008. That is no help at all for people who are stuck on the benefit today.

Yesterday, the Prime Minister said:

"We want to reform the benefit rules which pay claimants more the longer they actually stay on benefit and, in fact, at the moment these rules penalise those who want to manage their condition and eventually return to work. So we've got to take that, if you like, perverse incentive out of the system."

Today, the Secretary of State said he was not cutting benefits. Yesterday, the Prime Minister talks tough and says that the Government are going to get rid of the long-term rate, and today, the Secretary of State says that they are not going to cut benefits at all. The Prime Minister marches people up to the top of the hill, and the Secretary of State comes to the House and marches them down again. The device that is being used to reconcile those apparently irreconcilable statements is that people will receive the new benefit only if they agree to turn up for a work-focused interview.

*[Mr. David Willetts]*

Will the Secretary of State tell us a little more about the conditions for receipt of the benefit? How will he police the boundary between the two new benefits that he has announced? How many new claimants will be entitled to receive the new higher rate? How many claimants does the Secretary of State think will refuse to turn up for the work-focused interviews and settle for the lower rate? How many people does he think will lose benefits for failing to attend? How many people does he think he will get into work as a result of these policies?

Will the Secretary of State recognise that the new work-focused interviews may be no more successful than any of the existing work-focused interviews that the Government have been launching for the past few years? Does he read his Department's own appraisals of their success?

**Mr. Speaker:** Order. I find what the hon. Gentleman is saying very interesting, but he is making a speech. He should be putting questions, with no embellishment whatsoever. I also note that he has been on his feet for about 10 minutes, and I am expecting to give Back Benchers an opportunity to ask questions.

**Mr. Willetts:** There are a good many questions to ask about this policy, Mr. Speaker, but the Secretary of State does need an opportunity to answer the questions that I have already put.

Conservative Members are not sure whether, after eight years in office, the Government have really learned the lessons of their failure to reform welfare in the past. We want to know why we should believe anything that the Secretary of State says today after his failure so far to deliver any of the promises on incapacity benefit that we have heard from him.

**Alan Johnson:** Where can I begin, Mr. Speaker? I certainly give the hon. Member for Havant (Mr. Willetts) 10 out of 10 for sheer effrontery. He asks what has been happening since 1997. The entire Conservative party should be sitting here [HON. MEMBERS: "Where are they?"] Probably at lunch—but if they were sitting here they should be wearing sackcloth and ashes; in fact, they would probably look better like that than they do in their normal suits.

The issues that we are discussing today are about lifting pensioners out of poverty. Who put pensioners into poverty? The Conservative party. The hon. Gentleman talks of giving help to disabled people. The Conservative party denied civil rights to disabled people throughout its 18 years in office.

Let me give another statistic. The hon. Gentleman asks what has happened since 1997. Not only have we crossed the 50 per cent. line in terms of the number of lone parents in employment, but more than 50 per cent. of disabled people are now in employment. That is an extremely important bridge to cross, given the perception of disabled people as being somehow incapable of work.

I remind the hon. Gentleman that 700,000 people were claiming incapacity benefit in 1979, and 2.6 million were doing so by the time the Conservatives left office. These, incidentally, were not people with medical conditions that could not be rectified; they were people who had left steel mills, shipyards and coal mines, been directed towards incapacity benefit and told to go away and be passive recipients of benefits for the rest of their lives.

What has happened since 1997? The hon. Gentleman asked about people who had been on incapacity benefit for 20 years. We have reduced the flow on to incapacity benefit by a third. None of these people are freeloading, by the way; this is not the 1980s. These are people with genuine health conditions who undergo a personal capability assessment to receive incapacity benefit. The number of new claimants has been reduced by a third. We have developed pathways to work, which I would describe as the most extraordinary development in the history of this issue. We built on Jobcentre Plus—which has had to be created over the last seven years—and the merger of the Benefits Agency and the Employment Service, which gave us a foundation for pathways to work.

If the hon. Gentleman wants to find out what we have been doing, and why ours is the right approach, he should visit a pathways to work area. He knows a thing or two about the issues—and to be fair, he is probably more to the left on them than the rest of his party. *[Interruption.]* I withdraw that remark immediately; but the hon. Gentleman should still visit a pathways to work area. He will be inspired, just as our staff at the front line are, by the stories that we hear there and by the help that can be given to get people back into work.

The hon. Gentleman asks what we will do to help people to try out work. They will not face never being able to get back on to benefit. That is crucial for people on existing benefits—"on the stock", as they are not very charmingly described. As we say in the five-year plan, we need to change the linking rules even further. The Chancellor of the Exchequer said in the pre-Budget report that we would relax those rules. We have introduced a greater permitted work regime to assist people in that position, but that is not all we can do for people on the stock. I confirm that these arrangements apply to new claimants of IB.

As I said in my statement, in pathways to work areas, we are already seeing people who have been on IB for many years wanting to become involved. This month, we will extend the pathways to work project to people who have been on IB for three years. We will offer the opportunity for anyone to become involved, but it would be wrong to pretend that it will be easy dealing with people who have been on IB for 15 or 20 years, because they get into a mindset. The important part of our proposals is to have a speedy process: a personal capability assessment within 12 weeks; and assistance and advice early on, so that people can be given the assistance that they need, without being, as they were previously, sent away to be passive recipients of benefits for the rest of their lives.

The plan needs to be seen in the context of what has gone on before: the development of Jobcentre Plus and pathways to work, which enables us to move even further in a climate where we have the lowest unemployment for 30 years and the highest employment of any major industrialised nation.

**Mr. Steve Webb** (Northavon) (LD): This is the five-year plan of the Department for Work and Pensions.

Can the Secretary of State tell us what happened to "and Pensions" today? After seven years in office, all the Government have promised is a statement of principles in a couple of weeks that will underlie pension reform. What can Britain's pensioners expect by way of action? Have not women pensioners suffered injustice for long enough? In a five-year plan from the Department, will they not have expected something that amounted to action, not just a statement of principles? Can the Secretary of State update the House on how far he has got with persuading the Chancellor to adopt the Liberal Democrat policy of a citizen's pension? I welcome his openness on that front—how is he getting on with his mates?

On incapacity benefit, can the Secretary of State confirm that his central thesis—I quote from his statement—is that "benefit increases with time, creating an incentive to stay on it for longer"? Can he confirm his remark in the press—or was he misquoted this morning—that £75 a week of incapacity benefit was "comfortable"? That is the word that he used. Is it his thesis that people are comfortable on incapacity benefit of £75 a week and choose not to seek work? Where is the evidence for that basis of his reform? Can he confirm that incapacity benefit is high where joblessness is high and that, for many people on IB, there are not jobs for them to go for? Is there a danger that, under his incentive structure, a lot of those people will be forced to go through the motions of applying for jobs when there are not jobs there to take?

Can the Secretary of State confirm that, out of the 2.7 million on incapacity benefit, nearly 1 million get no money? Can he confirm that that is a fast-growing group and that real spending on incapacity benefit has fallen by £2 billion since 1997? What will he do for that group? As people in that group are not entitled to any cash from incapacity benefit, how does changing the rates of incapacity benefit affect their incentives? How will that group, which is the only fast-growing group of incapacity benefit recipients, benefit from his reforms unless he changes income support, too? Can he tell us, therefore, whether income support for disabled people will also be changed in the way he has described?

Seven years ago, it was said that 1 million disabled people wanted to work. Today, the Secretary of State used the same figure again, which is testimony to the failure of these repeated announcements to deliver. Is not incapacity benefit itself a barrier, because it is very much an all-or-nothing benefit? Is not it true that disability is much more shades of grey? Many disabled people can do some work, and the conditions of many fluctuate. Is not the system still far too rigid? Should not there be a partial capacity benefit to go with the grain of what people can do, instead of it being yes or no, black or white?

Britain's pensioners will be disappointed by the statement. We have yet to see evidence that people on incapacity benefit will get the support that they need to improve their life.

**Alan Johnson:** First, on pensions, as I made clear earlier, and it is in the five-year plan, we will publish a statement on our pension principles. The hon. Gentleman asks what we have done for pensioners. He should look at the Pensions Act 2004 and consider the fact that pensions credit has lifted 1.8 million pensioners out of abject poverty. A recent report by the Institute for Fiscal Studies, with which he has an intimate relationship, showed that, for the first time in history, pensioners are no more likely to be in poverty than any other group in society. That is significant. Age has always meant the workhouse—in Charles Booth's day in the early 20th century, it was linked to poverty. The measures that we have taken to deal with abject poverty are turning that situation around.

The Pensions Commission made the point that the last thing we want is for politicians to have a knee-jerk reaction to a problem that is 20 to 25 years down the road. Its advice is sound. There is no instant solution to that problem. We are keen to achieve a political as well as national consensus about where we should be in 2050, so that we can ensure that whatever we implement is consistent and remains in place.

I do not know where the statement about £75 came from. The hon. Gentleman keeps coming up with statements—

**The Parliamentary Under-Secretary of State for Work and Pensions (Maria Eagle):** He makes them up.

**Alan Johnson:** My hon. Friend says from a sedentary position that the hon. Gentleman makes them up. I have never said that someone on £75 a week is comfortable—quite the opposite. Indeed, we are saying that those with chronic sicknesses, who will probably never be able to work again, require more support, as do people who can, with rehabilitation, get back to work, provided that they co-operate with the arrangements that we are putting in place. Therefore, I do not believe that anyone on £75 a week is comfortable.

As for where the jobs will come from, we now have not just the lowest unemployment for 30 years, the highest employment in the G8, the lowest redundancies since records began, 55 per cent. of lone parents in work, and more than 50 per cent. of disabled people in work, but 600,000 vacancies. We have a good, strong economy. The hon. Gentleman can come with the hon. Member for Havant (Mr. Willetts) to a pathways to work area to talk to people in Gateshead, south Wales and in difficult areas. It is not lack of jobs that is the problem; the problem is helping people to overcome the barriers to get back into work.

I know that it is difficult for the Liberal Democrats, who are kind of a trumped up think-tank. When it comes to implementing policies, it would be nice for them to say either what their policy is or what the problem with our policy is. We got a little hint of it in relation to the "shades of grey". We agree—we are pleased that the Lib Dems are adopting our policy—that there are shades of grey. The one-size-fits-all solution, the single benefit, no matter what the sickness is, with no flexibility for people to work without fear of losing their benefit, and the things that we have done on earnings, drive this reform. I look forward to the Liberal Democrats joining us in heralding it as the breakthrough that it is.

**Mr. Frank Field** (Birkenhead) (Lab): May I draw attention to the confidence of Labour Members and the country in the skills of my right hon. Friend in tackling welfare reform? I urge him, however, to be slightly more

*[Mr. Frank Field]*

radical than he has suggested he will be today. Does not the fact that we now have a record low level of unemployment offer the opportunity to abolish benefit for the unemployed and for those on incapacity benefit, to have a single benefit for those of working age who are not in work and to assume that everyone, from the moment that they sign on, will, when they can, seek work, with all our efforts being tailored to get them to achieve that objective?

My worry about the scheme is that we as politicians are not very good at deciding who is capable of work and who is incapable. In my opinion, some of the people in Birkenhead who cannot get incapacity benefit ought to be getting it. Others are rightly claiming and getting it, but there are many other claimants who ought not to be getting it, but who spend all their energy on ensuring that they remain on it. How will my right hon. Friend's reforms address that issue? Does not the low level of—

**Mr. Speaker:** Order. The right hon. Gentleman knows that I have given him more than one supplementary.

**Alan Johnson:** I accept that, at a time of low unemployment, we can be bold and radical. I believe that the proposals are bold and radical, but obviously there is still a process to go through. It is a five-year strategy and, as I said in my statement, we need to talk to everyone with an interest in this issue about how we firm up these proposals.

I am not immediately attracted to the argument in favour of a single benefit. As I said to the hon. Member for Northavon (Mr. Webb), a one-size-fits-all solution is difficult to achieve, but my right hon. Friend is right to argue, as he has consistently done, for benefit simplification. Such simplification presents us with a big challenge. The various benefits in the system have been layered one on top of the other, and there is a real case for radical transformation and simplification. In doing so, it might be possible to provide some of the improvements that my right hon. Friend wants.

My right hon. Friend mentioned people on incapacity benefit in his constituency, which is an issue in many constituencies, particularly in the north. I have not given up on those people and I am not going to worry them by saying that a draconian measure will be introduced. In fact, the new measure, which applies to new benefit claimants, is not draconian. I want to help get those people back into work. Pathways to work is in its very early stages and we have yet to deal with the stocks; indeed, we have only reached those who have been on incapacity benefit for 12 months. We are discovering that there are real lessons to be learned about how to reach those people. A combination of reducing the inflow and reducing the number on the stocks—for the first time in years, the stocks are down by the albeit small figure of 9,000—is the way to ensure that, regardless of the economic situation, those people's lives are enhanced and transformed.

**Sir Archy Kirkwood** (Roxburgh and Berwickshire) (LD): Does the Secretary of State accept that everything that I have learned about benefit reform in the past 20 years leads me to conclude that the most important thing to do in the next five years is to make a serious effort to simplify the system? The introduction of tax credits and the pension credit has improved poverty levels, but it has also increased complexity. Will he undertake to give due emphasis to such simplification during this five-year programme, and in view of the widespread interest in incapacity benefit proposals, may I make a bid, from the departmental Select Committee point of view, for draft clauses to be published and pre-legislative scrutiny to be allowed in the next Parliament?

**Alan Johnson:** The answer to the first question is yes and the answer to the second is probably. Such matters have to go through the usual channels, but I certainly see the benefit of publishing draft clauses and of ensuring that this necessary legislation—we cannot implement the proposals without it—can be scrutinised in full before we publish it. With that caveat, I am happy to give the hon. Gentleman the assurance that he seeks.

**Mr. Roger Berry** (Kingswood) (Lab): The detail of the Government's proposals will obviously have to be carefully considered, but I warmly welcome the provision of additional help in getting back into work those people who can work, not least because, as we have noted, incapacity benefit is not a generous benefit. Indeed, those on it are living on the margins of poverty. Can my right hon. Friend assure me that the benefit system will have the capacity to distinguish between those more able to work and the less able, and that personal advisers—a crucial component of this very welcome package—will have the skills, expertise and sensitivity to ensure that such people's needs are met properly?

**Alan Johnson:** I welcome my hon. Friend's comments. He has far greater expérience of dealing with these issues than I have, and I can only learn from it. On the capacity to distinguish between the more able to work and the less able, 20 per cent. of people who go through the system are already classified as personal capability assessment-exempt. They are so chronically sick that it is considered perverse even to ask them to go through the PCA, and they are an obvious 20 per cent. who flow into the second category, to which very little conditionality is applied. The medical profession carries out the PCA, and I certainly do not want to hand over such assessment to civil servants or anyone else.

We are extending the capacity of individuals working in Jobcentre Plus all the time. On meeting a personal adviser working outside a pathways area, one would conclude that they have an enormous amount of expertise; as indeed they have, but those who work in pathways areas receive extra training. Not only are staff motivated and enthused by such training, it transforms the service that the customer receives. So I can reassure my hon. Friend that we will ensure that personal advisers have the necessary skills and sensitivity to carry out their important role.

**Michael Fabricant** (Lichfield) (Con): The Secretary of State will know that there have been conflicting messages in the past few days. For the sake of clarity, can he point to anything in his statement that will benefit existing claimants of incapacity benefit, not new ones, or to anything that will be detrimental to them—or is there no change?

**Alan Johnson:** Let me be absolutely clear: this is about new incapacity benefit claimants. I may be wrong, but I doubt whether any such change has ever been applied to those who are already in the system. Because the new system is predicated on pathways to work, it provides help and support for people who are already on incapacity benefit. It enables them to participate in work-focused interviews, make use of the assistance provided, take advantage of the £40 a week in-work credit if they are taking up a job that pays less than £15,000 a year, and take advantage of the condition management that health professionals provide as part of the service. I am absolutely sure that people in the hon. Gentleman's constituency, and in mine, who have been on IB for some time will want to participate voluntarily in the new system.

**Miss Anne Begg** (Aberdeen, South) (Lab): As politicians, we can say today that this is the right way forward and that it is very important that people who have been out of the workplace because of disability or illness should get back into work. The real test, however, will be the experience of the people themselves, and it is word of mouth that will sell the Secretary of State's proposal. Some of the people to whom I speak who fall into this category still fear that they will be somehow worse off, or that coming off incapacity benefit and taking up work is too risky. They do not realise that the linking rules and the permitted work rules have changed. What can the Secretary of State do to allay those fears, so that everybody presently on incapacity benefit, severe disablement allowance or any other disability allowance will know that if they take that first step across a jobcentre threshold, they will have nothing to fear and everything to gain?

**Alan Johnson:** My hon. Friend raises an important point. Many of even those who are considered the most chronically sick want to work. As she well knows, severe disability does not prevent people from working and it should not prevent them from being helped to find work, which is why we need to get such people to attend a work-focused interview. For the most chronically ill, the only condition that applies in pathways to work areas is that they should attend such an interview occasionally. That allows us to explain to them the rules on linking and allowed earnings, and the various other parts of the package, which makes it clear that they can put their toe in the water. If they are worried about taking that step, they can see how they get on without losing their right to benefit. The work-focused interview with a highly trained and professional personal assistant is a crucial part of this system, whatever level of benefit the person in question is on.

**Mr. Michael Weir** (Angus) (SNP): It is strange that the only reference to pensions in a five-year strategy plan is the rather wimpish statement that the Government will set out the principles on which pension reforms will be based. Is that happening because the Chancellor is fighting a last-ditch attempt to save the rather discredited means-tested pension, rather than moving towards a citizen's pension? If so, what does the Secretary of State intend to do about it?

**Alan Johnson:** Let me be absolutely clear. When the hon. Gentleman has had a chance to read the five-year strategy, he will see that we have lifted 1.8 million pensioners out of poverty. It also makes it clear that whereas earnings have increased by 12 per cent. net, pensioners' incomes have increased by 19 per cent. net, and that the introduction of the pension protection scheme—one of the most radical changes ever taken to protect occupational pensions and to deal with auto enrolment—has helped to transform the pensions scene. I accept that we have not said much about pensions today, but that is because we are concentrating on one specific issue. I can assure the hon. Gentleman that he will hear lots about pensions—not just in the coming weeks up to what may well be a general election, but beyond.

**Mr. Terry Rooney** (Bradford, North) (Lab): May I congratulate my right hon. Friend on his statement and on his openness to receiving ideas and advice over the past few months? I particularly congratulate him on his comments about occupational health in the workplace and his linking of that issue with the public health White Paper. What prospects can we offer people whom so many employers abandon for the 28 weeks during which they are on statutory sick pay? More specifically, what role does he see for the excellent voluntary sector occupational health projects up and down the country?

**Alan Johnson:** I thank my hon. Friend for his comments and for his input as chairman of the Back-Bench parliamentary Labour party Department for Work and Pensions group. First, let me tell him that we can offer people assistance in the workplace. A third of those on incapacity benefit come directly from the workplace when their statutory sick pay runs out after 28 weeks. Suddenly, they are on something called incapacity benefit. We then put a good deal of time and effort into trying to get them back into the job that they occupied in the first place.

There is a lot to be done, and today's announcement that the Health and Safety Commission will be allotted £26 million to expand its work on occupational health issues will help employers better to manage the problem. Employers should not just stack up the days lost through sickness absence, but actively engage with individuals to find out what is wrong and help them back to work. It is also important to create a healthier workplace, which might prevent employees from becoming sick in the first place. Once my hon. Friend has had time to read the five-year strategy, he will see that we are also looking further into statutory sick pay to establish whether a change could support the overall aim of helping more people to either stay in work or return to it.

**Andrew Selous** (South-West Bedfordshire) (Con): The Secretary of State talks about better rewarding those who choose to work beyond state pension age, but he is not giving them the right to do so. I know from my own experience of a 65-year-old widow, a highly competent school secretary, who was forced out of her job solely because of her age. Does the Secretary of State defend that? Does he not feel strongly about age discrimination? Should not the only criterion for keeping a job be a person's competence in it?

**Alan Johnson:** Actually, I have a great deal of sympathy with the hon. Gentleman's point, but—*[Interruption.]* Yes, I can see the hon. Gentleman's letter. I can understand why the constituent would feel that she was being discriminated against on account of her age. Where do we go from the current climate in which most people are out of the workplace by the time they reach 62 rather than 65? We would greatly like to see a position in which companies have no fall-back position on pension age and people can work to whatever age as long as they are fit and efficient at doing their jobs. I do not think that we are quite in a position to be able to implement that right now, but I am also unsure about official Opposition policy on that.

With the introduction of age discrimination legislation in 2006—I do not want to upset Conservative Members too much, but it derives from a European Union directive, so it could be uncomfortable for them—we take the view that it is still too soon to have no default retirement age at all. That is why we have said that no one can be retired below 65, which is a major change; that there is a right to request to work beyond 65; and that five years after implementation, in 2011, we will conduct a review to see whether we can lift any remaining barriers. I believe that we will eventually reach a position in which those barriers have gone, but it is important to listen to the business community, employers and others who have said that it is not possible to do it in one fell swoop.

**Mr. Robert Jackson** (Wantage) (Lab): Will my right hon. Friend say something about training arrangements to help people come off incapacity benefit? More particularly, what does he think about the Opposition's commitment to abolish the new deal on the ground that it is a wasteful operation?

**Alan Johnson:** I can tell my hon. Friend that the training aspects are, indeed, important. Pathways to work has helped twice the national average number of people back to work. It has also helped six times the national average number of people—including some who have been out of work for a long time—to get closer to the labour market through skills training. That shows how crucial it is to provide such intervention. The views of Conservative Members, who want to abolish many of the new deal programmes and privatise Jobcentre Plus, are a matter of great perplexity to me. If my hon. Friend could help me to understand them in the Labour end of the Tea Room, I would be pleased to speak to him there. However, the hon. Member for Havant (Mr. Willetts) seems fairly sympathetic. He is quoted as saying in today's newspapers that our proposals "look good". That being the case, I do not understand how abolishing the new deal and privatising Jobcentre Plus will make any improvement at all on the current position.

**Paul Holmes** (Chesterfield) (LD): The first year of the pilot of pathways to work—including the one in Chesterfield and north Derbyshire, which I have visited—shows that help, support and providing incentives to work can be successful where threats and sanctions cannot. It is therefore hard to understand why the Government want to extend pathways to work only to one third of the country rather than to the whole of it. In that light, will the Secretary of State clarify what he meant in his statement when he said that, with the extra support of pathways in place, the Government would implement a radical reform to the incapacity benefit system by 2008? Does that mean that, by 2008, pathways to work and the new system will have been extended to the whole country or only to one third of it? Or does it mean that the new system will apply to the two thirds of the country that does not have the support of pathways to work? If so, it would undermine the Secretary of State's point about the success of pathways to work.

**Alan Johnson:** I am glad that the hon. Gentleman is a fan of pathways to work, and I shall soon visit the Derbyshire scheme. Pathways to work is essential for the reforms that we are setting out today. The Chancellor announced that the scheme will be extended to a third of the country, but the wider reforms are predicated on the operation of pathways to work across the whole country. It is a five-year plan, but we are in a three-year spending review, so we have the usual process to go through beyond 2008. We certainly hope that, by 2008, the major elements will be in place. That will include legislation to make changes so that the PCA can be accompanied by an employment ability test. Some of the linking rules will have to be changed, along with other aspects. However, 2008 will not see pathways to work extended throughout the country—only to a third—but the elements for change will be in place, ready to advance across the whole country thereafter.

**Angela Eagle** (Wallasey) (Lab): May I congratulate my right hon. Friend on a very forward-looking statement? I look forward to the imminent arrival of pathways to my constituency. Does he agree that one of the greatest difficulties for people who suffer from chronic conditions—they can, of course, fluctuate—that has prevented them from aspiring to work in the past has often been the attitude of employers who fail to understand how to get the best out an individual who is managing a condition? If we are to ensure that these welcome reforms are effective, we must work hard to persuade employers to be much less narrow minded in their treatment of people with disabilities, and achieving that change might require legislation on disability rights.

**Alan Johnson:** I agree entirely with my hon. Friend. There is a lot of evidence of discrimination by employers, especially against people with mental illnesses. That is on top of the huge discrimination that has gone on for years against people who are physically disabled. In part, the answer lies with our disability discrimination legislation, whose passage through the House was the final fulfilment of our manifesto commitment to deal with what my predecessor called the great emancipation issue of our time.

That is not the total answer, however. The legislation may be in place, yet the inherent and underlying prejudices continue to exist. The legislation is a crucial part of the reform, but we must also ensure that we produce a society in which people are genuinely empowered, irrespective of their disabilities. We are still quite a way off that, and there is more work to do.

**Mr. Roy Beggs** (East Antrim) (UUP): I welcome the Government's action to assist people on incapacity benefit and to give them an incentive to go back to work. I also welcome their commitment to give increased benefit to people who cannot work because of chronic and serious illness. I have coped with serious back pain for short periods over the past 30 years. I have been in traction in hospital, I have worn the steel corsets and taken the painkillers. However, I have been privileged in that I have been able to pay for private treatment when I needed it. I have not had to resort to the NHS for at least 10 or 15 years.

Will the Secretary of State discuss with his colleague the Secretary of State for Health the possibility of funding people who suffer from back pain so that they can benefit from the manipulative skills of physiotherapists and chiropractors in the private sector, where those skills are not available on the NHS?

**Mr. Deputy Speaker (Sir Alan Haselhurst):** Order. That was a very long question.

**Alan Johnson:** I listened with interest to what the hon. Gentleman said. I will talk to my right hon. Friend the Secretary of State for Health, but the hon. Gentleman should read chapter 7 of the recent "Choosing Health" White Paper. That speaks at great length about how the attitude of the health profession has changed in respect of conditions such as his.

Condition management is a major element in helping people off incapacity benefit and back to work. It is especially crucial for people who suffer back pain, and central to it is the need to ensure that they can see NHS experts as part of a return-to-work programme that might include physiotherapy. I shall talk to my right hon. Friend the Secretary of State for Health about the wider aspects of using the private sector.

**Mr. Eric Illsley** (Barnsley, Central) (Lab): Will my right hon. Friend confirm that pathways to work has been successful because it is voluntary and based on encouraging and helping people to go back to work? Will he also confirm that those principles will be part of the new system, and that people will not be taken off benefit compulsorily simply because they fail the interview or are unable to comply in some way with the new regulations?

**Alan Johnson:** I can give my hon. Friend that assurance. Pathways to work has been a huge success, and will be extended to his area. It is a voluntary system: that is why it works and why the disability lobby supports it completely. The House can call me "Anne of Green Gables" if it likes, but my feeling is that people offered an opportunity to reconnect with society grab it with both hands. After all, they do not live in the lap of luxury on £4,000 per year.

As for our proposals for future incapacity benefit recipients, more money will be available as long as those people attend the required interview and agree a work plan. That is not the same as throwing them back on to jobseeker's allowance, as the process does not depend on them finding a job. The extra payments require only that people actively work towards acquiring the necessary skills, and so on. Some people advocate a time-limiting approach, but I think that that is regressive and doomed to fail.

**Adam Price** (East Carmarthen and Dinefwr) (PC): Currently, about half the total number of incapacity benefit claimants deemed by the Department to be fit for work win their appeals against the decision. Does not that suggest that Government policy has in part been about pressurising sick people back into work against their will? What confidence can the sick and disabled have that the new proposals are anything more than another cost-cutting measure?

**Alan Johnson:** No, I do not accept what the hon. Gentleman suggests. The fact that 50 per cent. of people who appeal win their cases is a matter of some concern to me, and the point was raised by someone on my own side yesterday evening. That needs to be looked at.

As to whether the Government are trying to force people back to work, I remind the hon. Member for East Carmarthen and Dinefwr (Adam Price) that the PCA is a medical test. It is one of the most stringent in the world, but I do not apologise for that. In its current form, the PCA is meant to determine only whether a person should be looking for work or should receive benefit. That is what needs to change. The hon. Gentleman's claim might look good in a constituency leaflet, but there is no basis for saying that this Government have done anything but try and help disabled people. The disability lobby accepts that a combination of the Disability Discrimination Act 1995 and the assistance provided by the pathways to work measures mean that this is a different era for disabled people compared with what happened between 1979 and 1997.

**Mrs. Joan Humble** (Blackpool, North and Fleetwood) (Lab): I warmly welcome the comprehensive package presented by my right hon. Friend this afternoon, but will he say more about how people with mental health problems will fit into the support system that he has outlined? All too often, the medical assessment procedure does not take account of people's specific mental health problems, or the fluctuating nature of the illness. How can he assure me that people with such problems will benefit from the support that he has outlined?

**Alan Johnson:** I accept that fluctuating conditions are a problem. The PCA system acknowledges that, and my hon. Friend's question is therefore extremely valid. It is a problem more for the medical profession than for politicians, but it is something that we need to pursue. A fair chunk of the total number of people claiming incapacity benefit suffer from some form of mental illness, but they are probably the people who would be worst served by being told to sit alone in a dark room.

As I have said before, the suicide rate among people who have been unemployed for a long time is 30 times higher than that faced by people in employment. Being written off is not good for people with any sort of condition, but it would be very strange to tell people

*[Alan Johnson]*

with depressive illnesses to go and divorce themselves from society. Our condition management approach is focused on helping people with mental illnesses, but we acknowledge the problem arising from the fluctuating nature of such illnesses. We need to resolve that.

**Sandra Gidley** (Romsey) (LD): The subject of mental illness is one of the most important that we have dealt with today. The problems are different from day to day, as people have good days and bad days. The Minister has talked about the stick approach of legislation designed to prevent discrimination, but has he thought of adopting a carrot approach too? Such an approach would mean that employers were not disadvantaged by employing people who they knew in advance would probably have bad days on which they could not work. Does the right hon. Gentleman agree that we need to give people in that position a chance?

**Alan Johnson:** The hon. Lady is right, and employers and our national employment panel are already looking at this issue. The fair cities initiative deals mainly with ethnic minorities, but it is intended that it will also move on to other matters. Ensuring that people who go through the pathways to work process—and similar processes—find employment means that employers must recognise the points that she raises.

In my statement, I said that it was crucial to have employers working alongside the Government in this matter. At their worst, these are discrimination issues: at their best, they arise from employers' lack of understanding of the problems arising from mental illness.

Finally, I remind the House that today's labour market is very tight, with 74.8 per cent. employment. Social issues notwithstanding, it is economically important that employers are able to use the best talent in the country. That means taking on people who receive incapacity benefit and people from the ethnic minorities, where the unemployment rate is higher. The hon. Member for Romsey (Sandra Gidley) raises a valid point, and we need to pursue it.

**Mr. Andrew Dismore** (Hendon) (Lab): I warmly welcome my right hon. Friend's statement, which was balanced and badly needed. Bearing in mind how important personal advisers will be to the operation of the system, what assessment has he made of the number of personal advisers who are likely to be required and, in particular, will they be protected from the Gershon review requirements to ensure that we are able to employ the people we need to help people back to work?

**Alan Johnson:** They will be protected while this party is in government. That is absolutely clear. In terms of spreading out—

**Mr. Willetts:** You are the party of Gershon.

**Alan Johnson:** Well, the Tories are the party of the James review, which would take 100,000 jobs from the Department for Work and Pensions. That was the last figure I heard, but I do not know what figures have since been invented.

The roll-out of the pathways to work programme to one third of the country was announced, thankfully, in the pre-Budget report and the money came with it. That requires another 1,000 personal advisers. I cannot comment about 2008 because that will involve a different spending review, but the programme now requires more front-line staff and we do not need to change our plans—they are already stringent enough—under the Gershon review.

**Mr. Michael Connarty** (Falkirk, East) (Lab): I welcome the balanced approach of my right hon. Friend the Secretary of State. He said that it is part of a framework to try to drive forward efficiency and reconstruction in the Department. The yellow brick road of pathways to work has not yet reached my constituency and the Jobcentre Plus I was promised in Bo'ness seems to be fading into the distance. Will my right hon. Friend assure me that he understands the need to have a footprint in the community? We need a sense of the Department in the community, not a service delivered from a distance, particularly to a community that is under stress because it has lost its mining and industrial base. It has a number of people on incapacity benefit who need the help that he is offering, but from a base within the community.

**Alan Johnson:** As my hon. Friend knows, I have met him to discuss Bo'ness. I accept his comment about a presence in the community and we are offering that in Bo'ness. My hon. Friend, for understandable reasons, believes that that presence should be a more widely advertised presence in the high street, whereas we are suggesting two outreach programmes in more deprived areas. We need to get the balance right and I promise my hon. Friend that I will continue to reflect on his representations.

**Several hon. Members** *rose—*

**Mr. Deputy Speaker:** Order. I am afraid that we must move on.

## Public Service Bank Holiday

1.43 pm

**Claire Ward** (Watford) (Lab): I beg to move,

That leave be given to bring in a Bill to introduce a public holiday on the third Monday in October in recognition of public service and for connected purposes.

I have two reasons for wishing to introduce this Bill today. The first is to provide a much needed additional day of rest for the British worker. This Government have done much to encourage a sustainable work and family life balance. The extension of maternity rights, better financial support for working parents and more child care have certainly helped many parents to juggle their lives more successfully, as has the right to a minimum of four weeks paid holidays a year.

Families need more quality time, however, because the British work some of the longest hours in Europe and many families do not have as much time together as they would like. That has an impact on relationships between couples and on the influence that parents have over their children. An additional public holiday might not hold the key to all the ills of family life, but it would certainly be a further step towards giving British workers a little more time away from their workplace.

We have eight days of public holiday in England, Scotland and Wales at present. Our Northern Ireland citizens are rather better off, benefiting from an additional two days. With the exception of the one-off public holidays granted by Her Majesty in 1999 for the millennium and in 2002 for the golden jubilee, we have little to celebrate regarding public holidays. Sadly, as the law stands, some workers cannot even be guaranteed public holidays free from work, and I hope that the Government will address that at some time in the future.

The meanness of our current public holiday provision is highlighted by comparison with our European counterparts. France has 11 days a year, Belgium has 10, Germany and Greece have up to 12, while Portugal and Spain have up to 14. Before the enlargement of the European Union in May last year, the average for EU members was 10.8 days. Since welcoming the new members to the European Union, the average has increased to 11.35 days, boosted by the fact that Slovakia has 18 days, Cyprus has 16 and Hungary has 13. Meanwhile, Britain languishes at the bottom of the table, with eight days.

Not only do our citizens work the longest hours in the European Union, they have the fewest public holidays. A survey conducted by the TUC last year polled more than 20,000 people, with 99 per cent. wanting an additional holiday—hardly surprising, one might argue. The poll asked people to vote for the most popular time to take an additional holiday: 40 per cent. wanted it to be in the third week of October, which was the most popular of any of the suggested dates.

Suggestions have been made in this House that we should have an additional holiday to mark the various patron saints representing the nations. Other suggestions have been for a holiday to commemorate international women's day, Trafalgar day or Armistice day. The third Monday in October might fall on Trafalgar day—21 October—in some years, but I am not convinced that a chance to create a new public holiday should be linked to a battle that took place almost 200 years ago. The commemoration of those who died in service to their country in all wars, which is marked by Armistice day, is a commendable objective, but I believe that we have a chance to make our new public holiday mark the contribution of all who work in public service.

Many families would benefit from an additional public holiday during the week of half-term in October. The date of half-term varies throughout the country, but the most popular time seems to be the third week in October. This Bill would encourage all local authorities to select the same week for half-term to be in line with the public holiday—for example, the third Monday would fall on 17 October this year. A further reason why this would be a good time of the year for a public holiday is that there is a 16-week gap between the public holiday in August and Christmas. That is far too long to have to wait during the darkest, most miserable and depressing months of the year. I know that that does not directly affect Members of this House, but it affects millions of their constituents. How good it would be to leave the summer behind knowing that there would be one more chance of a rest before the Christmas frenzy.

Of course, it might be argued that those who wish to have an additional day's holiday should be able to negotiate that with their employers, but the reality is that many employees are unable to take additional time from work without pressure from employers. A public holiday is an opportunity for all employees to feel entitled to that day without any fear that employers are losing competitive advantage by granting time off.

I said at the beginning that I was introducing this Bill for two reasons. The second major reason is to pay tribute to the work that is done by all those who work in public service. I mean the broadest definition of public service, not just those who toil in our hospitals, schools, military, postal services, emergency services, central Government and local government. It would also pay tribute to those who give their time and effort to serve the public good. Every Member of this House will know of the impressive network of community and voluntary activists without whom many of our essential services would grind to a halt. In my constituency, residents organise neighbourhood watch schemes and residents associations, volunteers work with charities and good causes, parents run parent-teacher associations in schools and members of the league of friends assist in our hospital. Those are just some of the people who help to make our lives and our communities work, usually without pay and often without thanks. They are our local heroes and it is to them, as well as our paid public servants, that I would dedicate this public holiday.

Some would argue and even vote against the Bill. Business, it will be claimed, would have to foot the bill at an estimated cost of £2 billion and suffer reduced productivity. I would argue that giving employees an additional day for leisure, time with their families and rest would be better for business in the long term. British workers already top the poll for productivity, with the least amount of holiday compared with other European countries. Another day away from work will not damage their competitiveness, but may make them more refreshed in the final weeks of the year.

*[Claire Ward]*

I urge the House, and particularly the Government, to support this Bill. The British people deserve to have more public holidays. At the very least, the citizens of England, Wales and Scotland should be treated equally with those of Northern Ireland. I am aware that the provision of public holidays is now a devolved issue for the Scottish Parliament. It took little time in recognising that there could be great benefit in an additional public holiday for the Scots, especially where it may result in increased tourism. The Parliament is already consulting on the possibility of introducing a public holiday to mark Scotland's patron, St. Andrew. We should not delay any further; nor should we allow the possibility that the people of England and Wales will become even further disadvantaged by other nations introducing new holidays. I look forward to the progress of the Bill and, with the will of the House, to being able to celebrate public service day.

1.50 pm

**Mr. Eric Forth** (Bromley and Chislehurst) (Con): The trouble with this sort of thing is that it is one of those motherhood and apple pie issues that sounds so attractive, especially when put so attractively by the hon. Member for Watford (Claire Ward), but it worries me considerably. It is the subliminal message underlying the matter which is bothersome.

The hon. Lady started out by putting the proposition, which she obviously regarded as unarguable, that the British people were in great need of an additional day's rest. That sets the tone for the whole argument, suggesting that we are so hard pressed, in a rather easy, casual world, that we need more time off. Nothing could be further from the truth. The hon. Lady must listen, until she is as bored with it as I am, to the great leaders of her party talking about the global market and global competitiveness. She went on to compound her crime by saying that the British already work the longest hours in Europe. So what? If the hon. Lady were to look at the unemployment rates in the very countries that she quoted with so much approval, and compare them with those of the United States on the one hand or those of the emerging economies of Asia and the far east on the other, she would be much more worried about the idea of British workers taking yet more time off in an ever more competitive world.

The whole basis of the argument that started with the proposition that our poor, hard-working people need lots more time off needs to be challenged. I wonder whether the hon. Lady has checked with her Front-Bench colleagues to see whether she is on or off message on this matter. I should have thought that the Chancellor, for example, might well have a word to say to the hon. Lady if he learned that she was arguing that British workers need more time off when he keeps telling us that we need to be more competitive—which, sadly, under his Government and hers, has not been the case. By the way, the hon. Lady's claim that British workers are now the most productive in the world certainly requires some analysis. I put it no more strongly than that.

Let us move on to the specifics of the hon. Lady's argument. She said that we could do with another day's holiday in October, and I am sure that many people would agree. In fact, I am sure that many of my colleagues would agree. We would probably suggest that we could scrap the May day holiday, with all that it symbolises, and instead have a day off in October. That would be my solution, so that we are not giving people extra time off; we are giving them an alternative day off in the year which would have much more significance. Let us get rid of the ghastly May day and have, for example, Trafalgar day. Why not? It is one of the great days in our history and should be remembered. Or how about Thatcher day or Churchill day? There are any number of possibilities that would bring joy to our people. Instead of the shame of the May day holiday with all its ghastly socialist and communist overtones, we could have a proper holiday in October. I am offering the hon. Lady a helping hand. If her Bill were to make any progress in the House, she and I might work together to amend it to achieve that objective.

I turn now to my third objection to the Bill. The hon. Lady made a plea for recognition of public service, which she went on to define in two ways. The first was to talk of the voluntary sector. I agree with her that we all now should, and increasingly do, recognise the value of the voluntary sector in our society. That is something that President Bush has been encouraging in the United States, and it is something that my party wants to encourage. We can all agree on that as a worthy objective.

When the hon. Lady went on to link that recognition to those working in the public sector, her argument became more problematic. We are rather prone in this House to lavishing endless praise on people who work in the public sector, forgetting that those in the private sector arguably work as long, or longer, and harder to create the wealth that pays for the public sector. To single out those working in the public sector for praise and recognition in an additional bank holiday seems to me slightly odd. Certainly those involved, for example, in retail and in other service provision in the private sector might find it rather hard to swallow the idea that their long hours of hard work dedicated to us consumers were being ignored in favour of those doing excellent work in the public sector.

What I am really saying is that the Bill is wrong at every level. It is wrong because it is arguing for more time off; it is wrong because it does not substitute a day in October for the horrible day in May; and it is wrong because it singles out those in the public sector apparently to the neglect of those working to create the wealth in the private sector. For all those reasons I hope that the Bill makes no further progress.

*Question put and agreed to.*

Bill ordered to be brought in by Claire Ward, Andy Burnham, Mr. Parmjit Dhanda, Mr. Andrew Dismore, Janet Anderson, Mr. Kevin Barron, Shona McIsaac and Mr. Martin Salter.

PUBLIC SERVICE (BANK HOLIDAY)

Claire Ward accordingly presented a Bill to introduce a bank holiday on the third Monday in October in recognition of public service: And the same was read the First time; and ordered to be read a Second time on Friday 18 March, and to be printed [Bill 53].

# Orders of the Day

## Business of the House

1.57 pm

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** I beg to move,

That—

(1) the Order of 25th January relating to Business of the House be discharged; and

(2) at this day's sitting, notwithstanding the provisions of Standing Order No. 16 (Proceedings under an Act or on European Union documents), the Speaker shall put the Questions necessary to dispose of proceedings on the Motions in the name of Mr Secretary Clarke relating to Police Grant Report (England and Wales) not later than three hours after the commencement of proceedings on the first Motion, and shall put the Questions necessary to dispose of proceedings on the Motions in the name of Mr Secretary Prescott relating to Local Government Finance (England) not later than three hours after the commencement of proceedings on the first Motion relating to Local Government Finance (England), or six hours after the commencement of proceedings on the first Motion relating to Police Grant Report (England and Wales), whichever is later; proceedings may continue after the moment of interruption; and Standing Order No. 41A (Deferred divisions) shall not apply.

The Police Grant Report (England and Wales) 2005–06 and the Amending Report 2003–04 were laid before the House on 27 January. Both reports are due to be considered jointly by the House in the next debate, and this business motion will allow them to be debated at the same time. It will facilitate the discussion on police grant for next year and allow three hours for the debate. Hon. Members will clearly be grateful for that, as it will enable us to explore the issues in considerable detail.

The Amending Report 2003–04 takes account of changes to Office for National Statistics population data for that year. However, the reports for both years are inextricably linked because the outcome of the amendment proposals inevitably feeds into policing activity in 2005–06, in the number of people in any given area that the police have to look after, and funding in 2005–06 also takes that into account. I hope that the House will agree to the motion.

*Question put and agreed to.*

**Ms Blears:** I am grateful for the co-operation of the House—

**Mr. Deputy Speaker (Sir Alan Haselhurst):** Order. I admire the hon. Lady's enthusiasm, but we have not quite got there.

## Police

2 pm

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** I beg to move,

That the Police Grant Report (England and Wales) 2003–04: Amending Report 2004–05, HC 247, a copy of which was laid before this House on 27th January 2005, be approved.

**Mr. Deputy Speaker (Sir Alan Haselhurst):** With this it will be convenient to discuss the following motion:

That the Police Grant Report (England and Wales) 2005–06, HC 246, a copy of which was laid before this House on 27th January 2005, be approved.

**Ms Blears:** I am grateful for the invitation to address the House. I am occasionally criticised for my enthusiasm and the fact that I speak rather quickly in the House. I shall endeavour to speak as concisely as I can, as I am aware of the number of hon. Members who wish to make a contribution this afternoon.

The Government remain committed to providing the resources that the police need to do their work effectively and to fulfil the many commitments that we ask them to undertake. We will continue to provide further investment, but that will be linked to change and reform of the way in which the service is provided, to make the police even more effective than they are.

**Sir Paul Beresford** (Mole Valley) (Con): The hon. Lady will not be surprised to hear that as a Surrey Member I am not enthusiastic about Surrey's proportion of the grant. As the motion will almost certainly be agreed by the House tonight, will she agree to meet me and a few of my colleagues from Surrey to discuss some peripheral issues along the lines of her opening words?

**Ms Blears:** If the hon. Gentleman would like to discuss effectiveness, efficiency and how we can work with the police to help them provide an excellent service to his constituents, I am more than happy to meet him and a delegation. I have met several delegations and I am always keen to hear ideas from the front line about how we can be more effective.

**Paddy Tipping** (Sherwood) (Lab): My hon. Friend spoke about investment and reform. Nottinghamshire police have had record investment. We have a record number of police officers and the force is changing and performing better. Having visited the area, however, she knows that there are still concerns about the formula for funding police authorities. Will she give a commitment to examine that in the future?

**Ms Blears:** My hon. Friend has been a champion of police services in his constituency. I have visited the area on a number of occasions and I have seen the dedicated work carried out by officers there. Since their engagement with the police standards unit, their performance has improved dramatically. I commend the police force for that. My hon. Friend knows that we are considering the formula for future years. That review is taking place together with the Association of Chief Police Officers and the Association of Police Authorities, and we will take

*[Ms Blears]*

account of the need of all forces for sufficient resources. I commend the recent work of the police service in Nottingham, which is making a significant difference for local people.

**Mr. Phil Willis** (Harrogate and Knaresborough) (LD): We have a fine force in North Yorkshire, which is well led and delivers a good service. Over the past two years there has been a 93 per cent. increase in the precept, which has had a devastating effect on many of my constituents. I now find that some £25 million is currently held in balances, and that 60 per cent. of the capital that the Government have provided for the past three years has not been spent. What steps will the hon. Lady take to ensure that the money allocated by the Government and by council tax payers is effectively spent, not dumped into balances?

**Ms Blears:** The hon. Gentleman makes an important point. From the comments that I am about to make, he will see that efficiency savings and an efficiency drive are important this year to ensure a balance between the record amount of central Government investment and the amount raised from local people. We will look at efficiency and the use of balances as well. That combination means that local authorities should be able to provide an excellent standard of policing to their communities without excessive council tax rises.

Government investment over the past five years has increased by 39 per cent., or more than £3 billion, so significant investment is taking place. Crime has fallen by 30 per cent. since 1997. In the past year, according to the British crime survey—the most authoritative survey that has been conducted under parties of all persuasions—crime is down by another 11 per cent. We are pleased that the investment is producing results. The risk of being a victim of crime is the lowest it has been for 25 years, and fear of crime is also coming down, which I am particularly pleased about.

We have record numbers of police officers—140,000 in August last year—and of police staff. There were about 4,500 community support officers out on patrol at the end of December, an increase of 400 since September, so we are making excellent progress there. We are making progress on tackling bureaucracy, an issue that concerns all hon. Members. We are trying to get more of our officers out on the front line by using video identification, the Livescan units and our work force modernisation projects. In our recent White Paper, "Building Communities, Beating Crime", we set out an ambitious programme of change. The introduction of widespread neighbourhood and community-based policing will help build trust and confidence in local areas, because there will be much more direct contact with the police service.

The police funding settlement for 2005–06 will support the priorities that we set out in the national policing plan, which range from tackling terrorism all the way through to dealing with antisocial behaviour and the acts that make people's lives a misery in local neighbourhoods. We have a particular drive to increase the rate of sanction detections, which had gone down in recent years but is, I am happy to say, improving across the board.

The settlement is considerably better than the police service anticipated. When representatives of Cheshire police authority came to see me recently, they acknowledged that they were about £1 million better off than they had expected under the assumptions that they had made. They still did not think the sum was quite enough and they made some important points to me, but they recognised that it was a much better settlement. The Association of Police Authorities had anticipated a 3 per cent. increase in grant and a possible 3 per cent. precept uplift. We have managed to do significantly better than that.

We are providing grant to support overall police spending of £11.8 billion. That is an overall increase this year of almost £750 million, or 6.7 per cent. That is a significant settlement, and one of the best in recent years. Central Government revenue grant funding will increase by 5.1 per cent.—that is, 4.8 per cent. in the total revenue grant and 0.3 per cent. in specific grants. There is increased funding for important central support services including IT, extending the DNA database, looking at the Bichard recommendations, and the Independent Police Complaints Commission. That brings the total increase, as I said, to 6.7 per cent.

**Mr. James Paice** (South-East Cambridgeshire) (Con): Among all the special payments that the Minister just mentioned, is any funding allowed for the new unit to combat animal rights terrorism, a crucial issue in my constituency? I welcome the tougher line that the Government have taken on animal rights terrorism. Now that we have a national unit, it needs funding to carry out the intelligence work necessary to combat the evil people behind those acts.

**Ms Blears:** The hon. Gentleman is right that that work is important. The amendments that we have tabled to the Serious Organised Crime and Police Bill indicate the importance that the Government attach to such work. The funding for the Serious Organised Crime Agency will consist of the existing funding from the agencies that have been brought together, and increased funding of some £24 million to tackle the priorities that have been outlined. I do not have the detail of the exact sum that we will be able to allocate to that important area of work, but I can let him have that as the situation develops. We recognise that an increased focus is needed in order to protect our very important industry and the individuals whose lives have, in some cases, been destroyed by these people's actions. He makes an important point.

The police grant report deals with Home Office general police grant for revenue expenditure. That is £4,574 million in 2005–06. In addition to that, police authorities will receive £3,043 million of revenue support grant as local authorities. In Wales they will get £14 million of special Home Office grant. There is no floor as there are only four police authorities in Wales, so we have put extra money in to help Wales. The total sum represents an overall increase of 4.8 per cent.

In addition, we are providing £766 million for specific initiatives and £358 million for capital programmes. There is a 13 per cent. increase in capital support for the police, which I hope will be welcomed. Hon. Members will be aware that we spend a massive amount on our

tional drugs strategy. Although that is not included in is settlement, £1.5 billion will be spent next year to ckle the scourge of drugs in our communities.

**Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): ill there be any increase in the rural policing nd?

**Ms Blears:** The rural policing fund has been in place r three years. It is £30 million again this year. That is flat rate. There is no inflation increase for the rural olicing grant because we consider it fairer to put the flation increase into the general grant, but the 30 million is to be divided among the local authorities, hich find it extremely useful in trying to improve olicing services to their more sparsely populated areas.

In 2004–05, we took the wholly exceptional decision o provide a broadly standard flat rate increase of 25 per cent. to all police authorities in England and Vales. Since then, I have been pressed by many forces o see whether we can move to a more accurate reflection f the funding formula, and I am pleased to say that in is settlement we are able to move some way towards ore accurately reflecting the policing needs that the rmula has identified.

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): On olicing in rural areas, is the Minister aware that in orth Cotswolds, which covers an area of 300 square iles, there is only one patrol car on at night? When I ave taken that up with the chief constable he says that ere is not enough money in the formula properly to olice rural areas. When the Minister is considering the rmula, will she look carefully at the real costs of olicing remote rural areas? Will she also consider roviding more custody suites, because the police have travel 30 miles to Stroud from parts of my nstituency to place someone in custody, and that is an normous waste of time for police and individuals? Will e consider those two aspects?

**Ms Blears:** Yes. I am sure that the hon. Gentleman ill recognise that during the past four or five years ere has been a massive increase in police investment in ery force in the country, including his area, to enable em to provide services for their community. Clearly, e amount of policing in different parts of his nstituency and in different parts of the force area is a atter for the chief constable, who must allocate the sources in accordance with the policing needs.

On custody—we have had this discussion before—it a matter of getting the balance right: ensuring that we btain economies of scale in a custody process versus aving small custody areas. We are trying, particularly ith our civilianisation programme, to ensure that stody services are run in the most cost-efficient way, to ee up police officers for the front line, but also to free o some of those resources that are currently used for stody purposes for other important policing activities. hese are very much operational matters, but I am elighted that the hon. Gentleman supports our move wards civilianisation and our modernisation of stody procedures. *[Interruption.]* At least, I hope he pports that kind of reconfiguration.

**Mr. Dennis Turner** (Wolverhampton, South-East) (Lab/Co-op): We in the west midlands were clearly delighted with the progress that you are making on the funding formula. We had an increase of £27 million, which was received with great appreciation by the West Midlands police authority, the area's parliamentary Labour group and the chief constable. May I put on the record our sincere thanks to you as the Minister and to our Government for acknowledging the shortfall in the formula, and urge you to continue this work on our behalf?

**Mr. Deputy Speaker:** Order. The hon. Gentleman has been here long enough not to be using the word "you". I have had nothing at all to do with these matters. But I am sure we are all pleased that those paeans of praise are on the record.

**Ms Blears:** None more so than me, Mr. Deputy Speaker.

I am grateful to my hon. Friend. It was perhaps the comment that I was expecting the hon. Member for Sutton Coldfield (Mr. Mitchell) to make in his contribution. I have no doubt that he, as a west midlands Member, will welcome the record increase of 6.8 per cent. in general grant for the West Midlands police, and I look forward to hearing that.

**Mr. Llwyd:** On civilianisation and cutting down on paperwork, the Minister, like me, will know, as a frequent visitor to the Police Federation conferences, that one issue is the form filling. I appreciate that under the Police and Criminal Evidence Act 1984 some are absolutely necessary and have to be adhered to. What work is going on to reduce that huge work load? I am sure that some of the forms are unnecessary and can be done away with, and others could surely be civilianised utterly.

**Ms Blears:** We are making progress. More than 7,000 forms have now been disposed of. The hon. Gentleman is right that some of the form filling is about accountability, both under the law and to communities, but we need to bring it down to the absolute minimum. We have now instituted a gateway process whereby for a proposal to get through it has to be scrutinised and be seen to be effective and necessary, so that we weed out not just the forms, but some unnecessary policy items. We have an assistant chief constable who is now focused on this, visiting forces to go out with the officers on the front line to obtain those practical suggestions that often make the most difference.

**Mr. Andrew Mitchell** (Sutton Coldfield) (Con): When I tabled a question to the Minister asking about those 7,700 forms, she responded that no information on what those forms were was being kept by her officials. Can she do a bit better than that? Could she write to me, or put a letter in the Library, explaining what categories these forms fall into, so that we can understand a bit more clearly how much progress the Government have made in this important task?

**Ms Blears:** I will do my best, but I do not propose to ask forces to fill in a form telling me what forms they have disposed of, as that might fall into the unnecessary

*[Ms Blears]*

bureaucracy category. I will certainly do my best to see whether we have any further information on this without putting an undue bureaucratic burden on the rest of the system.

**Mr. David Heath** (Somerton and Frome) (LD): I think that I heard the Minister say that there was a significant increase in capital grant amounting to 13 per cent. There is no mention of capital grant within the police grant report that we are debating today, so we are in the dark as to exactly what her intentions are. But the view of the Association of Police Authorities is that the figure for this year is £358 million, an increase of only £3 million over the £355 million last year, which is certainly nothing like 13 per cent., and in fact is less than 1 per cent.

**Ms Blears:** We are at one on the £358 million and I will look further into the percentage increase. Perhaps before the end of today's debate I will be able to give the hon. Gentleman that information. If not, I will certainly write to him.

Last year we had the flat rate increase and we have now moved towards the formula in a better way. There will be a funding floor of 3.75 per cent. to protect forces that would otherwise have fallen below that level, and that is substantially above police pay increases, which are about 3 per cent., and non-pay increases, which are about 2.6 per cent. We have also removed the funding ceiling—something that many people asked us to do—and that has been widely welcomed, and the increases for forces range from the 3.75 per cent. all the way up to the 6.8 per cent. for the West Midlands, and some in between, so it is a very good settlement.

**Mr. David Drew** (Stroud) (Lab/Co-op): Does my hon. Friend accept that one of the problems with smaller forces such as Gloucestershire is that the perceived efficiency savings impinge quite hard now? To be fair to the Gloucestershire force, it has made efficiency savings over the years, but it is beginning to come to the end of those. Will she assure me that there is realism in what efficiency savings are expected to be made?

**Ms Blears:** Yes, we are realistic, and police services have a good record on achieving efficiency savings. We think that what we have asked them to do is realistic. My hon. Friend makes the point about smaller forces, and that is why we have told them to work together. We now have regional groups considering efficiency, because economies of scale are often to be had by forces working together, not just with the police service but with their local authority colleagues, on call centres for example, squeezing more efficiency out of the system in that way.

Pensions have been a big issue this year. Many police authorities have said that there is a spike in the pensions costs because there is the 30-year retirement after the big recruitment campaign about 30 years ago. We were able to put an extra £20 million, a special uplift of 0.25 per cent., into the grant in order to take account of that. For next year we have proposed to change the pension system so that we will reduce the volatility that is out there, and the risk of that volatility will be held at the centre, in that there will be a separate pensions pot in which people will put their employee and employer contributions, and if that is not enough to meet the pensions requirement, the Government will top it up. That should even out the spikes that we have seen in recent years, which will be hugely welcomed by police authorities throughout the country. The pensions system is changing quite dramatically as well and will be less expensive in future and provide a better range of more modern and flexible benefits.

I have spoken about the formula review, on which we are now engaged. We also want to try to ensure that the formula better reflects the domains that are in our police performance assessment framework, and that work is ongoing. Again, that will make the funding system more transparent and more easily understood. We are also working with our local government colleagues to look at the possibility of three-year settlements, which again would give some stability and enable people to look ahead and be sure of the funding available.

We want to see 3 per cent. efficiency savings, half of which is to be cashable and half non-cashable, and all used to reinvest in services or, I hope, to keep the precept down as well to ensure that we have reasonable council tax increases of less than 5 per cent., as the Deputy Prime Minister has made clear. Last year, 11 police authorities achieved efficiency gains of 3 per cent. or more, so I think that is a realistic expectation. I know that it is tough, so we are supporting the police in achieving those gains. I am told that forces such as Thames Valley provide horses and mounted officers for a number of adjoining forces, which relates to the point made by my hon. Friend the Member for Stroud (Mr. Drew) about small forces having to provide such things on their own. South Wales has reorganised its custody function to release its officers to the front line, and it has managed to get more efficiencies in that way.

We also need to keep pressing on sickness rates both in the police force, in terms of officers, and among police staff. The figures are still too varied. The best force is down at 6.1 days per officer per year lost through sickness, while the worst is still at 13.8 days. That is a big variation, and there is more to be done on that issue.

For the first time ever, we have the front-line policing measure, enabling us to see the amount of time that officers are spending on front-line duties. If we can get the figure up from the current 63 per cent. to about 72.5 per cent., we will be able to release the equivalent of thousands of officers back on to the front line to do policing in their communities. That is a very important issue for us.

**Judy Mallaber** (Amber Valley) (Lab): On pensions, I was pleased to hear this morning that my hon. Friend's Department has found a way of correcting the mistake of the Government actuaries in assessing the Derbyshire police pension fund, so it will get back its missing £500,000. In view of the continuing pressures on the budget, however, and the need to review Derbyshire's formula, along with others, and to preserve our excellent record, including record police numbers and a fall in crime of more than 14 per cent. in the past year, will she give me an assurance that when the amending report on this matter is produced next year, the figures will be fully

assessed and agreed with Derbyshire, so that there is no detriment to the service in that report? Will she put that in writing, in reply to the letter that I sent her last week?

**Ms Blears:** My hon. Friend is right to highlight the calculations in respect of Derbyshire. I am aware of the issue and I am giving it my close personal attention so that we can try to ensure that the police authority is not in a detrimental position. I undertake to write to her. I know that the force is doing in an excellent job in providing good policing to its community, and I want to do everything I can, along with my colleagues in the Office of the Deputy Prime Minister, to ensure that the force is not in a worse position than if we had got the data correct in the first place. I am glad to give her that reassurance.

On precepts, as I said, we expect council tax increases to be no greater than 5 per cent., and we think that the budget settlements for local government and the police authorities can help us in that regard. The Deputy Prime Minister has made it clear that we will use our capping powers if necessary. In fact, we were able to get possible police precepts down from the high 20s last year to about 12 per cent. by making it clear that we would be very firm in this area. I shall certainly take a close interest in the capping criteria and work closely with my hon. Friends to look at the impact on police authorities.

Since we published the provisional settlement, I have received representations from 32 police authority areas. I received 45 representations this year and 63 last year. Perhaps that reduction is indicative of how generous the settlement is this year and suggests that people feel a little more reassured by it. The representations fell into 11 broad areas and covered a range of issues. I am informed that none of them covered the licensing issues, which is interesting in view of the salience of those issues in recent times.

I think that I have dealt with pensions, on which we are making good progress after many years of not reforming the scheme. I know that many forces have been concerned about probationer training costs. We are now delegating training to forces themselves. Instead of training being done at the centre through Centrex, we are saying that it is important that our initial probationer training is carried out in the community. I hope that that will mean that we can attract a wider range of recruits, including people who have family responsibilities and who do not want to spend 12 weeks in a residential setting. Such training is now increasing, but we want to ensure that we provide some additional funding to forces if they are going to take on that extra responsibility of probationer training. We will provide extra revenue funding for the transitional costs of £1,900 per recruit, and there will be extra capital funding of £7.5 million to help that transition, and £4.8 million of revenue funding for forces that are early implementers of the new probationer training scheme. The fact that training will be done together with members of the local community will help us with neighbourhood policing, because we will begin to get some very different attitudes and work.

We continue to provide the crime fighting fund, which has enabled us to fund 9,560 officers over the past few years, and we have put £8 million inflation into the fund and £18 million to support the special priority payments that have been paid to officers carrying out particularly difficult jobs. We have also put extra funding into the Metropolitan police: their general grant increase is 5.8 per cent., so they have a good settlement this year. We have increased the capital city functions for the Met by £10 million, to £217 million, and they will also get specific counter-terrorism funding to enable them to carry out that work. They get £61 million in ring-fenced counter-terrorism funding, and the provincial forces will receive £35 million of revenue and £8 million of capital for that dedicated and very important counter-terrorism work.

We will continue to provide £50 million—we are providing it again this year, for the third time—to basic command units for them to use together with their crime and disorder reduction partnerships in local crime reduction initiatives. That has been one of the most useful funds for the police, as it is completely flexible and they can use it to lever in extra funds from their partners to drive down crime. That is why we have seen burglary, vehicle crime and robbery fall so significantly.

We will also continue to fund the community support officers. We have put £50 million into the neighbourhood policing fund for the extra tranche of CSOs, who are hugely welcome in communities. We continue to fund Airwave, and we are putting a final £17.3 million into Airwave support, because some forces have been delayed in rolling it out. I was up in Cumbria just last week looking at the dreadful effects of the floods. The local force did not have Airwave because the earlier foot and mouth problems had prevented it from putting up the masts, which was a difficulty during the flooding crisis. We are ensuring that it gets the full amount, despite the delay. It borrowed Airwave from its neighbouring force during the flooding crisis, and they found it an incredible improvement for communications. They borrowed the handsets and were able to use the system.

The street crime initiative has now been going for a couple of years. It should have come to an end this year, but we are again providing a grant of £6.5 million to ensure that the lessons from the initiative can be learned and mainstreamed. I see that the hon. Member for North Thanet (Mr. Gale) is in his place. I am pleased to say that we are providing some street crime moneys to British Transport police, and we are also providing some Airwave moneys and terrorism funding to them. I hope that he will feel that I have taken note of some of his contributions on how important the British Transport police are in protecting our infrastructure in this country. I have also mentioned the Serious Organised Crime Agency, which will be funded to carry out its very important work.

I commend the police settlement to the House. It is a very generous settlement this year. There will always be more that people want and more that we can do, but we have taken another £50 million out of the general Home Office budget on top of the £100 million that we took out last year in order to maximise the income and grant for the police service, because we recognise that that is a top priority for every single community in this country. Tackling crime, making our communities safer, giving people that essential reassurance and ensuring that the police are visible, accessible and responsive to the communities that they serve will continue to be an absolutely top priority for this Government, and results really will be delivered from the investment that we are commending today.

2.28 pm

**Mr. Andrew Mitchell** (Sutton Coldfield) (Con): Let me first and foremost put the Minister's fears to rest: the Opposition will not oppose the two motions. Indeed, we have decided that in certain circumstances, which I shall describe to the House, spending on the police will have to be increased further.

The Minister made specific mention of the settlement in the west midlands, and it would be churlish of me not to say that we are all pleased that the former Home Secretary, to whom I made representations, along with many other west midlands Members of Parliament, acted and that our voices have been heard in the Home Office. That goes some way, although in my view not far enough, to address the £27 million shortfall last year in the west midlands and, indeed, the £27 million shortfall the year before.

In any debate about this year's funding settlement for the police, we need to consider more carefully than the Minister did the context of rising police precepts throughout the country. The police precept increased by more than 87 per cent. during the three years to April 2004, which represents an increase in local taxation of nearly £1 billion. Assuming an average cost of £50,000 per officer, that could have paid for 19,110 fully trained policemen and women. However, because of the excessive costs and bureaucracy that the Government have imposed on the police, police numbers have risen by only 16,386 during that period. In other words, the public have been short-changed by 2,724 police officers. In the west midlands, which includes my constituency, the public have been short-changed by 549 officers. In Greater Manchester, which includes the Minister's constituency, they have been short-changed by 857 officers.

The Minister said in her written ministerial statement on provisional funding last December:

> "If police authorities deliver efficiency gains, and exercise judicious . . . planning, there is no reason for police authorities to set excessive increases in police precepts on council tax next year."—[*Official Report*, 2 December 2004, Vol. 428, c. 55WS.]

She thus said that an excessive burden would not be placed on council tax payers, but we dispute that judgment. Owing to the gearing effect, any increase in the council tax precept involves a high overall increase in council taxation. The average increase in tax doubled from 12.2 per cent. in 1996 to nearly 24 per cent. in this financial year. Although central funding amounted to 80 per cent. of police funding in 2001, it now amounts to 70 per cent., with local authorities left to provide the rest.

Let me be absolutely clear. Following a Conservative election victory, we will immediately set about the task of ensuring that Britain has an extra 40,000 policemen and women. The proposal is costed and it is an absolute commitment to be implemented over eight years. Some 5,000 extra officers, which is the current maximum training capacity, would be recruited each year. There are no ifs and buts in the proposal, and it will be clearly set out by my right hon. Friends the shadow Home Secretary and the shadow Chancellor in our election manifesto.

This year's settlement is at least an improvement on that of recent years, so it is to be welcomed. I congratulate the police authorities, and councillors and hon. Members of all parties, who persuaded the Home Office to reverse its clear previous indication that it would give a lower settlement. However, the Minister will forgive me for a modest degree of cynicism as I probe a little further for the reasons behind that.

In 2003–04, the average unhypothecated increase was 4.3 per cent. In 2004–05, the increase was 3.25 per cent., which had serious repercussions for forces such as mine in the west midlands. This year—surprise, surprise—the Home Office has decided to give an increase of 5.1 per cent., which is 6.7 per cent. when one takes account of the increase in central funding for police communications, information technology and support services. It is, of course, a mere coincidence that that sudden burst of generosity comes a couple of months before a general election.

Nevertheless, was it really necessary to cause the anxiety to local government and the police that led this year to the Association of Chief Police Officers issuing statements of profound concern following Home Office briefings that the settlement would be a flat-rate, real-terms increase of about 3 per cent.? Is it really necessary to keep police forces and police authorities in the dark in such a way? Police authorities should not think that they are facing deficits of millions of pounds just a few weeks before the Home Office unveils the funding figure.

**Judy Mallaber:** Is the hon. Gentleman suggesting that it is somehow wrong for the Government to respond to representations and thus come up with a generous settlement after taking account of all considerations put before them?

**Mr. Mitchell:** What was wrong was the extensive game of cat and mouse that was played with the people who implement decisions on the ground. I shall later address a way in which we can help the Government to ensure that that does not happen in the future.

I can tell the House that the Conservative party, when re-elected, will make local funding more sustainable by ending the current system of annual grants and moving to a system of three-year budgets. That would enable the police to make their strategic planning and implementation more effective, and end the unsatisfactory routine of short-term initiatives that last only a year or two before their funding dries up.

**Mr. Kevan Jones** (North Durham) (Lab): If the shadow Chancellor is going to cut the budget, will the hon. Gentleman explain how extending it over three years will make any difference?

**Mr. Mitchell:** The hon. Gentleman is not listening to what I am saying. Three-year budgets would make it much easier for those with the difficult job of implementing such measures to work out how to fund police work locally.

I want to ask the Minister several detailed questions. She helpfully said something about pensions and mentioned the expected 12 per cent. increase to the cost of pensions this year. The money that has so far been made available to address the situation has not been anything of that order, so the House is entitled to a commitment in her winding-up speech that she will keep the matter closely under review. What will happen about

the considerable costs not funded by the settlement that are associated with IT and technological developments, including the important yet unfunded recommendations of the Bichard report and the costs associated with the Government's deluge of Home Office legislation?

We should consider not only inputs, but outputs, because it is clear that the Government's record on that is truly appalling. The Minister frequently cites the British crime survey, but she knows perfectly well that it does not include one of the fastest growing areas of crime, which is crime against children. It excludes specifically the most serious crimes and the survey embraces only 40,000 people. The fact that it is a flawed way of identifying trends in crime was why the leader of her party, when he was shadow Home Secretary, persistently rejected it and said that he preferred to deal with recorded crime figures. I agree with the leader of the Minister's party and disagree with her.

The sad facts are these. Violent crime in Britain has virtually doubled under the Government and, for the first time ever, the number of such crimes has risen to more than 1 million. There is a specific worry that youth crime is out of control, with a massive growth of 63 per cent. in persistent young offenders appearing before our courts. Meanwhile, detection rates have slumped. Detection rates for burglary have practically halved under the Government. For the record, before the Minister asks, when my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard), the leader of the Conservative party was Home Secretary, recorded crime fell by the largest amount since records began, but under the Labour Government, recorded crimes are up by 800,000. These are extremely serious matters, so we must examine outputs to discover how the Government's policies on law and order are proceeding.

What is the Minister's estimate of the time and cost that will be incurred policing the Government's legislation to allow 24-hour licensing? Stephen Green, the chief constable of Nottinghamshire police and ACPO's spokesman on alcohol-fuelled violence, has warned specifically that policing the new measure will

"deprive people who need our services most"

because it will tie up police power and divert the police from other vital tasks.

What will the Minister do to help Lincolnshire police, which faces a £4 million shortfall in meeting its requirements, although the Government have presided over a doubling in violent crime since 1997? Following the intervention made by the hon. Member for Stroud (Mr. Drew) and the comments of my hon. Friend the Member for Cotswold (Mr. Clifton-Brown), will she say a little more about Gloucestershire police, which is extremely worried that it will face a shortfall of £1.1 million merely by maintaining front-line services? What can she do to assist Gloucestershire police? The excellent chief constable of the force, Tim Brain, described her settlement as "an undoubted disappointment".

What comfort was the Minister able to give to my hon. Friends the Members for Eddisbury (Mr. O'Brien), for Tatton (Mr. Osborne) and for Congleton (Ann Winterton), other Cheshire Members and the chief constable of Cheshire police when they warned her that as a result of the Government's settlement, the people of Cheshire face a significant hike in their council tax or a reduction in front-line policing—or both? They face the prospect that uniformed officers will have to fill up to 50 civilian posts. Such direct worries—hon. Members of all parties could give further examples—show the way in which the settlement rubs uneasily against local circumstances. I will be grateful if the Minister comments specifically on those two points.

**Mr. Stephen O'Brien** (Eddisbury) (Con): I am grateful to my hon. Friend for highlighting the very serious challenges faced by the police in Cheshire. The tension arises between the exhortation, whether directly by the Minister or by others, to seek the flexibility to put up the council tax precept, over which they will have no control, versus the obligations put on the police and the expectations that the Government have raised in the population of Cheshire regarding police resources. Does my hon. Friend agree that in fairness the Government should fund that instead of asking councils, yet again, to raise taxes?

**Mr. Mitchell:** My hon. Friend makes a powerful point that the Minister will want to pick up when she winds up.

I turn to the way in which the Government make this money available to local forces. Significant sums arrive ring-fenced for particular schemes that are dictated by the Home Office, not by local circumstances and needs. The Minister mentioned many of them. We are told that £277 million will be available through the crime fighting fund. There will be nearly £61 million for the Metropolitan police and £35 million for other forces for counter-terrorism; £50 million for basic command unit funds; £210 million for the safer and stronger communities fund, which is clearly a breach of trades description legislation, since virtually no communities are safer or stronger under this Government; £69 million for the special priority payments fund; and £6.5 million for phone theft and other robberies. Two grants are ring-fenced for community support officers: £49.5 million for continuing support of CSOs recruited in the first three rounds and £50 million for additional CSOs in a new neighbourhood policing fund. If one assumes an approximate cost of £50,000 per officer, that money alone could have made available an extra 2,000 policemen and women.

I draw the Minister's attention to the fact that in Hampshire, the police authority decided by a majority of two to one to reject ring-fenced funding from the Home Office for CSOs. Its chairman, Simon Hayes, said:

"If the Government is making money available we would like to be free to spend that on properly trained police."

As long ago as 2001, in a very balanced set of remarks, the Association of Police Authorities said:

"Central funding to pump prime new initiatives and priorities can be effective. However, the growth in funding now held centrally by the Government is reaching a level where local discretion—and the ability of Police Authorities to invest in local initiatives to meet the needs of local communities—is being threatened."

The next Conservative Government will scrap all this micro-management in favour of a much more honest and straightforward approach. Money from central Government will come in a block grant. The days of ring-fenced funds will come to an end. Central

*[Mr. Mitchell]*

Government will no longer hold local policing to ransom by keeping control of the purse-strings in this way. We will not force police forces to choose between the latest gimmick handed down from Whitehall or increasing the number of bobbies on the beat. The funding settlement will be transparent and the funding formula will be simpler. Under the Conservatives, there will be no more fiddled funding for the pet projects of politicians in Whitehall.

Along with micro-managing funding comes this Labour Government's obsession with micro-managing how policing takes place around the country. No wonder police morale, described by the Home Secretary when he was last a junior Minister in the Home Office as being defined by the number of people leaving the service, has fallen sharply. The Government have been somewhat evasive about the number of police officers resigning from police forces, but we know that the number of resignations more than doubled between 1997 and 2002. In 1997, there were 774 resignations. In 2002, there were 1,634—an increase of 112 per cent. Needless to say, since then the Home Office has stopped recording the number of resignations in its reports on police service strength. In October, when the shadow Home Secretary tabled a parliamentary question to identify how many resignations had taken place, the Minister advised that those figures were no longer kept.

Police morale is low because local policing is fettered by this Government's obsession with micro-management, targets, bureaucracy and top-down management. It is low because of the state of the criminal justice system, whereby even if more villains were arrested, courts in many parts of the country, including London, would not have the capacity to process them; and even if they did, the prisons are bulging at the seams. Even if the police solve a crime, the courts convict, and the prisons accommodate, 90,000 criminals have been let out of prison under the home detention curfew scheme. What thanks and encouragement does that offer to our policemen and women?

A good illustration of morale in the police today can be deduced from a poem written last year for the Christmas edition of the Police Federation magazine, which is no doubt required reading for the Minister as well as for me. It was penned by a constable who has worked on the streets of Merseyside for 18 years, and it sums up how our police feel let down by this Government. If I may, Mr. Deputy Speaker, I should like to quote a few lines:

"We are thin on the ground and spread all about
Whether we can cope is always in doubt
Officers are now managers and always pressing
For figures that make for good window dressing
The Sergeants they work in total despair
In front of computers, glued to a chair
The troops themselves used to carry cuffs and staffs
We now go out armed with pie charts and graphs."

He expresses the lack of morale and concern of the police extremely clearly and well.

**Mr. Stephen O'Brien:** I dare say that my hon. Friend is aware that one of the major complaints of the police at all levels has been that the removal of the policeman's notebook means that they have to do everything in triplicate through e-mail and now have to spend the first hour or even two hours of their day checking all their e-mails before they can get out on the streets. Will he urge the Minister to look at the basis on which that evidence can be adduced in court, not least because there was nothing wrong with notebook evidence in the past?

**Mr. Mitchell:** My hon. Friend makes an interesting and helpful point. I have no doubt that when the House debates the specific subject of police bureaucracy we shall return to the Government's appalling record in that respect as well.

After eight years of Labour Government and cynical waffle about being tough on crime and tough on the causes of crime, we have a demotivated police force who are tied up in bureaucracy, central Government diktats, performance indicators and red tape, and unable to respond to local requirements and local demands in the way that they would wish.

Above all, we have had eight years of rising crime. These are the Home Office figures: total crime is up 16 per cent. since 1998; violent crime is up 83 per cent. and has now passed the 1 million mark for the first time ever; and gun crime has doubled under Labour, with a gun crime committed every hour of every day. Before the hon. Lady protests about our record, I have consulted the Library and discovered that when my right hon. and learned Friend the Member for Folkestone and Hythe was Home Secretary, gun crime fell by a third—32 per cent.

Meanwhile, detection rates for all types of key offences have fallen since 1997. Fewer than one in four sexual offences and fewer than half of all violent crimes are cleared up. Fewer than one in seven burglaries is cleared up, and last week the latest quarterly statistics showed that crime levels are continuing to escalate. The Minister can repeat as often as she likes that crime is falling, but the public know differently and her own Department's website makes it clear that the figures are very different. Only last week, we saw that violent crime was up yet again, by 6 per cent.; firearms offences were up by a further 5 per cent.; and sex offences were up by a massive 22 per cent.

The most important fact in this debate is that the long-suffering taxpayer has paid up—massively so—yet the Government's performance in cutting bureaucracy, supporting the police and cracking down on crime and disorder is a woeful litany of failure. It is the public who will hold this Government accountable for that.

**Mr. Deputy Speaker:** Order. I should remind the House that there is now a 12-minute limit operating on speeches from Back Benchers.

2.48 pm

**Tony Lloyd** (Manchester, Central) (Lab): I join my hon. Friend the Minister in saying clearly that tackling crime is the highest priority for most of our constituents. I find it difficult to recognise the picture painted by the hon. Member for Sutton Coldfield (Mr. Mitchell), yet I come from a constituency in the inner city of Manchester, which historically has among the highest crime rates. We knew about gun crime long before many

people in the rest of the country were even prepared to talk about it other than to condemn it as a blight on cities. Sadly, it was during the period of the Conservative Government—I do not make this as a political point—that gun crime became entrenched in our society. We all have to consider how to eradicate that problem of guns in our society. That goes way beyond the parameters of party political debate. It is a serious issue, which affects the lives and the deaths of my constituents and many others.

**Mr. Mitchell:** That is precisely why the Opposition are so concerned about it. Although I fully respect the hon. Gentleman's impression, the facts—the recorded crime figures—show that gun crime has doubled under this Government. Yet it decreased by 32 per cent. in the period when my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) was Home Secretary. Those are not impressions but facts.

**Tony Lloyd:** I am not talking about impressions. I am well aware of what happens with guns in my constituency, and there is no doubt that more gun crime occurs now. We must strive against the culture of gun crime, but that will not happen through party political polemic. We can drive it down only if we examine practical ways in which to get guns off the streets of our cities and to change the attitudes, especially of young men, towards the desirability of guns. Perhaps on a different occasion the House should debate the issue, which is one of the most serious problems that the country faces. Gun culture is growing, and if we do not strive against it, we allow it to grow. Sadly, our experience is that it has been growing.

As I said in the past about hard drugs, people made the mistake of wanting to view the problem as ghettoed in the inner city. Drugs are now a problem throughout the country. We must not make the same mistake with guns. Gun crime will not be confined to specific parts of the country. If the culture of the gun becomes widespread, we all inevitably become its victims. The problem therefore affects us all.

**Mr. Mitchell:** I dispute the hon. Gentleman's view that we are raising the matter for party political reasons. I share his analysis of gun crime. He will remember that I used to be a Member of Parliament for part of Nottinghamshire, which has suffered particularly from the culture of gun crime that he describes so accurately. For all the reasons that he gave, no one would be more pleased than Opposition Front Benchers if the Government could bring this appalling scourge under control. I would be the first to congratulate the Minister. However, in the absence of that, it is the Opposition's duty to identify the problems and demand action on behalf of those whom we represent. I am seeking to hold the Minister to account on that point.

**Tony Lloyd:** The hon. Gentleman speaks for himself, and I want to make some progress. However, the subject is also important because it is relevant to another matter: the Opposition's assertion that they would move to a system of total block grants.

I hope that my hon. Friend the Minister will not listen to that sometimes seductive argument for total block grants. There are some issues—gun crime is one—that require us to acknowledge that some areas suffer disproportionately, and it is therefore necessary to target resources at them. The police tell me that each gun murder costs roughly £1 million to investigate. That is an enormous sum for a police force such as mine, which has to deal with a disproportionate amount of gun crime. I hope that we can reflect on what that means for policing. I repeat that if gun crime is not checked in an area like my constituency, guns will spread throughout the country. Everyone therefore has an interest in ensuring that my police force has the resources to deal with the problem.

I welcome my hon. Friend the Minister's comments on the way in which pensions fit into funding. That has been a problem for many years. Indeed, almost throughout my time as a Member of Parliament, I have made representations to successive Home Office Ministers about the impact of pensions. Greater Manchester police believe that the increase in the contributions to their pension scheme will be £9.5 million. That is an enormous sum for a police force, and the discretion over spending is inevitably narrowed if we take into account the fact that the bulk of the budget is already committed to paying existing serving officers and support staff. The figure of £9.5 million therefore makes a genuine difference. I hope that my hon. Friend can elaborate on the operation of the new system later, if not today.

Figures are always hotly disputed between hon. Members who represent different police forces, but Greater Manchester police claim that they are disproportionately hit by the pensions problem. We can resolve it only if, as the Minister said, there is an attempt to move beyond the funding system of the past and begin to acknowledge that some sort of central processing at least irons out the differences in the impact on police forces. If my hon. Friend can devise a workable system, it will be welcome in a city and conurbation such as Greater Manchester.

I want to raise a matter that I can only believe is a quirk and not something that is deliberately built into the system. Greater Manchester police, my hon. Friend the Minister's local police force as well as mine, tell me that they will lose approximately £1 million through withdrawal of moneys from the crime fighting fund. That has happened because they recruited 50-odd officers on 29 March last year. The way in which the crime fighting fund budgets are calculated means that Greater Manchester police will no longer qualify for money from the fund. However, if they had recruited the same police officers three days later, on 1 April, they would have qualified. I do not believe that anybody designed the system to have that effect. If the account that I received is accurate, I am sure that Home Office Ministers will want to resolve the problem, and that they could do it relatively easily. Those sums are not trivial, and could have a genuine impact.

My hon. Friend will know that there is concern in Greater Manchester about the relationship between the police authority's funding and its ability to precept from the local authority. There was an ambition to go above the 5 per cent. that the Government now insist applies uniformly. The worst fear is that driving the precept down to 5 per cent. will make it difficult to maintain current staffing. Such matters are always hotly disputed and it is difficult to get to the bottom of what funding

*[Tony Lloyd]*

does and does not do. Every year the story is confused until reality somehow emerges later. However, I ask my hon. Friend to consider carefully the impact on Greater Manchester because, as she knows, we have made genuine changes. The police are making proper managerial changes and the system is now operating more efficiently.

It is always to difficult to know what sort of value for money we get from our police forces. That is a national issue, which is not confined to my police force. Police in Greater Manchester tell me that they know that they needed to make enormous changes, and that they were not efficient in the past. They also say that they are making those changes. Sometimes I believe them but at other times, I must say that I am a little more despairing and sceptical. However, we need a basis for beginning genuinely to compare like with like. Our debate today will—inevitably and rightly—focus on the pleadings of individual Members of Parliament about the impact of funding on their areas. That is not the most rational way in which to debate the funding of an important national service. The time has come for measures, and mechanisms whereby we can make comparisons and work out what we are getting.

For example, this year my police force tells me that it is disadvantaged in funding when compared with West Midlands police, with which it is normal to compare the police force in a conurbation such as Greater Manchester. I find it almost impossible to know whether the assertion is true. However, when I hear the hon. Member for Sutton Coldfield telling the Minister that the west midlands has a good settlement, it leads me to believe that there is some justice in the statement that Greater Manchester is relatively disadvantaged. However, how can I know that? How can I know that my police force is using the money as wisely as it should? So I appeal to the Minister to develop a proper means by which we can all judge value for money in the service, which we all agree has the highest priority for all our constituents.

This is an important debate, and it is interesting to see how few people are in the Chamber. That might indicate that the Government have got it significantly right with the funding generally. My own comments inevitably involve a slight amount of special pleading, because I represent a high crime constituency. I genuinely believe that my constituents feel that we are making progress on policing, but we still have an awfully long way to go. I appeal to the Minister to ensure, even at this stage, and even if fine-tuning is necessary, that Greater Manchester gets the benefits that are being applied elsewhere. I know that she will keep her door open and continue to listen as the process continues in the coming weeks and months, so that we can guarantee proper policing for our adjoining constituencies.

3 pm

**Mr. David Heath** (Somerton and Frome) (LD): It is a pleasure to follow the hon. Member for Manchester, Central (Tony Lloyd), who has just made one of the most rational speeches I have ever heard in one of these grants debates. I am grateful to him for that. I hope that we shall soon not need to have debates on council tax, because I hope that that unloved, unfair relic of a previous Administration will eventually be consigned to the dustbin of history. The way in which it works at the moment certainly does no favours either to us or to our constituents. Following revaluation next year, there will be a massive increase in council tax for practically every household in towns in the south, and particularly in the south-west, where house prices have increased by well over 200 per cent. That will be entirely unacceptable. It would be far better to find a more realistic option now than to wait for the time bomb that was set ticking by the previous Conservative Administration, and allowed to tick on by the present Government, to explode, which will cause a great deal of difficulty for an awful lot of people.

**Mr. Llwyd:** In supporting the hon. Gentleman's argument, may I tell him that the rebanding exercise is continuing apace in Wales? Even modest properties there are now jumping up two or three bands. That is causing extreme hardship, and I hope that lessons will be learned from the Welsh experience.

**Mr. Heath:** The hon. Gentleman is absolutely right. Some areas of Wales are similar to areas in the west country, where house prices are often inflated—not by local interest but by outside interest—out of all proportion to the average earning power of the residents. We had a clear message from the Minister for Local and Regional Government when he said that only when the change in a property's value is significantly above or below the average is it likely to change bands. Well, the average is 160 per cent., so we will be well over that threshold in the south-east, the south-west and parts of Wales, which will result in massive increases. That is perhaps a matter for a later debate, however.

We have seen a significant increase in police funding and police council tax in recent years. To be fair, we have also seen a significant increase in police numbers. My huge criticism of the Government, as the Minister for Crime Reduction, Policing and Community Safety knows, is that when they came to power in 1997, they stuck to the meagre budgeting proposals of the outgoing Conservative Government for two years and refused to recruit the extra police officers who should have been recruited at that stage. There was therefore a delay in improving the situation. The fact is, however, that those police officers are now being seen on our streets and in our villages, and that is something that we should welcome.

I have to say, however, that that increase was not the doing of central Government. It is being paid for by the council tax increases that our residents have had to pay. The increase in police numbers is being paid for almost entirely from local taxation. That worries me, because it will be a fragile increase if it is sustainable only by massive increases in council tax, which most of our constituents would find unacceptable.

When asked, people are normally prepared to pay a little more if they think that they will get better policing. The difficulty that we have experienced until now, however, is that people have been paying a lot more without seeing the extra police on their streets. That is particularly true in police authorities such as Avon and Somerset, which covers a large conurbation as well as a large rural area. Inevitably, the big city acts as a magnet for resources, because that is where the crime levels are

highest and where the chief constable applies the resources, for obvious reasons. People in rural Somerset are paying an awful lot more without seeing any extra police to represent that extra investment.

**Mr. John Horam** (Orpington) (Con): That is also true of London, where the inner city attracts all the extra support while the outer suburbs and rural fringes get very little of the extra resources coming from Mayor Livingstone.

**Mr. Heath:** The hon. Gentleman is right. That problem bedevils the metropolis as well as the shire forces. There is an answer, however, and it is one that I have strongly promoted. It is simply to relate the policing of an area directly to the amount that people pay to support that policing. It would involve a minimum policing guarantee that would derive from debates held in the local area involving the borough council in the hon. Gentleman's case, and the district councils or county council in my own, as well as the police authority. There would be a guarantee that if people paid extra, they would get the policing that they had paid for. That would be a much more satisfactory way of organising police funding.

**Mr. Kevan Jones:** I am fascinated by the hon. Gentleman's suggestion. If a community such as mine were to adopt the Liberal Democrats' local income tax proposals, the amount of money contributed by some of the outlying villages in which unemployment is high and where many old people live would be quite small. Is the hon. Gentleman suggesting that those villages should get a poorer service than the wealthier parts of my constituency that could pay more?

**Mr. Heath:** Transparently not. The hon. Gentleman would not wish me to spend the next 20 minutes explaining in detail the mechanisms of equalisation, or the contribution made by central Government. I want to reduce neither the flexibility of chief constables to deal with crime effectively nor the contribution of central Government. I am simply saying that—

**Mr. Jones** *rose*—

**Mr. Heath:** I want to answer the point that the hon. Gentleman has made.

There should be a level of policing for each area consistent with that area's needs. We should not have to see, as we do at the moment, a reduced level of policing, or abstractions to deal with every incident in the big cities, which denude rural areas of the police that they need—*[Interruption.]* It is interesting that Labour Members should jeer at this idea. If they ask people in their constituencies whether they want to see the police that they have paid for on their streets or in a city 40 miles up the road, they will say that they want them on their streets. The Labour party had better get its head round that pretty quickly.

The settlement is better than we had feared it would be, and I am extremely pleased to be able to say that. The Minister knows that we had debates on this matter prior to the announcements, at which time we heard the advice of the Association of Chief Police Officers and the Association of Police Authorities. They were extremely concerned not by a figure that they had plucked out of the air, but by the Home Office's own figure, as we were anticipating a 3 per cent. increase this year. They knew perfectly well that they needed a 5.7 per cent. increase to stand still. That huge gap between the two would have resulted in very difficult decisions for many chief constables and many police authorities.

Instead, we have a settlement that, as the Minister has said, gives us a 4.8 per cent. increase—but may I make an obvious and necessary point? That is an average, so some authorities—West Midlands is a case in point, as is Greater Manchester, which has done better than average—have done well out of this. I cannot grumble about that average figure in terms of my authority, Avon and Somerset. We have less than the 5.7 per cent. that we would have liked, but it is better than the average.

That, however, hides the fact that many authorities will do an awful lot worse. The figure for London is over 6 per cent, while the average for the metropolitan authorities is a little over 5 per cent. and for the shires a little over 4 per cent., but 15 authorities are on the floor—the 3.75 per cent. increase. That will pose huge problems for them. It is better than their worst fears, but very far short of what they would have hoped for or what they think they need to maintain their services.

In some cases, there has been an adjustment because of the errors in the census figures. Although I strongly support the Home Office in applying a floor system that means that authorities have not gone below that floor as a result of those adjustments, this is nevertheless not a satisfactory way of doing business with local government.

The key now is how the capping criteria will be imposed. We have had a clear message from the Office of the Deputy Prime Minister that capping will be applied to police authorities. Last year, it was applied—I think absurdly—to West Mercia police and others. If the cap is set too low so that police authorities do not have the flexibility to maintain their services, we will still have, as Chris Fox, president of the Association of Chief Police Officers, said,

"a very difficult year for policing."

I want the Minister to be absolutely clear about what the capping criteria are. She said that she would have close discussions with the Minister for Local and Regional Government; I hope she does. I think that she wants to achieve the same objective as me in these matters, which is not excessive council tax increases, but ensuring that the effectiveness of the police service is maintained. That will be much better organised if we know what the criteria are and what is expected of the police authorities.

I am pleased that the rural fund is being maintained, as it is a key part of the equation for many rural forces because of the extra costs of policing rural areas—although I wish that it were not decided year by year. If we achieve a three-year rolling funding programme—I know that that has been promoted by local authority associations for at least 20 years, because I have promoted it in local authority associations for at least 20 years, as have members of other parties—that will be extremely good news.

*[Mr. Heath]*

I very much welcome the fact that the Government are finally doing something about pensions, although I worry that they have not met the needs in the first year. As the Minister for Crime Reduction, Policing and Community Safety knows, the Association of Police Authorities estimates the gap to be about £35 million this year, simply because of the 1970s recruiting bulge, which she mentioned, and the fact that those people are now retiring. So, there may be a short-term problem, but at least there is some mechanism for the longer term, which is to be commended.

We asked in vain for that for very many years under the previous Government. Indeed, I have to say to the hon. Member for Sutton Coldfield (Mr. Mitchell), who talked about micro-management, that I remember the right hon. and learned Member for Folkestone and Hythe (Mr. Howard), as Home Secretary, personally deciding how many police officers we could recruit in the police authorities. He told us whether we were allowed to have one extra police officer for the police authority area. The answer he always gave Avon and Somerset—I know this, because I was the person doing the banging on the desk—was that we were to have no extra police officers. That is why so many of us are extremely dubious indeed about the offers of tens of thousands of police officers that are pouring from the Conservatives.

We know that when the Conservatives were in office the reality was that the shires did not get extra police officers. *[Interruption.]* There were a few extra in the Metropolitan police area, but not in the shire authorities, where they were desperately needed.

I asked the Minister about capital. I do not know whether she yet has an answer and wants to intervene.

**Ms Blears** *indicated dissent.*

**Mr. Heath:** No, the Minister will give the answer in her winding-up speech. Unless we have that capital allocation and it is sufficient for needs, there will be a cramping of the style, if I may put it that way, or, more properly, a reduction in the investment, which is needed to make the police service more efficient.

There will not be a reduction in police numbers because of, first, how chief constables set their priorities, and secondly, the crime fighting fund. However, if we are not careful, police will be put back into jobs that have been civilianised, which is not in the interests of the service. If there is static capital, there will not be the investment in IT that will reduce paperwork to allow police officers on to the streets. There will not be the new police stations that we need or the custody suites, for which I have argued for some time. There will not be what people want in terms of greater visibility in the rural areas and a higher police presence in our cities.

Furthermore, there will not be innovative schemes such as prolific offender schemes, which have enormous potential but need investment as they are not cheap options, to reduce the worst offending rates in the country. There will not be better drug interdiction, and we shall not continue to bear down on burglaries and car crime. There will not be the extra investment that I want in dealing with domestic violence. There will not be an adequate response to organised crime in the time that it will take to get the Serious Organised Crime Agency up and running and, I hope, doing that job more effectively.

That is what people expect from the police service. In our debates over recent months, I have come to believe that the Minister shares a lot of my aspirations for the police service and that we want to achieve some of the same ends. This funding proposal is not adequate to that task, but it is not wholly inadequate either.

We have traded crime statistics, but that turns off the general public no end. They do not want to know that someone says that a certain figure is 23 per cent. while someone else says it is 27 per cent. The individual is either 100 per cent. mugged or 0 per cent. mugged, 100 per cent. burgled or 0 per cent. burgled, and 100 per cent. afraid to go out on to the streets at night or 0 per cent. afraid. That is what matters to people—whether they see the police officers on their streets, able and equipped to do the job, and effective in doing that job. That is what we should be achieving through this settlement.

One sad thing about the system is that we have only the bald statement of the police grant report, which does not tell us the whole picture. It would be far more useful if that report covered not only the grant given to police authorities, but some of the things that the Minister talked about, such as use of central Home Office funding in support of the fight against crime and the different aspects of capital funding in explicit terms, so that we know what the Government are doing in the round to fight crime. That would make for a much more effective and much more valuable report, which the House could properly debate.

Although we all have our queries about our own police forces, we also want to know that Terrorism Inc. is being effectively addressed, that communications are being addressed and that British Transport police, which has been mentioned and is one of my hobby horses, has the funds to do its job. If we had all that, we would have a more effective debate and a better idea of exactly what the Home Office is trying to achieve with the considerable funds at its disposal.

3.19 pm

**Mr. Adrian Bailey** (West Bromwich, West) (Lab Co-op): I want to reiterate the comments of my west midlands colleagues, including the Opposition spokesman, on the grant given to West Midlands police. Historically, West Midlands police considered themselves underfunded, and there was considerable concern about the potential level of funding in this round of settlements. The outcome was more than satisfactory, and West Midlands police were very appreciative of the recognition given to the historical problems and the funding to address them. The Minister took representations from me and other west midlands MPs, listened to them, and delivered on them.

There are still concerns about the implementation of the formula. We have quarrels not with the formula as such, but with the speed at which it is reached. The application of the floors and ceilings principle still means that we receive less, shall we say, than our potential funding. I recognise, however, that the increase given to West Midlands police is considerable, that it will help, and that it has been done at the same time as the Minister has managed to achieve growth funding for all other police forces in the country. She deserves commendation on that. On the drive for efficiency in the police force, I am pleased to say that

West Midlands police have more than delivered on the previous year's efficiency targets, and have plans to ensure that they conform to the Government's revised efficiency targets.

Before I make my general points, I want to comment on some aspects of the debate so far. I shall refer to the figures on crime reduction and increased numbers of officers in a moment.

An interesting difference in philosophy of approach is emerging. The hon. Member for Sutton Coldfield (Mr. Mitchell) commented that he felt that funding should be a block grant to the local police authority—those were more or less the words that he used—and that we should not micro-manage local police forces. To some extent, I agree with him, but a balance must be struck between providing funding to meet the aspirations of local people and micro-management issues.

The hon. Member for Eddisbury (Mr. O'Brien), who is unfortunately not in his place, complained that policemen were no longer using police notebooks, and that they were looking at e-mails instead. I am sure that the police notebook has a long and honourable tradition in crime fighting in all areas of the country, but I do not see that as a result of any element of micro-management by the Home Office. Obviously, it is a by-product of the changing ways in which local police authorities manage their business. The figures for the west midlands show an increase in the average time that police officers now spend out in the community rather than in their offices dealing with paperwork.

In terms of perception of crime, the big issue is antisocial behaviour and what we might consider low-level crime. That is uppermost in most people's minds. The partnership approach of the community, local authority and local police is essential in dealing with that. I do not see how that developing approach and change of culture squares with the comments made by the hon. Member for Sutton Coldfield about giving a block grant to the police authority and having no specific grant to realise the particular aspirations of people in local communities.

As I said, there has been a debate about figures in relation to crime and police. I agree with the hon. Member for Somerton and Frome (Mr. Heath)—I think that I have both the name of his constituency and the pronunciation correct, as I am a fellow west country man—that the bandying around of statistics turns people off. People's experience on the ground is what matters, and I am confident that most people recognise that crime is falling, although violent crime is an issue.

On local delivery, I have received the latest figures from the Safer Sandwell partnership in my locality. I shall not go through all of those figures, but all the key indicators are down, and total crime is down. I accept that antisocial behaviour is still a huge issue in my constituency, but the number of police officers and community support officers in the area has increased, and that is recognised. The crime fighting fund has been a valued part of Home Office funding and is much appreciated by local police forces and the people it serves.

I also welcome the money allocated to expand the role of community support officers, who are playing an essential part in changing people's perception of crime and in giving them confidence to deal with it. I understand from my local police force, who were initially sceptical of the role of community support officers, that they are now totally convinced about their role in the local community. They say that they provide valuable local intelligence, which aids police officers; a visible presence, which reassures the law-abiding citizens in the area and deters those who are not law-abiding; and that they are working well with the police, local communities and the local authority to provide support for local citizens in their battle against antisocial behaviour.

On the Home Office's Together programme, Sandwell is one of the pilot local authorities, and two of my local residents, Carol Sutton and Evelyn Lissemore, recently received a Home office award for their work in combating antisocial behaviour in the community. I have visited Carol Sutton, and had a meeting with her, the police and the local authority antisocial behaviour unit. From that discussion, I have identified a range of issues that need to be taken forward by the Home Office in helping our fight against antisocial behaviour.

A couple of things above all have arisen from the project. First, it has given local people the confidence to take on those who are destroying the quality of life of others in their neighbourhood. Secondly, people see that if they take action, it will get support and be publicly recognised. I commend the Home Office on pursuing that approach, and I hope that, as those projects produce results, further funding will be provided. Above all, by involving local representatives, information is obtained that I and others can feed into the Home Office to ensure that antisocial behaviour legislation and funding priorities are more specific and better geared to delivering the outcomes that we want.

Let me end by saying first, that we are grateful for the extra funds, and secondly, that in the Sandwell area and in the west midlands we recognise the value of partnership working and the specific grants and funding streams that make it possible. We are confident that although there is still a huge job to be done, the Government are moving in the right direction, and we will build on the progress that we have made today.

3.29 pm

**Mr. John Horam** (Orpington) (Con): I want to speak briefly on behalf of what I call the leafy suburbs and the fringe rural areas of London. When I make such points, as I do quite often, I usually get a weary smile from the Minister or representative of the Metropolitan police to whom I am talking. I confess that I could never accuse this Minister of a weary smile, but I tend to get that reaction from some of her bosses. They trot out a number of statistics and then say "The statistics are not too bad, so what are you complaining about?"

This is the sort of thing about which I am complaining. I recently received a letter from a constituent who wrote:

"I have been the subject of several rather nasty burglaries recently as well as acts of vandalism, however the real problem we are having is the police response time, and the Police just not knowing where Tripes Farm is, with the Police phoning up as to enquire where we are. All of this is just not good enough, we have 12 or so businesses here with 30 or so people employed, all pay

*[Mr. John Horam]*

business rates and for what? The Police service that we receive is truly wanting, and is the worst I have ever known since I started farming here"—

there are farms in Orpington—

"in 1966 . . . Just to rub salt in, my young manager who was called out to the farm before me last night, to attend the break in and help secure the premises, was stopped on his way home by the police last night and asked where had he been!"

Another letter says:

"I have recently experienced teenage youths throwing bottles, tin cans and other refuse at my front door.

On the 27th December I dialled 999 to contact the police because, following one of these incidents, the youths were standing at the corner'. . . taunting me to chase them. The police did not respond to my call and I had no acknowledgment from them to say they were aware of my call.

The same thing occurred last night, again the police did not respond and I received no acknowledgement of my call.

Today I decided to make a complaint to the police regarding this situation. I have just spoken to a lady who works at the CAD Office at Orpington Police Station and she has advised me that there are not enough police officers on patrol in the Borough of Bromley to respond to emergency calls never mind the 'as soon as possible' calls that my call is classified as. She also advised that other residents . . . are suffering the same disturbances as me, but the police are unable to act because of lack of manpower."

In an e-mail, another constituent wrote:

"Last night a number of homes in Farnborough Park were broken into, including ours, stolen from and vandalised . . . when we reported it, an hour later my wife and I both received 'courtesy' phone calls to tell us that the police were busy and couldn't tell us when they could come . . . When I probed further I was told that they had many, many burglaries last night and there were only fourteen units to deal with them."

That is the day-to-day situation reported to me by my constituents in Orpington. The reason is not that the local police are bad. Inspector Nick Stratford, the commander in my section of Bromley, is an admirable officer. He has been there for 18 months and has had a considerable number of successes. His staff also work extremely hard. The problem is simply that there are not enough of them. Bromley has 470 police officers; nearby Lewisham has 639; and Croydon next door has 685. We have 169 fewer than Lewisham, which is a smaller borough, and 215 fewer than Croydon, which is also a smaller borough. Bromley is the largest borough in London and has problems associated with that.

As a consequence of those numbers, Orpington has only 22 sector police officers, three sergeants and 13 community support officers. Of course there is a response element as well, dealing with 999 calls, but none of that is enough to constitute a proper neighbourhood policing policy, which I accept is the Government's aim. In only three wards—Biggin Hill, Cray Valley East and Orpington and Ramsden—do we have a proper set-up. In wards such as Petts Wood and Knoll, Farnborough and Crofton, Chelsfield and Pratts Bottom and in other rural areas we simply do not have enough officers. Each of those wards—quite big wards of 12,000 people—has only one ward officer. Incidentally, I found one of them at the end of a corridor in the House of Commons defending us against the sort of vandalism that occurred recently. Abstracting officers in the circumstances that I have described makes the situation even worse: it really is not good enough.

I accept that the Government have given London a more generous settlement this year than they have in the past. As the Minister said, it is 5.8 per cent. against an average of 4.8 per cent., and obviously I welcome that. The problem is that the resource allocation formula in London does not work favourably in the case of outer London boroughs and severely disadvantages boroughs such as mine. The Metropolitan Police Authority acknowledges that. I accept that it is not the Minister's responsibility to deal with that matter. None the less, it is a problem.

As the hon. Member for Somerton and Frome (Mr. Heath) said, most of the increase in police force has been due to increases in council tax. The number of police officers in Bromley—470—is no greater than it was in 1997. There was a dip after that and we have now finally got back to the 1997 figure. My constituents pay considerably more council tax, particularly to the Mayor of London, whom by and large those in the borough of Bromley did not elect, and they have no more police to show for it. It adds insult to injury that they have higher crime rates, more antisocial behaviour—

**Mr. Kevan Jones:** Will the hon. Gentleman give way?

**Mr. Horam:** I cannot because of the time limit.

My constituents face more antisocial behaviour and have no more police than they had seven years ago, but pay substantially higher council tax to the Mayor of London. That is totally unacceptable and I shall continue to bang on about it until something is done.

3.36 pm

**Mr. Roger Gale** (North Thanet) (Con): The Minister has effectively made my declaration of interests for me, for which I am grateful. As she knows, I am proud to hold the warrant as a special constable with the British Transport police. I am grateful to her for recognising the BTP, and to the Home Office, I hope, for beginning to recognise the force's needs in terms of infrastructure.

The British Transport police do not, of course, feature in the police grant report because they are not funded by the Home Office. It seems extraordinary—I emphasise that I am now speaking as a Member of Parliament and not as a representative of the British Transport police; I am certainly not speaking for the chief constable, who may or may not share my view—that we rely on the train operating companies to fund the British Transport police. The funding is often in arrears. It is a little like saying that the City of London should fund the fraud squad.

The British transport police are responsible for the policing of every inch of track in the United Kingdom and need to be funded and resourced properly and accordingly. As the Minister knows, because I have said it before, at any one time there are only 200 pairs of British Transport police officers on duty to cover not only the whole of the track, but railway land and property throughout the country. It is an impossible task. When people say, "There is vandalism and antisocial behaviour on our trains, so why isn't anyone

ere?", the answer is that there are not enough people. would not wish to exonerate the train operating mpanies from their responsibility to provide properly ained staff on the trains—the conductors and the ards—but that should be over and above the work of e British Transport police.

We are here, however, to debate what is in the police ant report, not what is not. Let us come down to hard sh. The Minister knows that 85 per cent. of the money at is spent upon the police is spent on staff salaries, hich does not leave a huge amount of boodle to spend information technology equipment, cars and all the her things that the police require. That is not 85 per nt. on policemen. Under the Government, staffing has sen. Part of that is due to the privatisation, the vilianisation, of police tasks. I have no problem hatever, particularly with my constable's hat on, in eing clerks doing the secretarial work that needs to be one to back up the men and women out on the beat. It an entirely proper function, but I take issue with the mount of bureaucracy that is required of our olicemen and women at virtually any hour of the day r night.

It is said that police numbers have increased. *Interruption.]* The Minister says from a sedentary osition that that is true.

**Ms Blears** *indicated assent.*

**Mr. Gale:** The number of size 10 boots on the beat our by hour, day by day, has not increased. The umber of hours the police spend sitting on their acksides on swivel chairs in offices filling in forms ight have increased, but that is not what the man on Margate seafront or the lady in Herne Bay high street ant. They want those size 10 boots out there and those nark 1 policemen's eyes on the streets, doing the job hat they are trained very well to do. They do not want hem to spend seven minutes standing on a street corner lling in a stop form.

If I, as a policeman, were to stop six people, I would ave to spend some 45 minutes filling in forms. *Interruption.]* The Minister shakes her head, but only a ouple of months ago, the previous Home Secretary sat oughly where she is sitting and said, "I have done this." or obvious reasons—I make no disparaging remark in pointing this out—he had it done for him, but the fact emains that he dictated the responses and somebody rote them down. But he did so sitting at a desk, not on wet November night on a platform at King's Cross tation, or in Margate high street. There is all the difference in the world between those situations.

Highly trained police officers are now being required o handle—with the back-up of armies of civilians—argets, surveys and audits until they are coming out of heir ears. The Home Office has quite properly laid some emphasis on "criminals brought to justice", for which we now have targets. Is that not what the police are for? Do we not want criminals to be brought to justice? Yes, but what qualifies as a criminal brought to justice? Conviction and sentence? No. The answer is: caution, or conviction and sentence. So let us assume that I am a reasonably senior police officer who wants to hit his target for "criminals brought to justice". I say to my boys and girls, "Go out there, grab people off the streets and get 'em cautioned." A caution is a conviction—a "criminal brought to justice". It is a police record—fingerprinted and perhaps DNA-tested—that counts towards my target, but it does not make the public feel much safer. It is much easier than spending five hours filling in forms, case-building, taking a criminal to court and spending the day in court, only to watch someone let him go whistling down the street with a five-shilling fine; however, it does not do the job.

I know that the Minister takes these things seriously, but I should point out that this target—it is just one of many—is not working and will not work. Because the Home Secretary wants results, the figures are being manipulated. I know that not from any officer in the British Transport police or—I should hasten to add—in the Kent police, but from a very senior police officer to whom I spoke only a couple of days ago about this very subject. So I would be extremely cautious about these massaged figures.

I turn finally to the local issues facing Kent. Kent's police are underfunded. As my hon. Friend the Member for Sutton Coldfield (Mr. Mitchell) and the hon. Member for Somerton and Frome (Mr. Heath) both pointed out, these new policemen are paid for not by the Home Office—let us get that idea out of our heads—but by the county's ratepayers. The money is coming from the precept—the rates. Our policemen are trying to police the front-line roads into the United Kingdom from the UK's major ports, through which come most of the people from mainland Europe. They are also trying to police the channel tunnel and Kent's airfields, and to deal with the problem—and it is a problem—posed by asylum seekers. None of that is satisfactorily taken into account in the formula on which the police grant is based. I think that Kent is being short changed.

I want to ask the Minister three specific questions. First, who is going to pay for the additional policing that will inevitably arise as a result of the introduction of the provisions of the Licensing Act 2003? Who is going to pay for the extra coppers? As an aside, will the Minister either tell me or find out from the Lord Chancellor what has happened to the millions of pounds that were paid to the licensing magistrates for a job that is now being done by the local authority? It seems to me that millions of pounds have just disappeared into thin air. If I am right, let us give that money to the police and contribute towards the cost of what many people regard as a lunatic piece of legislation.

Secondly, will the Minister tell me when Kent will receive the £14.8 million still outstanding from the Home Office in respect of the cost of looking after asylum seekers? The leader of Kent county council, Sir Sandy Bruce-Lockhart, wrote to the Home Secretary on 24 January about that money, which has been outstanding for two years. Kent has to set its budget on 7 February, so please can we have that £14.8 million owed to us? If the Minister can persuade the Home Secretary to be really generous, perhaps we can have the interest on it, too.

Finally, the Minister referred in her opening remarks to delegated training. I have no particular problem with the concept of delegating training to the county forces, but if we are going to do that, are we delegating the costs as well? Will the county force now pay for the training that used to be provided centrally, or will some of the centrally provided money follow the coppers to the

*[Mr. Gale]*

county force for training? That is clearly an important matter. If the Minister answers those three questions, I will probably be a happy man.

3.46 pm

**Mr. Parmjit Dhanda** (Gloucester) (Lab): I was not initially planning to speak, but I should like to make a couple of points in response to what the hon. Member for North Thanet (Mr. Gale) said about licensing. I disagree with his general comments about that subject, because police officers in Gloucester, particularly in the Gloucester and Forest division, told me that it was good not to have so many people coming out of the pubs on to the streets at 11 o'clock, which causes so many problems for the police on Friday and Saturday nights.

Police officers are, however, discussing the issue of when the new licensing laws should apply. The culture in this country is not the same as on the continent, and the rightness of bringing the new licensing laws into force just before Christmas was certainly debated by police officers in my constituency. They took the view that the culture would not have seeped in by that time and that people would not have been sufficiently used to it. The police feared that implementing a radical change around November could bring them additional problems with binge drinking late into the night, particularly around Christmas time. Perhaps the Minister can provide some comfort for the officers who brought up that matter.

Our debate today is focused on settlements. In Gloucestershire, the settlement was 3.77 per cent. Obviously, we would have liked more. At the same time, officers told me that they had achieved record reductions in crime—particularly in burglary, but in many other respects, too—over the past 12 months. They managed to achieve great things, despite the fact that, historically, Gloucestershire has not been the best funded area. To do that, the police had to look into how they cut their cloth and they had to modernise and innovate.

There are 61 community support officers in the county, 18 of them in my constituency. Another seven or eight are due to join shortly, with more to follow—up to about 25 such officers in all. However, 31 of the 61 were funded above and beyond the match funding figure. Achieved through additional resources within the county, that has made a huge difference on the streets. I heard what the hon. Member for North Thanet said about having size 10s on the street, but we need to include size 7s and 6s as well.

**Ms Blears:** And even smaller.

**Mr. Dhanda:** Yes, and as the Minister would agree, we are not just talking about the size of the men, either. Many more women are now PCSOs, just as there are more female Labour Members in this House.

My local constabulary has taken other measures as well. It has civilianised the custody detention officers, which has meant that 17 more police officers are able to go out on the streets.

There is another important aspect to funding formulas. My constituency of Gloucester is an urban area in a rural county. It has pockets of real deprivation, which present tough challenges to the police. In Gloucestershire, Cheltenham and Gloucester—the latter in particular, and disproportionately—need additional policing resources. I urge Ministers to consider the problem in the longer term, to determine how to tackle problems arising in urban communities in largely rural areas.

On top of the match funding procedure and the work to bring in additional resources through innovation, the rural police fund and the crime fighting fund have allowed us to build a force of more than 1,000 constables over the past few years. With more than 1,200 officers in total, the Gloucestershire force has never been so large in all its history.

Another aspect is the capital spending that is taking place. Our police headquarters was always a rather dilapidated building in Cheltenham, but that is being sold and a new, state-of-the-art building is being erected in my constituency, at a cost of £25 million. A shortfall of a couple of million pounds in private finance initiative credits has been made up by my hon. Friend the Minister, which goes to show that the Government have facilitated the building of new police headquarters, just as they have made it possible to build more than a 100 new hospitals around the country.

**Mr. Heath:** Will the hon. Gentleman give way?

**Mr. Dhanda:** I would give way to the hon. Gentleman, but other hon. Members want to speak and I am nearing the end of my remarks. I am sure that he will have plenty of opportunities to contribute again this afternoon.

I urge the Minister to take account of the need of urban constituencies in rural areas when the amount of funding is being calculated. I also hope that she will take into consideration those forces like my own that have brought in innovations. However, I remind the House that funding settlements are not the only important element, as another key consideration is the future capital investment in bricks and mortar.

3.52 pm

**Mr. Nigel Waterson** (Eastbourne) (Con): I am delighted to contribute to this debate, not least because crime and antisocial behaviour are currently at the top of my constituents' priorities.

Next year's budget for Sussex police will be set next week, and it is likely that council taxes will have to rise by just under 5 per cent. That is within the Government guidelines, and I am told that the new budget will fund an extra officer in each of the county's 43 neighbourhood police teams. It should also enable Sussex police to recruit and train PCSOs, of whom we now have 200. That is more than any other county force.

It is also hoped that efficiency savings next year will amount to £6.9 million. If the Sussex force can pull that off, it will be pretty impressive. The intention is that the money will be ploughed back into front-line policing, so it is clear that the Sussex force is doing its best with the available resources.

Sussex has the fifth lowest council tax of all shire police authorities, but it is interesting that the net revenue spending on policing per 1,000 head of population is 3 per cent. below the shire average at

£145,900. It is substantially below the average for all of England and Wales, which is nearly £183,000. There is some way to go in squeezing more funding from central Government.

Funding for the coming year is critically dependent on the level of the grant floor. We hear a lot about grant floors, and I suspect that we shall hear even more in the next debate. That is determined by the Government and cannot be forecast from one year to another with any certainty, because it is a purely political judgment. Hon. Members have already made the point about long-term planning for police budgets.

Sussex is on track to have made £28 million of efficiency savings since 1999, so it is not an inefficient police authority by any stretch of the imagination. However—my hon. Friend the Member for North Thanet (Mr. Gale) made a similar point—the salaries of officers in Sussex account for nearly 80 per cent. of the entire budget, so the available headroom for making other major policing choices is very restricted.

On one level, I am pleased that police numbers overall are back to the sort of levels we had in 1997, although other problems exist. When I was out with the police in Eastbourne the other night, I was told that some 60 per cent. of officers deployed on any day are probationers. At some time in the future, that may be good news for the force, but it suggests that a raft of senior officers has chosen to leave policing, perhaps because of extra bureaucracy and red tape.

Police numbers in my constituency are well below the national average. If officers deployed at Gatwick are excluded, the ratio of population to police officers in Sussex is about 509 people to each police officer. Sussex would need to recruit more than 300 additional officers just to reach the shire average of 461. There is some way to go in obtaining a level of policing that is remotely applicable to the population of the county.

I am pleased to say that the force's overall crime detection rate has edged back up to more than 25 per cent., but that must be put in the context that it leaves 75 per cent. of crimes not detected. Such matters must be seen against an increase in recorded crime of 6.5 per cent. or 8,635 offences in 2004. The Minister may be able to say how that compares with similar counties, but it is interesting that most of the increase is in crimes such as common assault and criminal damage. I accept that some of it may result from the way in which we now record crime.

I said that I went out with my local police the other night, which I try to do from time to time because I find it instructive. It was particularly interesting because it was the Friday before the Second Reading vote on identity cards. To a man and woman, all the police officers I spoke to were in favour of identity cards to help them in their job. I was out with the police during Operation Merlin and they stopped more than 200 vehicles, partly because they were looking for drink drivers and partly for other reasons, including in particular a local phenomenon called boy racers. It was interesting to see how long it sometimes took to check people's identities, and some refused to give any clue as to who they were and where they came from. The basic mechanics of checking people's identities in day-to-day policing should be considerably enhanced by identity cards, despite the legitimate concerns about the way in which the Government have chosen to introduce them.

I was struck, as I always am, by the dedication and professionalism of the officers I was with on that Friday night. They are lucky in my constituency to be led by Chief Inspector Peter Mills, who is a no-nonsense, experienced police officer and determined to adopt a zero tolerance approach to crime at all levels. As I have said, it was somewhat surprising that 60 per cent. or so of the officers were probationers, which seems to be the trend at the moment.

Another factor when we are looking at police numbers versus the challenges that they face—they certainly face challenges, even in places such as Eastbourne—is the extent to which their hands are tied behind their backs by red tape and form filling. As I understand it, the police have to take account of 58 separate performance criteria. Sir Ian Blair, the new Metropolitan Police Commissioner, has said that the obsession with officer numbers and other targets is "a weight" holding down the police. Perhaps the most obvious example is the new requirement, which I believe comes in on 1 April, to record police stops as well as searches. The extent of form filling was graphically set out by my hon. Friend the Member for North Thanet. We have made it clear that on the first day of a Conservative Government that form filling would be stopped.

There is a problem with the amount of time that police take up with the administrative side of their job. There are also new pressures on them all the time. Those include the relaxation of the laws on so-called soft drugs such as cannabis. There is also the massive problem, which has been so prominent recently, of 24-hour licensing. It is a matter of real concern in my constituency, particularly for people who live in the centre of Eastbourne, who already face major problems, especially on Friday and Saturday nights. It is also a problem for the police, who will have to live with the new rules. My police are certainly apprehensive about how they will manage.

There are other factors, too. The other day, the chairman of the police authority, Mark Dunn, wrote to the Home Secretary, expressing what he called his "grave concerns". He said:

"The implications for Police Forces in terms of additional workload are significant and officers will have to be diverted from other policing priorities and activities to undertake enforcement activity against those who are drunk and disorderly.

If drinking establishments were allowed to open until three or four in the morning the police would have to take officers off day shifts in order to do their job effectively at night."

He went on to make a point that I had not heard before in this debate, which is that he worries about recruiting police officers and the difficulty of attracting

"young people to a career which fundamentally involves policing anti-social, violent binge drinkers."

He makes a very good point.

It seems to me that the choice is clear. At the moment we have a regime in which a burglar has a three in 100 chance of being caught, charged and convicted, and even if he goes to prison he may well benefit from the early release scheme and go on to commit yet more burglaries. The Liberal Democrats, of course, take the view that burglars should not go to prison anyway. We are offering a leader who, as Home Secretary, reduced crime by 18 per cent., and we are saying that we will have 900 extra police officers on the streets of Sussex.

4.2 pm

**Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): Hitherto this has been an interesting debate. It is normally characterised as an annual dose of special pleading, but that is the nature of things. Somebody referred earlier to groundhog day, but this is the system that we operate—the annual special pleading system. Like many other hon. Members, I believe that there has to be a different way of allocating police funds. We urgently need a root-and-branch overhaul of the formula. The Government tell us that that is ongoing, but we have been told that for some considerable time, and I hope that, at some point, the Minister will tell us when it is likely to be completed. The debates will be characterised by this sort of horse-trading until we have an equitable distribution of funds.

I welcome what the Minister said about the possibility of a three-year funding arrangement, which would undoubtedly be good for forward planning. One of the problems at the moment is stop-go planning. Another problem, in Wales in particular, is the extra cost of policing rural areas. To their credit, the Government accepted the case made by many Members, including myself, for a rural policing fund. That was three years ago, and the money has been paid out at the exact same rate for three years, despite inflationary pressure.

Having accepted the argument, the Government seem to be back-pedalling on the rural policing fund this year. That is a cause for concern, because of increased fuel costs, high-mileage vehicles needing high maintenance, huge hikes in insurance costs since 9/11, and the need to tackle increasing property crime in hitherto fairly safe rural areas. The scourge of drug peddling is now as much an issue in rural areas as it is an inner-city phenomenon. That places further pressure on good rural policing.

Dare I say that if the Hunting Act 2004 is implemented, it will impose a further huge commitment on rural police forces? My understanding is that the Home Office has not included a budget head for the vast burden that may fall on rural police forces—in Welsh terms, all four forces. Do the Government recognise the burden that the Act will place on police forces? If so, why has this item been so studiously ignored?

The four Welsh police forces are performing well and stand comparison with the best in England and Scotland. North Wales police received a green grading, the highest available, from the Audit Commission for crime recording. They have reduced crime by 10 per cent., one of the best results in England and Wales. There were 4,600 fewer victims of crime in North Wales in 2004 than in the previous year. The overall detection rate was extremely good, among the best in England and Wales, at 41 per cent., apart from Dyfed-Powys, where it was even better. The western division—that is, Gwynedd and Ynys Môn—had, at 48 per cent., the highest detection rate of all the 255 police divisions of England and Wales. For burglaries of dwellings, all three divisions were in the top five. Robbery in North Wales was down by 28 per cent., and so on.

The police force is performing well in North Wales, Dyfed-Powys, Gwent and South Wales. The Minister may laugh and say, "So why are you whingeing?" I am whingeing because I want the police to continue doing that good work. Despite budgetary pressure, Dyfed-Powys is opening up police points in shops, chemists and post offices, often helping to keep those post offices open, which the Government are not keen on. The force is doing an excellent job and adopting a creative approach.

On the overall funding of Welsh forces, they are all on the floor at 3.75 per cent., compared with English forces, including the Met, at 4.85 per cent. That is quite a difference. We know that police inflation remains between 5 and 6 per cent., of which pensions account for 1 to 2 per cent. Forces are therefore making cuts, mainly in capital investment projects initially. The North Wales police force has to make cuts of about £500,000 because of the settlement. Specifically, I am told, that means police stuck in the station far more often, as the force will not be able to invest in mobile technology such as hand-held devices. The cuts will also lead to what the force calls a tightening of the recruitment freeze. I assume that means a longer than expected period during which no new police officers will be recruited. That cannot continue ad infinitum, because of the working of the crime fighting fund. Clearly, there is a problem.

The force says that the review of the formula needs to be completed quickly, taking full account of sparsity issues. The sparsity grant has not kept pace with inflation and requires more research. The funding and tax base of forces must be protected if the drive for improving performance is to be sustained in North Wales.

The South Wales police tell me that their main concern is that the funding formula is based on population census figures, which works against all four forces. As the census figures show the Welsh population to be significantly reduced, that may have a major impact on the force's finances. It is having to cut capital projects because of the funding changes. As a result, developments at its headquarters at Bridgend are probably under threat. Bill Wilkinson, of South Yorkshire police, who is a member of the Home Office expenditure forecast working group, says that the cost and service development requirements need a 6 per cent. growth in budget.

Dyfed-Powys police also have cost pressures, with growth in pension costs of £1.8 million and pay inflation of £2.1 million, so costs will rise by about 7 per cent., and as we know, they have also had the 3.7 per cent. flooring. As I said earlier, the force is innovative. It does not waste any money. It is considering further developing Airwave, the communications centre, the rural post office scheme, to which I referred, criminal justice measures, the successful automatic number plate recognition system, about which the Minister will know, and police officer training at a cost of £500,000. All that is sensible expenditure. On the other side of the equation are pensions, £1.8 million; inflation in doctors' fees, £200,000; energy cost increases, £200,000; crime recording, £100,000; general pay price inflation, £2.1 million; and other costs, £500,000. The force is very concerned. Unlike some hon. Members who have spoken, I am not jumping for joy at the moment, because of those pressures. The force highlights the number of problems in the budget formula, and I have referred to the population falls and the use of out-of-date census figures, about which it is particularly concerned.

Given the remarkable number of Home Office Bills in the Queen's Speech, there will undoubtedly be huge further pressures on police forces. If the Home Office continues to issue diktats from the centre for this, that and the next thing to be done, I hope that it realises that the additional responsibilities will have to be paid for. Without that, they will not become any kind of reality. The terrorism argument is another that one could consider. There are many pressures. The Serious Organised Crime and Police Bill will put great pressure on the average police force, despite the funding of the new Serious Organised Crime Agency—of that I am sure.

I conclude in the same way as the hon. Member for North Thanet (Mr. Gale) by asking a few questions to which I hope the Minister will be able to reply in due course: if not today, I would respectfully ask her to write to me in the course of time—not in a too lengthy course of time perhaps, but in the course of time none the less.

When will the review of the police grant formula be completed, and will the Minister confirm that the police sparsity grant has not kept pace with inflation over the past seven years? Has she used the 2001 census figures for the 2005–06 police grant calculation? What figures has the Home Office used to calculate the day visitor element of the 2005–06 police grant? Finally, what are the most recent figures available for measuring the number of day visitors to Wales for the purposes of the allocation of the police grant? I do not expect those questions to be answered today, but I would be greatly obliged if she would respond to each and every one of those points in due course.

This is not a very good settlement for any of the Welsh police forces. They had expected worse, but I am reminded of what my dentist says: when one deals with Government, they start by threatening to amputate both legs, and when one loses only one, one feels rather happier about it.

4.15 pm

**Mr. John Wilkinson** (Ruislip-Northwood) (Con): May I at the outset express my appreciation, as a resident in London, of the excellent service leadership given by the former Metropolitan Police Commissioner, Sir John Stevens, whom I got to know during the parliamentary police service scheme—a scheme that I would recommend most warmly to Members—and say what a fine example he gave, and how pleased I am that he has received a peerage? I am encouraged by the initial step taken by his successor, Sir Ian Blair, in declaring unequivocally that he is not prepared to tolerate the use of soft drugs for so-called recreational purposes. The drugs problem is at the heart of so much of the criminality in London that I am glad that he is placing the emphasis on tackling it and making no serious distinction between soft and hard. We all realise that the misuse of substances and soft drugs leads ultimately to the use of hard drugs. The effect on personality and health of the use of soft drugs is a grave phenomenon.

Sir John Stevens and the Metropolitan Police Authority, as well as representatives from my own borough and others, may have argued for a generous settlement for the Metropolitan police—I think that 5.8 per cent. from the Home Office is all to the good—but as my hon. Friend the Member for Orpington (Mr. Horam), who represents a constituency not so different from mine—albeit that it is at the other extremity of the capital—pointed out, citizens in the capital do not see the direct benefit in policing terms of the huge extra taxes that they are paying for the police. I refer especially to local taxes and the 49 per cent. that is raised through local taxation. Of course, the precept in London is particularly severe, inasmuch as we have to pay for the Mayor's extravagances as well.

I referred to the fact that drug-related offences are such a serious phenomenon in the capital. I find it perverse that the Government should have made it more difficult for police officers to stop and search individuals in the street on grounds of suspicion. It is not only gun crime that is increasing. More and more young people carry knives and are prepared to use them, and there is also a continuing terrorist threat. In those circumstances, the suggestion that the police should have a disincentive to stop and search on the ground of suspicion—that disincentive being all the form filling and reporting that they will now have to carry out—is woefully misguided. I hope that the Government will reconsider their policy on this matter.

**Mr. Gale:** It is not only a matter of stopping and searching. The stop and search form has been around for a long time, but if a constable stops anybody at all in virtually any circumstances, they will now have to fill in a form. As my hon. Friend says, that is a huge disincentive.

**Mr. Wilkinson:** I am grateful to my hon. Friend, who speaks with professional experience in these matters.

We must also consider these matters in the context of antisocial behaviour—the plague that bedevils so many of our communities. Here again, the ability of police officers to stop young people, caution them and see whether they have broken bottles or indeed knives hidden about their persons is an important operational capability that is being made less likely to be used by the policy adopted by Her Majesty's Government.

What really concerns me is that the police service should be able to attract personnel of the highest quality. I was impressed by the men and women, including civilian support personnel, whom I met during my attachment earlier in this Parliament to the Metropolitan police, but I think that we need a fairly radical personnel policy to encourage high flyers, stimulate leadership and offer a more flexible career pattern than is offered at present. The Government have embarked on the recruitment of large numbers of community support officers, and they are welcome as far as they go. Their powers are limited, particularly in the field of arrest, and rightly so in view of the relatively limited training that they receive.

I would advocate the reinstitution of cadet college training of the kind that used to exist at Hendon in the old days. Older members of the service say that graduates of the police cadet college had discipline and a commitment to the service, and that they exercised leadership throughout the force that exceeded the influence that one might expect given that relatively few enjoyed that excellent training. We should start a scheme of that kind again. I know that the police service is attracting graduates, which is welcome, and that they

*[Mr. Wilkinson]*

go on the beat like everyone else, but a police academy could provide a worthwhile long period of indoctrination to instil in people the ethos, discipline and concepts of modern policing.

I also suggest that we should have police reservist personnel. A flexible career structure would mean that people might feel that they wished to enter other walks of life. If the pension system were modified so that it became fully portable and funded so that the cost to the Exchequer were reduced, individuals could spend a few years in the police service before going off into other careers. As with the Territorial Army, the Royal Auxiliary Air Force and the Royal Naval Reserve, such people could continue to exercise the full capabilities of their training in an operational capacity. They could be used at weekends, or times of emergency, specific difficulties or a terrorist threat—whenever that might be. Such a structure would add to the spectrum of capabilities in the police service, but we have utilised it to date only in Northern Ireland. The system worked extremely well there so we should implement it in our police forces, perhaps starting with the Metropolitan police.

If the system were to be successful, the regulars—the long-term careerists—would need to regard reservists as equal partners in the task of policing. Reservists would have had more training than specials, who have a valuable role, as exemplified by that performed by my hon. Friend the Member for North Thanet (Mr. Gale) on behalf of the British Transport police. However, specials, like CSOs, have limited functions, but reservist police personnel could fulfil all functions because they would have the same training and background as their counterparts in the regular force. They should be paid at the full rate for the rank that they exercise while on duty. Such a system would require an imaginative approach, and I am sure that a change to pension arrangements would be necessary. I would be interested to hear the Minister's plans for the future of the police service pension scheme because we need more precision and detail than she was able to spell out in the limited time available earlier.

May I stress a couple of points that have been brought home to me by the admirable performance of the local chief inspector in Hillingdon, Mark Toland, who has tried to increase police presence on the ground—not only on the beat—by keeping police stations open for longer? That is important because there should be the footprint of police stations to which the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) referred in his eloquent and well-informed speech. It is important for the general public to be able to see a uniformed officer. They should be seen not by a volunteer—volunteers do a wonderful job, as do civilian personnel such as clerks, typists and administrators—but by a fully trained policeman. If the career pattern were radically changed, reservists or older officers could do that job. I suggest that officers should be able to serve for longer if they remain fit and motivated so that relatively sedentary tasks can be fulfilled by people with real operational experience and an understanding of how to relate to the general public.

Neighbourhood policing is going fairly well, but there is an awfully long way to go. Unless we adopt the radical personnel policies that I have adumbrated, or something of the kind, I cannot see that it will be possible easily to provide the extra manpower that is needed. My party is committed to providing 40,000 extra police. That is a wonderful commitment that will, I am sure, have the support of many people up and down the country. In making it, however, I ask my hon. Friends to consider the reservist concept to determine whether, in their judgment, it makes sense, and to think about allowing police officers who are fit and motivated to serve for longer.

The career development of police personnel must continue throughout their careers. Bramshill police college is instrumental in that purpose, and it is an admirable institution. However, I suggest that senior reservist police personnel should also be enabled to attend courses there when they reach the higher ranks, and likewise that reservist personnel should be able to go to Hendon cadet college for refresher training to keep them up to date.

There are many measures that we can pursue. I am sure that under the capable stewardship of my party, and with the ideas that my hon. Friend the Member for Sutton Coldfield (Mr. Mitchell) put forward in his excellent speech, the British public can have hope and confidence that the police service will be as good in future as it used to be in the past when we had a Tory Administration.

4.26 pm

**Ms Blears:** We have had an extremely interesting debate with some very good contributions that have given me a great deal to think about. I will do my best to answer as many questions as I can. There may be one or two technical issues on which I shall need to write to Members, and I undertake to do so.

I welcome the thoughtful speech by my hon. Friend the Member for Manchester, Central (Tony Lloyd), who raised specific issues relating to Greater Manchester police, which is of course my own police force, and talked about gun crime. That is an indication of how wide-ranging the debate has been. We have dealt not only with the purely financial aspects but with some of the serious challenges facing our police services and the ways in which they operate.

My hon. Friend the Member for Manchester, Central responded to comments by the hon. Member for Sutton Coldfield (Mr. Mitchell) by discussing the serious problem of gun crime, particularly in his constituency. It is true that gun crime is concentrated in the major conurbations of Liverpool, Manchester, London, Birmingham and Nottingham. It is also true that it increased quite dramatically a couple of years ago, but I am pleased to be able to tell the House that that increase has slowed down equally dramatically as a result of some very effective policing in the shape of Operation Trident in London and Operation Stealth in the west midlands and our introduction of the mandatory five-year sentence for anybody caught carrying a gun. As my hon. Friend pointed out, this is not simply a matter of policing but of working with communities to challenge the culture that says it is cool for young people to carry guns and that it is an appropriate way of dealing with

conflict in our communities. Clearly, it is not. Our work with Mothers Against Guns and other groups across the country is helping to bring gun crime down.

My hon. Friend talked about pensions. Like many other forces, Greater Manchester faces more pressures in that regard this year than in previous years. He welcomed the Government's proposals to smooth out volatility as well as the extra contribution that we have put in to meet pension requirements this year.

My hon. Friend mentioned the crime fighting fund and suggested that Greater Manchester police force will be penalised as a result of the recruitment that it has undertaken. I should point out that police numbers in Greater Manchester have increased massively—we have 1,139 more police officers than we had in March 1997, and I can say from personal experience that they are very much on the front line and reassuring people in communities. The performance of Greater Manchester police, especially since the appointment of the new chief constable, Mike Todd, has improved significantly and I am delighted that they do such a good job.

However, it is important that the record numbers of police officers remain in place and able to police on behalf of our communities. Several hon. Members said that they believe that the local precept has supported the increase in police numbers. It is important to put the record straight. Police officer numbers have increased by 12,570 since March 1997. Of those, 9,650 are funded through the crime fighting fund—specific investment by the Government—and approximately 3,000 are funded locally. Local people have made a contribution towards the number of police officers because they view that as a priority for their communities, but I stress that 9,650 have been funded through the crime fighting fund and we should acknowledge that the Government's policy decision that we needed more police officers on our streets led to the record numbers.

I shall deal with the speech of the hon. Member for Sutton Coldfield towards the end of my remarks—I shall certainly have something to say about his promises to the country.

The hon. Member for Somerton and Frome (Mr. Heath) made an interesting contribution. His party wants to do away with the council tax and allow local authorities to tax people's incomes. Doubtless that will be the subject of much debate, to which we greatly look forward. Local people will have a view about that, especially about those who might end up paying little and others who would be significant losers under Liberal Democrat proposals.

I am grateful to the hon. Gentleman for his acknowledgement of the Government's investment in policing and his welcome for increased police officer numbers. He complained about the lack of police in rural areas and made an interesting proposition. I am not sure whether he meant that people who could pay a little more through their rates should have more police. I was worried that, in that case, people in poorer areas might have fewer police on their streets. We need to have that position clarified.

The hon. Gentleman used a word that could mean all things to all people when he said that he intended to have "equalisation." I wonder how directing resources together with equalisation would work out. The arithmetic would be fascinating.

**Mr. Heath:** I do not propose to give the Minister a seminar on our proposals. However, people would like a minimum policing guarantee for every borough or district council area, whereby they are assured of a minimum police presence on their streets and that those police officers will not be taken away on the whim of a chief constable or a Home Secretary.

**Ms Blears:** I am not sure that the hon. Gentleman said that in his speech but I welcome his comments because he knows that we have already made a commitment that, by 2008, every neighbourhood in the country will have a policing team, comprising police officers, community support officers and wardens. People will have the mobile telephone numbers of their police officers and know how to contact them. I therefore fear that the hon. Gentleman is a little behind our proposals but I am delighted that he supports them.

He also mentioned the capping criteria. I confirm that I shall work closely with my colleagues in the Office of the Deputy Prime Minister to consider how they might apply to police authority positions. He also welcomed the possibility of three-year funding settlements and our prolific and priority offender schemes, which he believed could make a significant contribution to continuing to drive down crime.

The hon. Gentleman asked about capital investment and I am pleased to confirm the figure of £358 million. That is a general grant allocation, directly to forces, of £210 million—an increase of 13 per cent., which is £24 million of additional money. The rest of the £358 million will be used for criminal justice information technology and Airwave, and the Metropolitan police will get £40 million to continue to support the command, control, communication and information—C3i—system, which is revolutionising their command and control mechanisms.

My hon. Friend the Member for West Bromwich, West (Mr. Bailey) made an interesting contribution, which was clearly rooted in local experience of his community. He welcomed the record settlement for the west midlands. We seem to have had an extraordinary number of west midlands contributions, which, I am sure, reflects its good settlement.

My hon. Friend also challenged the Opposition about their policy for a block grant with no control from the centre and raised the important need for equity between communities and the need to ensure that we could drive specific programmes through some of our grants. He also praised the Together campaign against antisocial behaviour, and I am delighted that the police in his area are working with the council and the local people to tackle antisocial behaviour. We will not tolerate it, and we are making a real difference on the ground.

The hon. Member for Orpington (Mr. Horam) has contributed to several debates on policing in the past few months, and he raised similar issues today. I am pleased to be able to reassure him that call handling, response times and standards of service are at the forefront of our minds. He will know from the White Paper that we have initiated a huge project to ensure that we have national service standards right across the police service; they will be in place by the end of 2006. They will deal not only with the speed of response—important though that is to our constituents—but with

*[Ms Blears]*

the quality of response. It is clear from early work that has taken place in Staffordshire and Lancashire that when the police respond properly to local people, the satisfaction in the services offered goes up enormously. That is not simply about turning up within a set number of minutes. Often, the police say, "We can't come now, but we will come between 2 o'clock and 4 o'clock this afternoon." They then actually turn up and do what they have said that they will do, which helps to build trust and confidence. I am delighted that we have work ongoing on that issue.

The hon. Gentleman also asked for more police officers in his area. The allocation formula within the Met is a matter for the commissioner to sort out, but if Conservative Members are asking for more police funding, they will have to do some pretty hard and frank talking to the shadow Chancellor if they want further resources to be allocated under his proposals.

**Mr. Andrew Mitchell:** Will the Minister give way?

**Ms Blears:** I gave way a huge number of times when I opened the debate. Perhaps I will give way when I reach my response to the hon. Gentleman's speech.

The hon. Member for North Thanet (Mr. Gale) mentioned the British Transport police, and I hope that I gave him some reassurance that the Home Office certainly believes that that force makes a significant contribution to safety in this country. He also raised the issue of bureaucracy, and said that he wanted to see more size 10 boots out there. My hon. Friend the Member for Gloucester (Mr. Dhanda) made the point that we also want to see more women out there, as well as men with size 10 feet. The hon. Member for North Thanet is right to raise the issue of bureaucracy, and we have now embarked on trying to release more people to the front line.

The hon. Gentleman and others raised the issue of the police having to account not only for stops and searches but for stops as well. This was a recommendation of the Lawrence report, and it is important to continue with this commitment. Recent operational experience, not at a desk but on the ground, showed that two thirds of all recordings of stops were completed in under five minutes. We are trying to ensure that we can carry out this recording in the least bureaucratic way possible, but it is important for the confidence of the community and for the protection of the police that there is an audit trail to account for why people have been stopped and in what circumstances. I make no apology for saying that this is an important part of policing. It is about building up the confidence of the community. Hon. Members will know that the issues relating to stop and search and to stops raise some of the biggest concerns, particularly among people from ethnic minority communities, and it is important that we should continue to respond in that way.

The hon. Gentleman raised a number of issues, and said that if I could respond to all of them, he would be a happy man. I have been able to reply to about three quarters, so perhaps he will be three-quarters happy. On funding for Kent, he asked who would pay for the police who had to do extra work as a result of the licensing changes. First, the licensing changes are about flexible hours, not about 24-hour drinking. Let us put that straight. Local authorities, which will for the first time be able to set the conditions, having listened to police representations, could well set stricter conditions than are in place at the moment. The police will save some £15 million a year, because they will only be doing several thousand administrative processes, rather than the millions that they are currently engaged in. So there will be resources available. We are also consulting on alcohol disorder zones and on the possibility that licensed premises will have to make a contribution towards policing and other costs. We are well on top of that issue.

The hon. Gentleman mentioned the delegation of training moneys from Centrex. I think that I dealt with that in my opening remarks, but I can confirm that Kent is one of the early implementers of local training. It will get £238,000 of capital and £394,000 of revenue funding in the next year to deal with that. There will also be additional transitional funding as well as the delegation of the central moneys from Centrex, so I hope that that will help with the training.

The hon. Gentleman also raised the issue of officers being funded locally. In Kent, the crime fighting fund has funded 259 officers of the extra 270, so only 11 extra officers have been funded locally. I am afraid that I have to say to him that his representation that the whole increase has been funded locally is wrong. I am sorry to say that in such blunt terms.

The extra costs resulting from asylum seekers were also raised by the hon. Gentleman. I do not have the detail, but I am happy to supply it to him, so perhaps he might be generous enough to say that I have satisfied three quarters of his queries. I hope he is a happier man than he was when he came into the Chamber earlier today. *[Interruption.]* He does look a lot happier, actually.

My hon. Friend the Member for Gloucester (Mr. Dhanda) raised the issue of licensing changes and the need for a culture change. He is absolutely right, and I do not for one moment think that we can do that overnight. We are starting to consider the new licences from February, and they will not all come into force in November. There will be a six-month transitional period from February until November.

I do not believe that we can change the culture in such a short time, which is why we must have good tough enforcement using the whole range of new powers that the police have, from dispersal orders and fixed-penalty notices to the alcohol disorder notices. However, we must also ensure that we bear down on advertising, work in our schools with young people and really start to introduce a more responsible drinking culture.

My hon. Friend also raised the issue of urban communities within rural areas. Again, the way in which the local chief constable allocates resources must take account of those particular pressures on such communities.

I can tell the hon. Member for Eastbourne (Mr. Waterson) that the police force in Sussex is receiving £11.9 million more than it would have done had the formula been strictly applied. His local force gains greatly from the fact that there is a floor in the settlement. I am delighted that his area has

149 community support officers on patrol; another 25 have been allocated to his area. His force has been at the forefront of the civilianisation programme to reconfigure its work force. All credit to the force for being innovative and imaginative in doing that.

The hon. Gentleman also raised the issue of recorded crime. He might not know that half of all recorded violence results in no injury to the person at all. It is important that we make that distinction.

I welcome the support of the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) for the settlement—*[Interruption.]* Qualified support, I think. He raised the issue of the formula. We are reviewing it, but it is largely supported by ACPO and the Association of Police Authorities, so there are no real representations for radical change of that formula. We must ensure, however, that it uses up-to-date data, and we want to align it with the performance management system.

The hon. Gentleman asked about three-year settlements; we hope to be able to move towards those. He also raised the issue of policing the position with regard to hunting. I am delighted to say that ACPO has issued some excellent practical guidelines on how the police will enforce the law. My particular thanks go to Alistair McWhirter, who has been working on this on behalf of ACPO. He has done a brilliant job so far in taking it forward. I, too, commend North Wales police, which has a particularly impressive approach to neighbourhood policing. I visited the force recently. It has a website on which people can key in their postcode and get details of their beat officers, including how to contact them, and it also uses three-year contracts, for continuity. It has taken a lead on tackling antisocial behaviour in north Wales. I simply urge the local authorities to join with the police in that.

The hon. Gentleman aiso asked me a series of technical questions, and I shall be more than happy to write to him with those details.

I join the hon. Member for Ruislip-Northwood (Mr. Wilkinson) in expressing thanks to Sir John Stevens, the outgoing Metropolitan Police Commissioner, who has done a fantastic job. In my time in this job, I have got to know him extremely well and I have huge admiration for him, as I do for his successor, Ian Blair. I have no doubt that the Metropolitan police, with Ian Blair and Paul Stephenson from Lancashire as the new deputy commissioner, will go from strength to strength.

The hon. Gentleman raised the issue of stops, which I have dealt with. That is about getting the balance right. He also raised an interesting point about how we can encourage high fliers in the police service, and I agree with him. If he looks at the White Paper, he will see that there are fairly radical proposals on multi-point entry to the service and not necessarily having to serve the same amount of time as officers do at the moment before being able to come through the service. We talk about exchanges, secondments and coming in and out of the different public services, as well as the private sector, to reinvigorate our police leadership.

The hon. Gentleman talked about continual professional development, which is a personal passion of mine. I think that all officers—from constable right on through the service—need continually to develop their skills and talents.

Finally, I turn to the contribution of the hon. Member for Sutton Coldfield. It was a little intemperate in comparison with the tenor of the rest of this afternoon's excellent debate, in which many good point were made. I noticed that he welcomed the extra officers that this Government have been able to introduce, and I am delighted about that. He also referred to the 40,000 extra police officers that his party has promised—

**The Minister for Local and Regional Government (Mr. Nick Raynsford):** Fantasy police.

**Ms Blears:** Indeed, as my right hon. Friend says from a sedentary position, they are fantasy police, because the hon. Member for Sutton Coldfield also said that his party would cut taxes. Our most popular poster has been one of the shadow Chancellor and the Leader of the Opposition doing some sums, in which two and two equals five. That is probably how the Conservatives' sums will add up.

**Mr. Andrew Mitchell:** I am extremely sorry that the Minister found my contribution intemperate. I do not think that it was intemperate at all. At no point in my speech did I mention cutting the amount of money spent on the police, as she has just alleged. We have set out absolutely clearly in a document from the shadow Chief Secretary—which I will send to her if she wants to see it—how expenditure on asylum, which was £200 million when we left office, has increased to more than £2 billion spent and wasted by this Government, and how we will increase expenditure on police. What aspect does she not understand?

**Ms Blears:** We have just had some evidence of the intemperate nature of the hon. Gentleman's contribution. He doth protest too much, methinks. He referred to funding being transparent under his party, which is certainly true: as a result of the shadow Chancellor's promised budget cuts, it will be so thin that we will all be able to see through it, as we will be able to see through the empty promises that his party has been making. We look forward to transparent funding—it will be sheer, and we will all be able to see exactly what it means.

The hon. Member for Sutton Coldfield also raised a couple of technical issues, with which I am happy to deal. He asked whether there was funding for the Bichard recommendations. I can confirm that there is £65 million of central provision. We will see all those recommendations through and make sure that our police force have access to central intelligence so that they can be more effective in future. On the issue of reserves in relation to pensions across forces, there is about £290 million in money set aside and reserves for pensions. In our budget strategy, we expect not just record increases and low precepts but efficiency savings, including consideration of reserves, to be part of that picture. I hope that authorities will do that.

The hon. Gentleman also referred to Hampshire refusing to take its community support officers. I suggested ever so gently that we might give its allocation to forces who wanted to take the excess, and I had lots of bidders, certainly among Labour Members. I am delighted that Hampshire has now decided to take up its

*[Ms Blears]*

full allocation of community support officers, and I have no doubt that they will do excellent work in that community.

I simply did not recognise the picture that the hon. Gentleman painted in his final comments. He talked about low morale in the police force. I do not know how often he goes out and visits forces, but I do it nearly every week. Tomorrow I am visiting the north Liverpool division, which has done a fantastic job in reducing crime. Sickness figures are often a good indication of morale in an organisation. In his local force in the west midlands, sickness days lost have decreased by 23.9 per cent. per officer and by nearly 20 per cent. per police staff, in the past year. If that is not an organisation with high morale, which has the best police funding settlement that it has ever had and which is reducing crime and effective on the ground, I do not know what is.

The hon. Gentleman quoted a poem from a Merseyside officer. When I was last in Merseyside, however, I met the chief superintendent in Skelmersdale—a pretty tough policing area—and he said to me that he had never been more motivated in his life. When he turns up at an incident now, he has a range of powers to tackle antisocial behaviour that he never had before. He never now has to say to local people, "I'm sorry, there's nothing I can do," and walk away. He felt more motivated than ever before in his police career. The hon. Gentleman needs to get out more and look at what the police service is doing on the ground.

This is an excellent settlement for the police, welcomed throughout the House. I am sure there is much more that we need to do to improve policing, but it is this Government who have put their money where their mouth is, and are really helping the police force to do an excellent job—

*It being three hours after the commencement of proceedings on the motions,* MADAM DEPUTY SPEAKER *put the Question, pursuant to Order [this day].*

*Question agreed to.*

*Resolved,*

That the Police Grant Report (England and Wales) 2003–04: Amending Report 2004–05, HC 247, a copy of which was laid before this House on 27th January 2005, be approved.

MADAM DEPUTY SPEAKER *then put the remaining Question required to be put at that hour.*

## POLICE

*Resolved,*

That the Police Grant Report (England and Wales) 2005–06, HC 246, a copy of which was laid before this House on 27th January 2005, be approved.—*[Ms Hazel Blears.]*

# Local Government Finance

4.50 pm

**The Minister for Local and Regional Government (Mr. Nick Raynsford):** I beg to move,

That the Local Government Finance Report (England) 2003–04: Amending Report 2005, HC 241, a copy of which was laid before this House on 27th January, be approved.

**Madam Deputy Speaker (Sylvia Heal):** With this it will be convenient to discuss the following motion:

That the Local Government Finance Report (England) 2005–06, HC 242, a copy of which was laid before this House on 27th January, be approved.

**Mr. Raynsford:** I am pleased to be able to tell the House that I am confirming in its essentials the grant settlement that I proposed for all local authorities on 2 December. The increase in formula grant for 2005–06 is £2.6 billion, or 5.6 per cent. All councils will receive a formula grant increase at least in line with inflation. On top of that, councils will receive increases in specific grants. That takes the total increase in grant to £3.6 billion, or 6.3 per cent. The Local Government Association has welcomed the earlier announcement of specific grants this year, which has been of assistance in total budget planning for local authorities.

**Mr. Philip Hammond** (Runnymede and Weybridge) (Con): The Minister just said, as he says every year, that every local authority would receive a real-terms increase in formula grant. Will he confirm, however, that when we look at the total grant received by local authorities, we see that not all authorities have received real-terms increases? Indeed, a considerable number have received real-terms decreases.

**Mr. Raynsford:** No, I will not confirm that. The hon. Gentleman will know from the system that the specific and special grants come on top of the formula grant. If every authority has an increase in formula grant at least matching inflation, any additional grant will be a benefit ahead of inflation. This is pretty rich, coming from the hon. Gentleman. When his party was in government, year after year local authorities faced real-terms cuts in their grants—a point that the Prime Minister made quite forcefully in response to the hon. Gentleman during Prime Minister's Questions earlier today. He ought to recognise the real change that there has been: local authorities have received real-terms increases in grant in all parts of the country.

**Mrs. Jacqui Lait** (Beckenham) (Con): I am grateful to the right hon. Gentleman for his generosity in giving way so early in his speech. His Government are, however, considerably less generous to the borough of Bromley, where the Department for Education and Skills has made a mistake to the tune of 30 per cent. of the additional formula grant. The Department for Education and Skills and, I think, the Minister's Department have told Bromley that it will receive the money only if an amending report is issued for 2005–06.

I understand that it is rare for such reports to be issued, but if one if not issued the borough will not get the 30 per cent. Will the right hon. Gentleman be generous enough to commit himself, here and now, to publishing an amending report, or else give Bromley the 30 per cent. today?

**Mr. Raynsford:** The hon. Lady makes a fair point. From time to time problems do occur in the highly complex process of local government settlements. This problem was drawn to my attention fairly recently, but when similar problems have been identified in the past I have agreed to amending reports. Indeed, this year we have made an amending report in respect of a number of mistakes in the census calculation for a number of authorities.

I need to understand the figures better. As I said, I have not had a chance to look at the details because the matter has only just been drawn to my attention. We have a de minimis rule that is obviously necessary for good administration, but if the figures show a significant difference that affects the authority adversely, I shall be more than happy to put it right with an amending report.

**Mr. Eric Pickles** (Brentwood and Ongar) (Con): The problem with Bromley is compounded by the problem faced by a number of other authorities. The DFES inadvertently allocated Bromley's data to Buckinghamshire, while Bristol's data were allocated to Bromley. I understand that five other authorities are involved. Something needs to be amended. One other amendment with regard to the capital adjustment mechanism and the flow calculations affects East Sussex and a number of other authorities. If it is a question of making time available, clearly, the Opposition will co-operate on this matter. It is not de minimis: these are significant sums of money.

**Mr. Raynsford:** I agree with the hon. Gentleman that it is not de minimis. However, it is important to have a de minimis rule. That is why I undertook to look at the matter. If it is a significant problem, I am prepared to bring forward an amending report. As he will understand, if there are consequences for other authorities, those will need to be looked at, too. Only one amending report can be done for any single financial year—that is the rule laid down by the House—so we need to be certain that all the relevant factors have been taken into account. We will be prepared to do that, assuming that we are satisfied, having looked at the evidence, that there is a significant problem.

All regions have benefited from the settlement, so let me knock on the head once and for all the entirely misleading claim put about by the Opposition that authorities in the south of England have been penalised by the grant distribution formula. There is no truth whatever in that claim. The figures speak for themselves. Many southern authorities are benefiting from some of the largest increases: Wiltshire, with a 9.4 per cent. increase; West Berkshire, with an 11.3 per cent. increase; and Wokingham, with a 13.2 per cent. increase—[HON. MEMBERS: "What?"] Some of my hon. Friends express perhaps understandable surprise. On average, authorities in the south-east are receiving precisely the same level of grant increase as authorities in the three northern regions, so I hope that we will hear no more unjustified complaints from Conservative Members, whose councils in the south of England are generally getting a far better settlement under this Government than they got when their own party was in power.

**Angela Watkinson** (Upminster) (Con): The Minister has been utterly predictable in giving to the London borough of Havering the usual ungenerous settlement: half the average London increase and half the increase of the neighbouring borough of Redbridge, despite having a similar population. Will he join me in congratulating the London borough of Havering and its cabinet member for resources, Councillor Roger Ramsey, who have wrought a minor miracle in bringing in the lowest council tax increase in 10 years through good Conservative house keeping?

**Mr. Raynsford:** I suspect that, when the hon. Lady has heard these figures, she may have to go back to the councillor and discuss with him the rather changed circumstances compared with when her party was in power. Over the four years that the Conservatives were in power and the council tax applied—that is the only fair comparison; there was a different local government finance system before that—from 1993-94 to 1997-98, Havering received on a per capita basis an increase of just 2 per cent. in grant. That was all it got. On a like-for-like basis, in the seven years in which this Government have been in power, Havering has received on a per capita basis a 44 per cent. increase in grant. I sincerely hope that she will not only talk to her Conservative councillors and ensure that they understand that it is this Government who have made possible prudent budgeting in Havering, but have the decency to explain to the electorate of Havering that it is this Government who are ensuring that the council can deliver services cost-effectively.

**Mr. Kevan Jones** (North Durham) (Lab): I am very happy to hear how well southern Conservative seats have done out of the Labour Government, but that will not go down too well in County Durham, which has received far less than the figure that has just been highlighted. Did not the Conservative Government skew money to their local authorities? Why are we not doing it?

**Mr. Raynsford:** On the same per capita increase basis that I just used, during the seven years in which we have been in government, the county of Durham has received a grant increase of 53 per cent. I hope that my hon. Friend understands the point that I am making, which is that we have been ensuring a fair allocation of grant to authorities in all parts of the country. The Opposition's argument that the south has been penalised and treated badly simply does not stack up. However, we are ensuring justice and fairness for authorities in the north, as well as in the south.

**Several hon. Members** *rose*

**Mr. Raynsford:** I shall give way to the hon. Member for Runnymede and Weybridge (Mr. Hammond) and then to other Members.

**Mr. Hammond:** I am grateful to the Minister, who is talking about the per capita increases that authorities

*[Mr. Hammond]*

are receiving. Following on from my earlier intervention, can he confirm that every local authority is receiving a real-terms per capita increase in total grant funding?

**Mr. Raynsford:** No; the point that I was making is that every authority is receiving a real-terms increase in grant on a like-for-like basis. *[Interruption.]* In formula grant, which is the fundamental grant, there is a real-terms increase for every authority. There will of course be variations when per capita factors are taken into account. I used these figures because those used by the hon. Member for Upminster (Angela Watkinson) were based on a per head of population calculation. I felt it right that a proper comparison be made on a fair, per capita basis, which is what I have done.

**Sir Teddy Taylor** (Rochford and Southend, East) (Con): The Minister mentions boroughs in the south-east that have done very well by getting more than 10 per cent. However, a published table of all-purpose authorities shows that Bournemouth, Brighton and Southend-on-Sea have all received 4 per cent. Bearing it in mind that seaside towns have a multitude of social problems associated with, for example, houses in multiple occupation and asylum seekers, can he name any all-purpose borough in England that has received less than 4 per cent.? Does he agree that he has discriminated against seaside towns?

**Mr. Raynsford:** No, I cannot name any unitary authority in the whole of England that is getting less than that figure because that is the floor, which guarantees that every authority gets at least 4 per cent. That shows our commitment to ensuring such an increase irrespective of demographic changes, which sometimes result in authorities being entitled to less under the formula. I should point out, however, that if we use for Southend the same formula that I used in response to the hon. Member for Upminster and my hon. Friend the Member for North Durham (Mr. Jones), we see that things were not so good in Southend when the hon. Gentleman's party were in control. The comparisons have to be made with a degree of caution because, as he knows, back then Southend was a district council, not a unitary authority. During the relevant four years in the 1990s, Southend received not an increase in grant but a reduction of 4 per cent. Under this Government, Southend unitary authority has received a 52 per cent. increase in grant, which further confirms that authorities in all parts of the country are receiving good grant increases from this Labour Government.

**Several hon. Members** *rose—*

**Mr. Raynsford:** I give way to my hon. Friend the Member for Workington (Tony Cunningham).

**Tony Cunningham** (Workington) (Lab): My right hon. Friend is fully aware that in recent weeks, Cumbria has suffered severe flooding and storm damage, as a result of which hundreds if not thousands of properties will be empty for long periods. That could have a serious impact on the budgets not just of Cumbria county council but of other local authorities such as Carlisle city council and the police authority. Is he willing to meet representatives of those authorities to consider how to resolve this unique situation?

**Mr. Raynsford:** My hon. Friend makes an absolutely fair and important point. My hon. Friend the Member for Carlisle (Mr. Martlew) has already been in touch with me about this issue, and we have discussed the significant potential impact on Carlisle's council tax revenue of the large number of properties made uninhabitable by the flooding. There is a convention whereby we do not alter the basic figures that underpin a settlement after November, for the obvious reason that everything has to be done on a particular fixed date. Because the flooding took place after that date, it is not possible to alter this year's settlement in the way that my hon. Friend the Member for Carlisle asked us to do. I am, however, dealing with this issue as a matter of urgency, and I undertake to meet my hon. Friend the Member for Workington and representatives of the relevant authorities to discuss how we might respond to these rather exceptional circumstances. We are also looking urgently at the possibility of making available assistance though the Bellwin scheme, in order to help not just Carlisle but the surrounding authorities cope with the pressures that they face.

**Several hon. Members** *rose—*

**Mr. Raynsford:** I want to make a little progress before taking further interventions. It is only a three hour debate, and I shall have to make some progress if others are to contribute.

The settlement builds on sustained grant increases over the years since 1997. A real-terms increase of 33 per cent. in grants to local government since then compares with a 7 per cent. real-terms cut in the previous four years. We are looking to the future, too, with the introduction of three-year settlements for local government, to be phased in from 2006–07. That will provide more stability and predictability and enable councils to plan more firmly for service improvements and moderate budget and tax increases. Stability is very valuable, but we should not neglect to re-examine the fundamentals of local government funding. That is why we appointed Sir Michael Lyons, whose inquiry is now under way. In response to what he says, we will carefully consider the detailed case for making changes to the present system of local government funding in England and take note of any recommendations.

Where Government initiatives lead to increased cost burdens on local authorities, we are committed to meet them. Sometimes lengthy discussion is, quite rightly, needed with local government partners to get the details right. I mention, in passing, the implementation of the Freedom of Information Act 2000, where initial estimates from local government implied a potential cost of more £100 million, but after detailed discussion, a figure somewhat less than £20 million was agreed. It is important to bottom out the figures and ensure that they are accurate. The commitment is there to provide the additional funding. That has been done.

Similarly, my right hon. Friend the Secretary of State for Culture, Media and Sport has conducted two rounds of consultation and agreed proposed fee levels with local

government, which we believe are sufficient to fund average administration, inspection and enforcement costs associated with the discharge of local authority functions under the Licensing Act 2003. I can also confirm the Government's plans, following the revisions made by the Office for National Statistics to its population estimates used in the original calculations for the year, to amend the local government settlement for 2003–04.

**Mr. Lindsay Hoyle** (Chorley) (Lab): My right hon. Friend may be aware of six districts in Lancashire for which money is trapped or withheld, according to which term we wish to use. In the case of Chorley, it amounts to £1,324,000. I acknowledge the 6 per cent. increase, which is much higher than ever envisaged by the people of Chorley, but the Minister knows that 1 per cent. brings in just about £50,000—not a great amount of money. However, the money trap is very important to the future of Chorley, so when will the Minister, through the adjustment of the floors, enable Chorley and other shire districts to collect the money? It amounts to only £29 million for the whole country. Can the Minister offer us some hope in his answer?

**Mr. Raynsford:** My hon. Friend raises an interesting point, and I hope that he will bear with me as I explain the importance of the floor mechanism and how it benefits authorities that would otherwise receive an unreasonably small grant increase. In the county of Lancashire, for example, Preston is one of the authorities that is on the floor. Without the floor mechanism, it would not receive the basic grant increase of 2.5 per cent., which is sufficient to match inflation.

For reasons that I have explained, the floor is essential and all hon. Members accept it. The problem is that some people have difficulty in understanding that the floor has to be paid for and the costs have to be met. In the past, we operated a system of ceilings, under which the authorities that received the largest increases had a fairly significant reduction in their grant to meet the costs of the floor. We received very strong representations from local government: authorities did not like the ceiling, which they thought was unfair to the authorities with the largest increases. In response, we introduced an arrangement under which we reduced the grant entitlement for all authorities above the floor by a much more modest amount than would have applied under the ceilings arrangement.

This is the first year of the new system and I obviously want to reflect on how it operates before I consider any further changes. As hon. Members will recognise, I could change the deck chairs every year [Hon. Members: "The Titanic"]. I would never dream of thinking of local government in association with the Titanic, but if I followed the request of my hon. Friend the Member for Chorley (Mr. Hoyle), I could adjust the chairs on a regular basis. I hope that he will understand that Chorley's increase of 5.7 per cent. is a good one, and that most other Lancashire authorities have received good increases too. It is therefore right that there should be some reduction in the overall entitlement to meet the costs in Preston and west Lancashire. Otherwise, those authorities would get less.

**Mr. Gordon Prentice** (Pendle) (Lab): Will my right hon. Friend give way?

**Mr. Peter Pike** (Burnley) (Lab): Will my right hon. Friend give way?

**Mr. Raynsford:** I give way to my hon. Friend the Member for Burnley (Mr. Pike).

**Mr. Pike:** Burnley is a very deprived borough, as is Pendle, yet it is losing money. We all understand the concept of the floor and that the new method—by which a little is taken from all those authorities above the floor level—is fairer than a ceiling. However, will my right hon. Friend assure us that the 2007 review will mean that areas such as Burnley, Pendle and Chorley will receive everything to which they are entitled? They have major problems and very small budgets.

**Mr. Raynsford:** I understand those concerns. I have visited my hon. Friend's constituency and seen the very considerable problems with which the local authority is wrestling in its attempt to ensure that local needs are met. Obviously, we are trying to achieve good budget settlements for authorities such as his, given the real difficulties that they face, and I believe that an increase of 5.9 per cent. is a good settlement for Burnley this year. We are conducting a review of the formula in the coming year, as my hon. Friend knows, but I hope that he will accept that instability is not good for local government. We have changed the mechanism governing floors and ceilings this year, which means that an immediate commitment to reconsider the matter would be somewhat disruptive.

**Mr. Prentice:** Will my right hon. Friend give way?

**Mr. Raynsford:** I seem to be getting a lot of pressure from east Lancashire, so I will give way to my hon. Friend.

**Mr. Prentice:** My hon. Friend the Member for Burnley (Mr. Pike) seems to have stolen my script, but will my right hon. Friend say why the Government cannot pay for the Prestons of this world? That would be better than depriving communities such as Burnley, Pendle and Chorley. In addition, I should like to return to the point that he was making before the intervention from my hon. Friend the Member for Chorley (Mr. Hoyle). The population estimates have significantly underestimated the true population of Pendle. My hon. Friend the Member for Chorley said that the Office for National Statistics had recognised that and that changes would be made to the grant paid in 2003–04 and in subsequent years. Does my right hon. Friend have the figure for Pendle, and what does that mean in terms of additional grant?

**Mr. Raynsford:** My hon. Friend will know that Pendle's grant will increase this year by 6.6 per cent.—a very significant amount. He will also know of the dramatic change brought about in Pendle as a result of the return of a Labour Government. According to the figures that I quoted earlier, Pendle got no increase in grant over the last four years of Conservative Government. In fact, its grant was reduced by

*[Mr. Raynsford]*

12 per cent. One of the more deprived areas in northern England lost grant as a result of Conservative policies. Under this Government, there has been a per capita increase of 38 per cent. in Pendle, which shows that we are committed to increasing the area's grant. I hope that my hon. Friend will understand that it is not possible for us to add even more money to a settlement that is already pretty generous. That would be the implication of pursuing his request for additional Government money.

**Mr. David Amess** (Southend, West) (Con) Will the Minister give way?

**Mr. Graham Brady** (Altrincham and Sale, West) (Con) Will the Minister give way?

**Mr. Raynsford:** I need to make some progress, but I have been generous to Labour colleagues so I shall take one intervention from the Opposition before moving on.

**Mr. Brady:** I am grateful to the Minister for giving way. I do not want to be too helpful to him, but he was keen to stress that he has been mean to authorities other than Tory-run authorities in the south of England, and I can bear that out: he has also been mean to Trafford, a Tory-run authority in the north. That is especially important because Trafford has had a worse deal in each of the past four years than the average for metropolitan authorities in the country. Does the right hon. Gentleman agree that it is time for some fairness in this matter and that Trafford's grant should increase by at least as much as other metropolitan authorities? Trafford used to have weak status when it was under Labour control, but that has been improved to fair. We want to make further improvements, but when the previous Labour administration was replaced in June, it left us with terrible financial problems.

**Mr. Raynsford:** I remind the hon. Gentleman that Trafford is getting a good increase in grant of some 5 per cent. That did not happen in the days when his party was in power. It is extraordinary that Conservative Members, who are only too happy to claim the largesse that they want for local government, have forgotten the record of their Government. When the hon. Gentleman's party was in power, Trafford—also a deprived area in the north—received a 6 per cent. per capita grant increase over four years, which was well below inflation. Since this Government came to power, Trafford has received substantially more, with a 45 per cent. increase on a like-for-like basis. I hope that we shall not hear any more about meanness and that, in future, the hon. Gentleman will use the word "generosity".

**Mr. Edward Davey** (Kingston and Surbiton) (LD): The Minister has been telling the House how generous the Government have been in their real-terms grant increases. Can he tell the House what the average real-terms increase in council tax has been during the same period?

**Mr. Raynsford:** The hon. Gentleman knows that council tax has risen significantly, but it has not gone up by anywhere near as much as the old rates used to go up when the Conservatives were in office. We might explore that later.

There has been a significant increase in council tax, which is why the Government have made it clear, against the Liberal Democrats' advice, that we will cap authorities that impose unreasonable increases. The decision on council tax increases is made by local authorities and the hon. Gentleman would do better to talk to Liberal Democrat councils that seem to have an unhealthy appetite for increasing their council tax. Last year, his party had the unenviable record of the largest increases in council tax of any party—more than the Conservatives and substantially more than Labour. I am afraid that that high-tax tag will hang round the neck of his party.

**Shona McIsaac** (Cleethorpes) (Lab): I draw my right hon. Friend's attention to the actions of North East Lincolnshire council—it is a coalition of Conservative and Liberal Democrats, so we have the worst of both worlds—which has just sent a letter to the residents of Humberston Fitties chalet park about their rent increases this year. The rent for one large plot in the chalet park is rising from £720 to £1,365. The Liberal Democrats increase not just the council tax, but every rent.

**Mr. Raynsford:** I am concerned to hear what my hon. Friend said about the very large proposed increase in rent for people living in chalet parks, who are often retired and on fixed incomes. I sincerely hope that North East Lincolnshire council, which has had considerable difficulties and whose performance has not been good recently, will look carefully at how to deliver value-for-money services and not charge unreasonable amounts.

**Mr. Michael Fallon** (Sevenoaks) (Con): Before the Minister leaves the subject of per capita funding, can he explain why the league tables on per capita funding show that Sevenoaks district council comes bottom, with a 5 per cent. cut over seven years? Why are we being penalised?

**Mr. Raynsford:** Sevenoaks, as the hon. Gentleman knows, is a relatively well-off area with substantial resources that it can use. One of the characteristics of the hon. Gentleman's Government was that deprived areas suffered severe reductions in their grant and more affluent areas, curiously and perversely, received grant increases. We are ensuring a fairer system. The hon. Gentleman knows that in his area the aggregate of local government finance has risen considerably, because education and social services are delivered not by district councils but by county councils and account for the overwhelming majority of local government costs. Clearly, Kent county council and others in the south have continued to receive substantial, above-inflation increases.

I confirm the plan to amend the settlement for 2003-04. As I made clear to the hon. Member for Beckenham (Mrs. Lait), we will consider the case that she presented.

I turn briefly to the consultation process. We received 299 written representations within the consultation deadlines from the LGA, the Association of London

Government, local authorities, local authority groups and hon. Members. We met delegations from six local authority associations and representative groups to discuss the proposals. The main points made in consultation were as follows. The abolition of ceilings on grant increase was generally welcomed, as was the continuation of a floor or minimum guaranteed grant increase. I have already touched on that in response to an intervention. Most of the bodies welcomed the modifications that we proposed to the incorporation in the formula grant of the social services preserved rights and residential allowance grants. I understand, though, that not everyone can win when grant distribution is changed, and we will ensure that any transitional effects of future transfers continue to be examined carefully with local government.

We faced a dilemma in considering the use of data other than population figures based on the 2001 census. In proposing not to use 2001 census data in the 2005–06 formula spending share calculations, we balanced our desire to use the most up-to-date data against our aim of providing stability in local authority funding. Using new census data in the funding formula is not a simple task. It is technically incorrect to update the census data in the police formula. In other areas, the changes needed to incorporate the 2001 census data would break the formula freeze and could cause large changes to the distribution of FSS. We will look to incorporate 2001 census data in the funding formula once the formula freeze has ended with this settlement. That will allow us to use 2001 census data in 2006–07, assuming that agreement can be reached on an appropriate way of doing so.

After considering the points made in consultation, I have decided to confirm the basis of grant distribution proposed on 2 December. The floor grant increases remain at 4 per cent. for authorities with education and social service responsibilities, 2.5 per cent. for shire districts and fire authorities, and 3.75 per cent. for police authorities. Where justified, we have reflected representations made to us by correcting the data used. The routine updating of data used, in particular on council tax base and capital allocations, will have made mostly small changes to individual council grant figures.

Given our substantial investment in local government and the scope for efficiency gains, there is simply no excuse for excessive council tax increases. This settlement ensures that all properly run authorities can provide a high level of service.

**Nick Harvey** (North Devon) (LD): The supporting people programme, which the ODPM funds through local government finance, seems to have been something of a success for the Government. Is it not, therefore, a matter of regret to the right hon. Gentleman that the funding will be reduced next year and frozen thereafter? During the consultation that he was involved in, did he consult local government about a change in the way that supporting people funds are allocated? Might it not be a good idea to do so before enacting a change in the formula?

**Mr. Raynsford:** There has been detailed discussion with those involved in local government and others, because the matter affects voluntary organisations and other bodies involved in providing supporting services to people whose needs go wider than accommodation.

The hon. Gentleman will be aware, as he has obviously looked into this, that the budget for supporting people grew exponentially during the transitional period. Although original estimates were for less than £1 billion, we faced a prospect of £1.8 billion of expenditure last year, with clear indications that, in some cases, value for money was not being achieved and some additional costs had been moved into that area, because it was seen as an opportunity to recover costs that would otherwise not be met. It is therefore right and prudent that we should look at the matter very carefully, as we are doing.

We have set a budget of just over £1.7 billion for supporting people over the coming year. We will continue to consider ways of ensuring that we deliver value for money. The hon. Gentleman's initial comment was right: this is a success story. The programme has ensured more effective help, but I hope that he will agree that the work must be done in a cost-effective way.

**Paddy Tipping** (Sherwood) (Lab): The Minister will know that there has been widespread consultation on the local government pension scheme and that regulations have been laid before the House. Will he give two assurances? First, will Members have the opportunity to discuss those new regulations? Secondly, even at this late stage, will he meet representatives of the members involved?

**Mr. Raynsford:** There has been lengthy consultation on the local government pension scheme from 2003 onwards. Because of genuine concern expressed throughout local government at the financial implications of the increasing costs of the scheme and the implications of the actuarial valuation that comes into effect this year, we have made some modest changes—very modest changes indeed—that come into effect from 1 April.

The House will have an opportunity to consider the regulations, which will be debated. I hope my hon. Friend will make whatever points he wishes to make at that time. However, I stress to him that the Government's objective is to maintain the viability of a good pension scheme which ensures that the recipients can receive funded pensions based on final salary. That is not available to quite large numbers of other people. Calls for increased funding going into the local government pension scheme, which would have an immediate knock-on effect on council tax, are not likely to be well received by council tax payers whose own pensions are rather less secure, and in some cases less generous, than those available to local government employees. So there are difficult issues that need to be addressed.

In exchange for the good increases in grant that we are making available to local authorities, we expect to see a continuing downward trend in council tax increases in 2005–06. We will be looking to all authorities to budget prudently and to minimise demands on council tax payers, and we will expect to see an average council tax increase of less than 5 per cent. in England. Hon. Members will recall that we took capping action against 14 authorities in the current financial year. We would prefer not to have had to use those powers, but make no mistake – if necessary, we will take capping action once again in 2005–06 to deal with any excessive increases in council tax.

*[Mr. Raynsford]*

Nobody should presume that the capping principles that we applied in 2004–05 are a benchmark for 2005–06. We are prepared to take even tougher capping action this year if that proves necessary. That applies to all authorities, including fire and police authorities. I have already written to all local authority leaders to make clear the Government's views on council tax and capping. None of them can reasonably claim to be unaware of our intentions. We are in a new era now, in which high council tax increases are a thing of the past. We will not tolerate excessive council tax increases in 2005–06 or in years to come.

**Mr. Philip Hammond** (Runnymede and Weybridge) (Con): Perhaps, then, the Minister will answer the question that I put to the Prime Minister earlier and to which I did not receive an answer. How is an authority such as Runnymede, which has received a 0.4 per cent. increase in per capita total grant between 1998 and now, expected to deliver high quality services and keep council tax low?

**Mr. Raynsford:** The hon. Gentleman speaks for one of the most affluent local authority areas in the country. He knows that the authority does not face anything like the serious disadvantages that most other authorities face. We expect all authorities to budget prudently. We do not expect them to increase the council tax. They have a substantial council tax base and they have no need to make an unreasonable demand on council tax payers. We expect them to budget prudently and to ensure that demand on council tax payers is kept to the lowest possible.

Our plans for 2005–06 constitute another excellent settlement. We are continuing the Government's provision of a stable and well funded platform for local service improvement. Working with local government, we will continue to develop our proposals for improved financial systems for the future. In return, we can and do expect councils to plan for reasonable council tax increases this year. I commend the settlement to the House.

5.28 pm

**Mr. Eric Pickles** (Brentwood and Ongar) (Con): Today in the United States of America is groundhog day. The irony of the fact that the Government have chosen this day to present the revenue settlement for local government will not be lost on the House. The repetitious nature of the argument means that we can move backwards and forwards in time, measuring the continuing rise of council tax under the Government. A 70 per cent. increase in council tax since 1997 is a monument to the endurance of stealth taxation under this Labour Government.

The Opposition have a much better record on predicting council tax levels than the Minister, and while I am sure that most authorities will achieve a rate increase below 5 per cent., the Government are deluding themselves if they think that the public will quickly forget the massive increases of the past. This year's figures are just a rest while Labour gathers its strength for a planned massive onslaught on the middle classes of rebanding and revaluation, subject to the will of the electorate.

During this brief pause in squeezing middle England, the Minister continues in the grand tradition of the entertainer of the House on the complicated matter of local government finance. This year he is the impresario of a unique three-ring circus. The first ring is the fiddled funding that punishes Conservative-controlled authorities and rewards Labour ones. The second ring contains the floors to mitigate the violence of the first ring. The third ring, which grows steadily each year, is the bung to cover the inadequacies of the first two rings.

Let us examine the bung. Each year the size of the bung gets bigger. Last year it was £340 million, and this year, with £350 million ring-fenced, it rises to £1 billion. Surely the chairman of the Local Government Association, Sir Sandy Bruce-Lockhart, was right when in December he commented:

"The money won today is a one-off and doesn't help address the fact that the burden on council tax is unsustainable and is far higher than local councils believe people can afford to pay."

In *The Times*, Tony Travers, who is much respected, described the settlement as a short-term fix to the deep problem of local government finance. He warned:

"The whole process will be repeated next December".

So despite the bung, many of the features of the previous settlements that have brought great discredit to the process remain in place.

**Mr. Clive Betts** (Sheffield, Attercliffe) (Lab): I am sure that the hon. Gentleman recognises that we are dealing with the 2005–06 settlement today, and did not Sir Sandy Bruce-Lockhart, on the morning that the Minister made his initial announcement, say that the Local Government Association wanted £1 billion extra to make it a good settlement that would keep council tax rises low and keep services going forward? That is precisely what my right hon. Friend delivered, so are not the Local Government Association and Sir Sandy entirely satisfied by what was produced?

**Mr. Pickles:** The hon. Gentleman has considerable experience in running a council, and I am mortified that he seems somehow to have lost his grip on the facts. He needs to remember that Sir Sandy was talking about the burdens on local authorities, and a one-off bung will not take care of those. I will come to that point later in my speech.

As I was saying, some of the features of the previous settlement, which brought great discredit on the formula, remain the same. Once again, four authorities are expected to passport their full increase in grant straight across to the schools budget—Bromley, Poole, Richmond upon Thames and West Sussex. Some of those authorities have not seen an increase in the budget for three consecutive years for the other services.

The Minister measures the increase in grant, but fails to address the increase in costs for local authorities. For example, between 1997 and 2000 the cost of educating a primary school child increased by 29 per cent. in real terms. He was equally silent about the extra burdens imposed on local authorities by the Government. Has he forgotten so quickly the report of the Audit Commission on the causes of higher council spending in the last financial year? It said:

"National cost pressures taken together account for about £2.3 billion of the total increase in councils' spending of £4.3 billion. In other words, slightly more than a half the total increase is due to national pay and price inflation, increased national insurance and general population growth".

All Members of this House will be familiar with the service pressures on their authorities, including pressure on child services and care for the elderly in social services, and in relation to the environment, including waste management and the effects of EU landfill directives. Not so long ago, we had a debate about pressures on licensing and planning fees and freedom of information, and reference was made a few moments ago to increases in pension and insurance costs.

Let me use one item to speak for all those issues—supporting people. We all have supporting people schemes in our constituencies and we are aware of the progress and independence that they can engender among the most vulnerable in our society. The total amount of supporting people grant for England has been cut by 5 per cent. in cash terms to £1.6 billion, and the Government propose to hold it at that level for the next two years. I am aware that the new formula is being consulted on, but it puts into sharp relief a situation in which schemes have been started and seed money offered, after which they have been abandoned. The alternatives for local authorities are to meet the growing needs or cut provision to the most needy in society.

**Richard Burden** (Birmingham, Northfield) (Lab): What does the hon. Gentleman suggest should happen to the supporting people budget?

**Mr. Pickles:** The hon. Gentleman raises a legitimate and predictable point, which goes to the very heart of the way in which local government is currently funded by the Government. We can no longer continue with a position whereby the Government want to direct from the centre all the sums that they want to deal out. According to the Government, the supporting people grant was never intended to meet the total amount of the services provided, although that was not clear from the beginning. What the Opposition want is a total end to these specific grants, allowing local authorities maximum discretion to deal with such problems. I know that a number of local authorities are not merely waiting to do so but have been prepared to put in a significant sum themselves.

**Mr. Raynsford:** Does the hon. Gentleman accept that we have a commitment to reduce ring-fencing and that we have achieved a significant reduction this year? With regard to the supporting people programme, there was wide concern, not only in the local government sector but in the voluntary sector, that without a ring fence during the transitional phase in which the programme was introduced, there was a risk of leakage of funding away from some of the most vulnerable people in the country. That is the reason why there is a ring fence, but it is a temporary provision, and just as we have withdrawn other ring fences, it is our intention to reduce the ring fence on supporting people in due time, as and when the system has bedded in.

**Mr. Pickles:** That is an interesting contribution. I doubt whether there is any hon. Member in the House who does not have such schemes in their constituency. They are an example of the growing cost base of local government and of interaction between two of the most difficult issues—provision of services for children and for the elderly. In many ways, projects such as supporting people are the future for social services. With great respect to the Minister, he can talk about the amount of increase and what he is doing about grants, but the programme is an example of how the cost base of local authorities is completely out of kilter with the grant regime. It might be helpful for the Minister who responds to the debate to give us some indication of where the Chief Secretary to the Treasury is on the promise to local authorities to look at costs in relation to the retail prices index and tell us what progress has been made on devising that formula.

The Minister referred to the census. There is a lack of equality of treatment on population matters. The Office for National Statistics made, if we are honest, a bit of a horlicks of the last census. The way in which it moved literally millions of people around the country was like a virtual game of pass the parcel. It missed populations equivalent to major urban centres, while other areas had additional, but non-existent, people added to them. I suppose that it gives a new meaning to the expression "missing millions". After pressure from aggrieved local authorities and hon. Members, the ONS realised its mistake.

The situation was wholly the fault of the ONS—it was not the fault of a single council—yet councils must pick up the tab. It is unfair that local authorities have to pay, because as the hon. Member for Manchester, Blackley (Mr. Stringer) robustly put it, the national statistician

"just could not count up to 60 million."—[*Official Report*, 15 January 2003; Vol. 397, c. 257WH.]

Quite rightly, Manchester now has a true count of its citizens and receives an additional £7.8 million, but other places are less fortunate. Worcestershire loses £1 million, Norfolk loses nearly £500,000, South Yorkshire police lose nearly £1 million and, worst of all, Surrey loses £2.3 million. As the leader of Surrey county council recently put it to the Minister:

"Why should the people of Surrey pay for a mistake made by central Government?"

**Mr. Kevan Jones:** Because they can afford it.

**Mr. Pickles:** That remark by a Labour Member gets us to the heart of the distribution system, because it is all about penalising Tory authorities, regardless of whether that is right or wrong. When the Government make a mistake, where do they look for the money but Tory authorities? The distribution system should be based on something better than straightforward class hatred.

**Mr. Lindsay Hoyle** (Chorley) (Lab): Will the hon. Gentleman give way?

**Mr. Pickles:** Having spent a few moments berating the hon. Gentleman, of course I give way to him.

**Mr. Hoyle:** I did not make the comment, so the hon. Gentleman should withdraw that statement.

The hon. Gentleman says that there is a class war, but I do not think that that is the case. The Government are genuinely trying to ensure that there is a fair settlement throughout the country. Does he agree that there was a class war under the previous Government, when the

*[Mr. Hoyle]*

likes of Westminster city council received much more help than all other authorities, and does he want to apologise for that now?

**Mr. Pickles:** I am glad that the hon. Gentleman wants to distance himself from his colleague who made the comment, and I welcome the fact that he is looking towards equality. However, it is only right for me to respond to such provocation from a Labour Member.

Going back to the census, a total of £26 million must be repaid by the counties. What is the justification for asking council tax payers to pick up the tab for central Government's blunder? Contrast that situation with the same Government's refusal to incorporate demographic details from the 2001 census in the final settlement.

The settlement is using data that are 14 years out of date—they were fresh when Baroness Thatcher was a Member of the House. The Government estimate that that costs counties £116 million, which is the equivalent of 2 per cent. on council tax bills. County authorities have been hit especially hard, as have unitary authorities, such as that covering Southend. I know that my two hon. Friends who represent that fine seaside town wish to catch your eye, Mr. Deputy Speaker, and I look forward to their contributions with interest. Surely this must be the last year before the most up-to-date data are included. There seem to be two standards. The Government will use information if it will allow them to get money back from authorities, but if the information would mean that authorities would receive money, they do not use it.

**Judy Mallaber** (Amber Valley) (Lab): On the question of political bias, is the hon. Gentleman aware that Labour Derbyshire county council was treated appallingly under Mrs. Thatcher, but that it has just come out as the top performing authority in the comprehensive performance assessment? In contrast, Tory-controlled Amber Valley borough council received an increase that was eight times the size that its leader predicted when he asked me to lobby for more. The council has received on average a 5 per cent. increase each year during which the Conservatives have controlled it.

**Mr. Pickles:** As I said, we know that the formula is about rewarding the Government's friends and punishing their enemies. There were very few complaints about the impartiality of the grant distribution system. The great, lasting monument to the Minister and his hon. Friends is a complete distrust of the system, which an incoming Conservative Government will have to deal with.

Against that backdrop, on Monday the Government announced plans to introduce yet another structural reorganisation of local government. It is as if the Deputy Prime Minister sees local government as his own personal train set. Having done much to mess up the real railways, ruined our roads and dug up our countryside, he seems intent on destroying the one remaining, enduring institution within his grasp—local government. Cannot he take a hint? His desire for mayors has been rejected in countless referendums, and even when he gets one the electorate rarely pick a candidate of his choosing. The people of the north-east could not have been clearer in their message, yet he still insists on pulling local government out of the ground to check for growth in its roots.

When will this Government learn that what councils need now, more than anything, is a period of stability so that they can plan and provide for their residents free from the latest fad from the centre? The Government have to understand that localism cannot be enforced from the centre. For localism to flourish, the centre has to get out of the way, make a bonfire of regulations and restrictions, and allow councils to plan diversity and innovation in peace. The right hon. Gentleman might feel good about capping authorities, although the cost of sending out the bills is rather greater than the money saved, but council tax payers regard that as a rather hollow gesture.

**Sir Teddy Taylor:** I welcome what my hon. Friend said about the 2001 census. Is he aware that if the size of Southend's elderly population, which showed a massive increase in the 2001 census, had been taken into account, we would have been entitled to an extra £1.5 million? Is it not desperately unfair and unreasonable that Southend should lose that money because the main figure was included, but not the breakdown?

**Mr. Pickles:** The fate of Southend is a good example of where the Government have got this wrong. Its location is central to the economic interests of the Government with regard to the Thames gateway. It is a major provider of education, and it endures some of the problems that are common to most seaside towns, with a high proportion of asylum seekers and a great deal of social pressure relating to the elderly. The Government have not recognised that.

**Mr. Edward Davey:** Bringing the hon. Gentleman back to his attack on the Government's failure to go forward with the localist agenda, can he explain why the Conservatives want to take control of education out of the hands of local authorities and run it from Whitehall? Where does that fit in with his party's supposed commitment to local government?

**Mr. Pickles:** The hon. Gentleman has not grasped the localist agenda. We would not take education out of the hands of local government and run it from Whitehall, but give teachers and parents more power to run their local schools. The previous Government moved towards per capita funding for schools, and this Government sensibly continued with that. Is it not more honest to give the people who know how to run education better—teachers, head teachers and parents—the opportunity to do so?

**Mr. Kevan Jones:** How would Southend fare in the context of the article that appeared in last week's edition of the *Local Government Chronicle* under the headline, "Tories promise grant distribution with a rural twist", in which the leader of the Conservative group in the Local Government Association announced that the Tories would redistribute funding away from towns and urban areas to rural areas? Surely a place such as Southend

would suffer, unlike, as my right hon. Friend the Minister said, areas such as Wiltshire that are gaining under this Government.

**Mr. Pickles:** We promised to do away with fiddling and ensure fairness in the grant distribution system.

Let us consider what the Government have in store next. It is not the incoming Conservative Government's intention to use the revaluation process to increase taxation or make a significant shift in banding in the form of a stealth tax. The Government have been clear about their aims. The Minister is on record as saying:

"Council tax should be made more progressive—in other words, it should reflect more closely people's ability to pay and should more accurately reflect variations in property values.

There are ways of doing this—for example, through a new banding system".

Any council tax system inevitably requires some form of revaluation, but the recent revaluation in Wales, two years ahead of England, highlights how the system has been abused. One in three houses have moved up a band and only 8 per cent. of houses have moved down a band. In wards in Cardiff, Wrexham and Flintshire, more than nine in 10 houses have moved up a band.

A re-elected Labour Government will use revaluation further to increase tax by stealth and transfer funds from specific parts of England. If the Welsh experience were repeated in England, 21 million households would be liable for local tax. Seven million homes in England would be moved up a band but only 1.5 million would be moved down a band.

The tax on a band C home that moved to band D would increase by £128 a year. The tax bill for a band F home that moved to band G would increase to almost £2,000 a year. Areas where house prices have risen above the national average since the previous revaluation in 1991 run the greatest risk of soaring bills. As the Minister conceded:

"Where the change in a property's value is significantly above or below the average, it is likely to change bands."

That means a double whammy, because the Government grant to those areas would be cut as a result of the change. As figures that were released by the Halifax over the weekend suggest, London, the south-west, East Anglia and the south-east are likely to bear the brunt of revaluation.

There will be many other towns in property hot-spot areas in England. They include Knutsford, Altrincham, Ilkley and Chepstow. They will all be hit by Labour's new redistribution tax. Surely the *Daily Mail* was right when it described it as:

"Another surreptitious scheme to squeeze hard-working families until the pips squeak."

**Matthew Green** (Ludlow) (LD): Will the hon. Gentleman confirm that it is Conservative party policy to retain the council tax system?

**Mr. Pickles:** I am glad that the hon. Gentleman intervened, because I was about to say that rebanding is not only the Labour Government's scheme but Liberal Democrat policy. On two separate occasions, Liberal Democrats could have stopped the process but decided to vote with the Government. When Liberal Democrats knock on the doors in the election campaign and try to warn people about increasing revaluation, the electorate will ask, "If you think that's the case, why is it Liberal Democrat policy?"

**Mr. Raynsford:** Does the hon. Gentleman accept that I have made it clear on many occasions that there is no read-across from Wales to England? We are not committed, like the Welsh, to increasing a band at the top of the scale with no adjustments at the bottom. There is therefore no parallel to be drawn. Secondly, we have given an absolute undertaking that there will be no increase in yield through revaluation. Adjustments, based on bands, will be made for individual council tax payers because there is no logic in using figures that date back to 1991 as a basis for valuation. The hon. Gentleman made a point about census data. I hope that he accepts that revaluation is necessary, but that the Government have made it clear that it will not result in an increased yield and that there is no plan to increase the overall take from council tax through revaluation.

**Mr. Pickles:** Much as I like the Minister, I would find that easier to accept without the experience of non-domestic rates revaluation. We would also take it better if we had not read several quotations from him about the need for council tax to be more progressive.

"in other words, it should reflect more closely people's ability to pay and should more accurately reflect variations in property values."

In plain, simple language, he has made the case very well that this settlement is going to be used as a method of social redistribution, to soak the rich, and to make middle-class people squeak to the point at which their pips pop out.

**Mr. Edward Davey:** Will the hon. Gentleman give way?

**Mr. Pickles:** No.

Frankly, this settlement has as much long-term viability as the Deputy Prime Minister's desire to build uninsured houses on flood plains. It stands about as much chance as the possibility of seeing a popular regional assembly in the north-east. While it might try to repair the damage of eight years of Labour, it will store up massive increases for the future. Thankfully, however, it will be the last one before the people deliver their verdict.

**Mr. Deputy Speaker (Sir Michael Lord):** May I just remind the House that there is a 12-minute limit on Back-Bench speeches, and that that will apply from now on?

5.55 pm

**Mr. Clive Betts** (Sheffield, Attercliffe) (Lab): This is an excellent settlement for local government. As I said in an earlier intervention, on the morning on which my right hon. Friend the Minister made his initial statement, the Local Government Association asked for an extra £1 billion to keep council taxes down and to keep improving services. That is precisely what my right hon. Friend has delivered. I do not know whether he has yet received a letter from Sir Sandy Bruce-Lockhart saying,

*[Mr. Clive Betts]*

"You've given me precisely what I asked for. I'm very grateful indeed." Perhaps not. That is probably borne out by the response of the Conservatives.

My right hon. Friend probably knows that I am not a great fan of the capping process. I believe that local authorities should be left to set their own tax levels, and that the electorate should then make it clear what they think of them. That should be part of the local democratic process. Capping orders were introduced after the last settlement, and that was one of the very few occasions on which I found myself unable to support the Government in this House. However, I see no need for capping orders to be introduced on this occasion, for the simple reason that I see no need for excessive council tax increases. Local authorities have the funds to enable them to keep increases down and to maintain their services.

It was interesting to listen to the Conservatives. I could not understand where they were coming from at all. They are committed to making £4 billion of cuts to local government funding, yet they offer no description of how they would operate if, by some mischance, they were on this side of the Chamber. For all their moaning about the poverty and dire straits that some Tory authorities in the south find themselves in, we were never given a clear explanation as to whether they were asking for more funds to rectify that, or precisely where that money was to come from. Is the hon. Member for Brentwood and Ongar (Mr. Pickles) proposing that local authorities such as mine, in Sheffield, should give up money so that Tory authorities in the south can have more?

**Mr. Pickles:** The hon. Gentleman should pay more attention to what we are saying. We are offering grant increases in line with the rate of inflation for local authorities, and looking towards improvements in health, policing and education. We would also release more than £1 billion of extra resources to local authorities. The hon. Gentleman has a distinguished record on local authorities. Given what we are offering, perhaps he will be tempted to vote Conservative at the next election.

**Mr. Betts:** I am probably more confused now than I was before, and I do not think that it is my fault. The hon. Gentleman is promising more money for health, for the police and for education, while proposing cuts overall. What, then, would happen to road maintenance, the built environment, waste management, housing and leisure and arts facilities at local level? Given that those areas represent a fairly small part of the total local government expenditure, the cuts to those budgets would be absolutely massive. It is time for the Conservatives to come clean with the electorate, and to explain precisely what the level of the cuts would be, and what damage they would do to the built environment, which most people regard as very important. In passing, I should like to say that I am very pleased that my right hon. Friend the Minister has recognised that important area of local expenditure in this settlement, and taken steps to safeguard it. My own authority in Sheffield is bringing in council tax increases within the guidelines that my right hon. Friend has laid down. In addition, it is doing a lot to improve road maintenance and the street scene. It has the extra funds to do that because of the 5.8 per cent. increase in funding that it has received.

I am also pleased to support my right hon. Friend's continued emphasis on the freeze in the formula. It is important that formula revisions should happen only every three years. That gives stability to local authorities and it should be continued for the future. There will always be complaints that anomalies do not get dealt with for another three years, but the stability is important.

On that issue, therefore, may I raise a point that comes genuinely from colleagues in local government who say that this is an excellent settlement for this year? The £1 billion is welcome, but will it be incorporated in the starting base for the settlement for 2006–07? If it is just a one-off amount that is then taken away, the stability that I know my right hon. Friend wants in local government finance will not be achieved. Local government is looking for some certainty in its plans and spending for this year. Will the extra money it has received—those who are genuine will call this a generous settlement—be in next year's base so that what is given this year is not taken away next?

There are some big issues around, such as extra spending on waste management. That, again, is important and to be welcomed; it is not something that anyone is against. My own authority in Sheffield already has advanced plans for a new incinerator and has a long-term policy of developing heat through burning waste, which is supported in the city. My authority is a long way down the road, but there will still be extra costs in paying the contractors. The issue of equal pay is around and although the supporting people programme is excellent, some of its projects are at risk and authorities might want to fund them out of mainstream funding. That could be another burden for the future.

I am sure that my right hon. Friend and his colleagues will listen, however, because of what happened when local authorities put the points about the introduction of the new licensing arrangements for public houses to them and said, "We don't think we can fund this without having to divert money from other services under the indicative licence fees that have been given to us." Ministers listened. There was genuine consultation and increases have now been agreed, plus an independent review process. That is genuinely welcomed and very pleasing for those who are involved.

On the other hand, I hope that my right hon. Friend will begin to listen to the debate on education. I know that he is passionately committed to reducing specific grants and ring-fencing, but to some of us the whole approach to funding schools directly and giving guarantees rather smacks of a large element of ring-fencing. I am still not sure about the amount of joined-up thinking, or even joined-up talking, that has gone on between Ministers at the Department for Education and Skills and the Office of the Deputy Prime Minister on the whole issue of school funding.

I am quite concerned by some of the talk I hear about new localism. I very much support bringing into play the roles that parents, teachers, tenants' representatives and others can play in running local services, but separating out the funding and making the running of those

services completely disparate leads to new localism being in danger of becoming new local fragmentation. There is a lack of joined-up government and of people working together to deliver services, because they think of themselves as being apart and they do not connect with each other. I warn the Government about that and hope that there can be some thinking on the issue: because this trend worries me considerably.

Like other hon. Members, I await the report on the balance of funding and Sir Michael Lyons's inquiry. It is important that we give local authorities more responsibility to raise the money. That would lead them to connect more with their local electorate and it would enhance and support the whole process of local democracy.

At the same time, we need greater fairness in who carries the burden for local services. It is welcome that council tax increases this year will, on average, almost certainly be under 5 per cent., but the reality is that the increase in the business rate is an awful lot less. Year on year, the domestic council tax payer pays a greater percentage of the cost of local government and the business rate payer pays a lower percentage. That is not fair; in the long term, it is not sustainable.

I feel that the logic is to move the business rate back into local government and tie it into the council tax increase so that both go up by the same amount each year. That is a step forward that would be fair in getting more responsibility back to local authorities for raising their own finance. It would also ensure that business rate payers paid a fair share towards their local services.

I also very much welcome the campaign to increase council tax benefit take-up. In the end, more fundamental reform will be needed, but in terms of what comes out of the Lyons inquiry, if we can achieve a better system of council tax benefit and a higher take-up among owner-occupiers, and at the same time stretch the bands at the top end, we can make council tax a progressive form of taxation. At present, it is broadly neutral, the problem being that at the bottom end it is regressive, because many people entitled to benefit do not take it up, and it is also regressive at the top end. If we can tackle those two issues, we can make council tax broadly progressive, which will mean much wider support.

I say to the Liberal Democrats that I have some sympathy for an additional local income tax for larger authorities of the sort that the Chartered Institute of Public Finance and Accountancy has been promoting. But if one takes away any form of property tax to fund local government on the basis that one wants to be more progressive, and if one moves purely to a system of local income tax, the reality in London and the south-east is that none of the very wealthy foreign nationals who live in this city and surrounding areas will pay a single penny in tax towards the local services that they enjoy as local residents. To my mind, it is not a progressive form of taxation to let off all those millionaires from paying any contribution towards the cost of local services. The Liberal Democrats know about that issue, but they simply refuse to address it.

I shall conclude, as I know that other Members wish to speak. The settlement is very much welcomed, certainly in my constituency and by my local authority, and I commend my right hon. Friend for introducing it. It has my full support.

6.6 pm

**Mr. Edward Davey** (Kingston and Surbiton) (LD): I agreed with a few of the points made by the hon. Member for Sheffield, Attercliffe (Mr. Betts), and particularly his point on education funding, on which I shall touch later. His vital point was that if the Government go down the road of ring-fencing all funding for schools, that is a big step towards centralisation, which will undermine local authorities and local democracy and be one of the biggest retrograde steps under this Government. Certainly, I share his views on that.

Tonight, we are debating not just the settlement but some of the changes made to the provisional settlement in the final settlement tabled early this week. One or two changes to that provisional settlement, although small, have gone in the right direction. That has been beneficial for the council in my constituency—the Government have listened to the representations from the royal borough of Kingston, and I want to put on record my gratitude for that.

On the night of the statement of the provisional settlement, there were many worried people in Kingston. The school settlement looked extremely low, and when we examined the small print we were even more worried. Apparently, nearly 400 children had gone missing and, even more worryingly, a whole school, the Mount school in Norbiton, had gone missing. The House can therefore imagine our relief when we managed to find them and convince the Government that they had been rediscovered. That made a significant difference to the funding for education in Kingston. It did not help the funding elsewhere, because as the Minister for Local and Regional Government knows, that money had to be passported through, but it helped those schools, for which we were grateful. That shows the importance of the consultation period between the provisional and final settlement.

That aside, the whole strategy of the settlement is a pre-election strategy—a strategy to try to get the Government through the election and limit the political damage done to them by their disastrous acceptance of the Conservatives' unfair council tax. The settlement is a mixture of one-year-only bribes and arm-twisting bullying to force councils to cut services and to have low tax rises, all to avoid the real issue of tackling the local government finance problem. The Government may think that if they manage to get council tax rises below 5 per cent. on average, they have been successful. For the ordinary household, however, it is not the rises that are key but the level. The level is already far too high, and the above-inflation rises that are likely will make that worse.

**Mr. Pickles:** Can the hon. Gentleman explain, then, why he is in favour of additional bands?

**Mr. Davey:** The hon. Gentleman really ought to know that my party is in favour of scrapping council tax. I do not think that we have made any secret of that.

Let me return to this year's settlement. It means that council tax will still rise faster than inflation, which means that, yet again, many pensioners will see their council tax bills rise faster than their pensions. I do not think Ministers should be as happy about that as they seem to be.

*[Mr. Davey]*

Let us examine the record. The Institute for Fiscal Studies Green Budget, which analysed the subject in some detail, showed that council tax receipts, net of council tax benefit, have risen by some £5.8 billion since 1997. That is a rise of £521, or 81 per cent., in the average band D council tax. Because council tax is so unfair, that rise dwarfs the minor giveaways in other parts of the system, such as tax credits. According to the IFS, as a result of those tax and benefit changes the average household has gained 84p a week under Labour. That is before account is taken of council tax rises. For the average household—these are not my figures, but those of the IFS—there has been a council tax loss of £4.46 a week. When we add up all the figures and study dispute analysis of tax and benefit changes since Labour came to power, we see that the average household is £3.62 a week worse off. That means that the council tax, by itself, has been Labour's biggest stealth tax on ordinary families.

The Minister tried to say that real-terms grant increases had been very significant. The hon. Member for Brentwood and Ongar (Mr. Pickles) rightly pointed out that, to offset that, there had been huge real-terms rises in the costs incurred by councils. To be fair, the Minister agreed. But the problem for our constituents—the problem for council tax payers—is that there have been massive real-terms rises in council tax. Between April 1997 and April 2001, council tax rose by 17 per cent. in real terms. Between April 2001 and April 2004, it rose by 18 per cent. in real terms. Those real-terms rises mean that council tax has increased faster than any major tax under Labour, although it is the most unfair tax in Britain today.

In some respects, Labour has made progress with making Britain a fairer society, but how can it expect to make Britain as a whole a fairer society when its favourite tax is the most unfair tax? It just does not add up. Even this year, when Ministers are so pleased with themselves, council tax is rising faster than any other tax—although, to meet Government guidelines, many councils have introduced an awful lot of cuts.

I am sure that many councils will be mentioned today. The Minister tried to suggest that Liberal Democrat councils would be profligate. I refer him to Newcastle, Liverpool and Watford, where Liberal Democrat councils are already suggesting below-inflation tax rises which are likely to be among the lowest in the country.

There are Liberal Democrat councils—and Labour and Tory councils—that are under severe pressure because of this grant settlement, despite the Government's assurances. Councils represented by all parties are trying to juggle with the various pressures, and having to make very difficult decisions about services and tax. That, I think, is why at the end of his speech the Minister raised the spectre of capping. Councils are having to make tough decisions, and it is likely that despite the best endeavours of many councils of all parties, some with particular local problems may have to consider above-average tax rises. It looks as though the Minister will come down hard on those councils.

**Mr. Kevan Jones:** In 2003, Liberal Democrats fighting the election in City of Durham promised everyone a £100 council tax rebate. Can the hon. Gentleman tell me when the Liberal Democrat council will honour that commitment? If the answer is that people will have to wait for a local income tax, I refer him to the Liberal Democrat website, which shows that two average earners in a house in City of Durham would pay more rather than less council tax under the local income tax proposals. Will he come clean and tell the electors of Durham when they will get their £100 back?

**Mr. Davey:** The majority of the people of Durham would certainly gain under a switch to local income tax. I hope that the hon. Gentleman will tell his constituents that. As regards the £100—

**Mr. Jones:** Will the hon. Gentleman give way?

**Mr. Davey:** I would just like to answer the hon. Gentleman's first intervention. In the run-up to the 2003 elections, we set out the policy that we wanted a 50p top rate of tax on incomes above £100,000 to generate the cash to enable councils to do that. That is the policy that councillors fought on throughout the country. We stick by the idea that we can reduce local taxes by using the money that we get from that higher rate of income tax on people earning over £100,000. I wonder whether he wants to tell the House whether he is in favour of, or against, that 50p rate on incomes above £100,000.

**Mr. Jones:** I would like the Liberal Democrat council in Durham to be honest with the electorate and fulfill its commitment to give a £100 rebate. Can the hon. Gentleman confirm that under the proposals on the Liberal Democrat website, which I checked this afternoon, two average earners in a household in Durham, or any other place, would pay more council tax than they pay now? The website has a rider at the end that points out that they will pay more, but that that will help poorer people.

**Mr. Davey:** There are Conservative scare stories—perhaps the hon. Gentleman is quoting those—that if a household's income totalled above £50,000 those people would pay a little more, but most households in his constituency would pay far less. Nearly 90 per cent. of pensioners in pensioner couple households across the country would benefit from our proposals. I hope that he will tell that to his constituents.

**Mr. Betts** *rose—*

**Mr. Jones** *rose—*

**Mr. Davey:** I have given way twice to the hon. Member for North Durham (Mr. Jones). I give way to the hon. Member for Sheffield, Attercliffe.

**Mr. Betts:** To pursue the point that I made earlier, will the hon. Gentleman explain how, under his plans, a millionaire foreign national in this country who pays no UK income tax would make any contribution to local taxation?

**Mr. Davey:** Such a foreign national would make a lot of contributions to the national Exchequer, which funds

the grants—*[Interruption.]* I presume that they would pay stamp duty if they bought a property, and other taxes, so that argument does not work.

I was speaking about the capping threat that the Minister repeated tonight. I wonder whether he will tell the House to which councils he has written. There have been rumours and speculation in the press that a number of councils have been threatened already. I wonder whether he, or at least his colleague who is answering the debate, is prepared to say which councils are his targets, and whether he will publish the letters that he has written.

There is concern about the timing of these capping threats and capping decisions. Will the Government make decisions on capping before the general election is called? Can they give that undertaking? One presumes that as soon as the election is called, it will be too late to make the decisions and councils will be in limbo. They will have to set their budgets, but they will find out whether they will be capped only if Labour is returned after the election. Should Labour be returned, they could face the problem of re-billing if they are capped later, in May or June.

We could reach the absurd situation that we saw last year, when councils with budgets only slightly in excess of the Government's guidelines had to re-bill and the cost of re-billing was more than the so-called budget excess. I hope that the Minister will set out the planned timetable with regard to capping, particularly as we all suspect that there will be an election in due course.

The hon. Member for Sheffield, Attercliffe put his finger on it when he talked about the fact that the £1 billion in the pre-Budget report was for one year only. There is concern that it has not gone into the base budget. There is a fear across local government that problems are being stored up for the future, which could result in a hike in council tax directly after the election if the Government do not put money in.

Let us consider the £1 billion figure. More than £400 million of it was one-off cash paid for from one-year raids on other departmental budgets. Will the one-off £350 million increase in revenue support grant be repeated? Will the pre-election £50 million increase in police grant be repeated in 2006–07? Is the one-year only extension of grants such as that for "Safeguarding Children" going to be repeated? Councils need to know the answers to these questions. The Government are talking about moving to three-year budgeting, but they will not tell councils whether these grants are just pre-election or longer term.

There is a real problem here. The Local Government Association has estimated that not making permanent these so-called one-year gifts—the one-year increases in revenue support grant, police grant and "Safeguarding Children", for example—will lead to the equivalent of an average council tax rise of 7.5 per cent. The Minister can be pretty pleased with himself for achieving—so he thinks—a lowish rise, but he has achieved it only because of this one-off money. There is a 7.5 per cent. rise coming down the track, which Labour Members should be rather worried about.

Those future difficulties are exacerbated by pressures that have simply been postponed. The amended guidance on pensions has led to a £100 million saving this year, but the money will have to be found in future. The re-profiling of waste targets means that £50 million does not have to be spent this year, but it will have to be spent next year and the following year. The recent announcement on fees is certainly a step in the right direction, particularly for the licensing regime, but the Minister will hopefully acknowledge the Local Government Association's worry that its costs will still not be covered.

Because of future pressures arising from those one-off grants, there are problems heading councils' way after the election, and in years to come. That should worry this House. Those pressures and the lack of baseline budget increases could have been more manageable had the Government not pressed ahead with various other disastrous reforms of local government finance, particularly the ring-fencing of education and the proposed introduction of a dedicated schools grant. If a council that suffered all these pressures could bring all the money together and control it—if it were not shackled by ring-fencing—it might be able to manage by taking a flexible approach. If it had autonomy, it could move money around to deal with the pressures that it faced in a given year. But under the regime of a dedicated schools grant, such autonomy and flexibility will be gone. The problem is that the Office of the Deputy Prime Minister has been defeated yet again by the Department for Education and Skills.

**Mr. Michael Foster** (Worcester) (Lab): Is the hon. Gentleman's party for or against insisting on the passporting of 100 per cent. of funding directly to schools?

**Mr. Davey:** We have always said that that should be a decision for local education authorities, not for Whitehall. We would not go ahead with the dedicated schools grant model because it represents one of the biggest centralisations of local government finance ever seen. It is supported by the Conservatives, and I am surprised to discover that Labour is working with the Tories—yet again—on this issue.

I would like to understand how the Minister is going to reconcile this model with three-year budgeting. Moving to such budgeting, as has happened in Whitehall, is a very sensible local government finance reform, which we totally support. But if it happens, how will it fit alongside dedicated schools grants and capping? The whole point of three-year budgeting is surely to enable schools and local authorities to take a longer-term view and to get over the blips that come along occasionally. But how can they do that if they do not know what the capping regime will be during those three years? How can they take best advantage of that extra freedom if ring-fencing is to be increased? It will not be possible.

It is not just the dedicated schools grant that will cause problems in future: there is also the council tax revaluation. The hon. Member for Brentwood and Ongar was right to mention it because it is the biggest ticking tax time bomb in Labour's hidden manifesto. Anyone who has seen their house price increase faster than the national average had better beware: Labour is gunning for you.

**Mr. Pickles:** Will the hon. Gentleman give way?

**Mr. Davey:** No. In Wales, 33 per cent. of houses have gone up by one or more bands, and only 8 per cent. have gone down. In Cardiff, 64 per cent. of households have been moved up by one or more bands and only 2 per cent. have moved down. In some wards—indeed, in some of the poorest wards in Cardiff—90 per cent. of households have been moved up one or more bands. How are the Government going to explain that unfairness to the people of England?

**Mr. Raynsford:** It is rather unlike the hon. Gentleman not to have listened to what I said in response to the hon. Member for Brentwood and Ongar (Mr. Pickles) earlier. I pointed out that there was no parallel whatever with what is happening in Wales, where a decision was taken to add a band at the top of the scale but not at the bottom, which clearly excused the whole arrangement, as compared with any arrangement in this country, where no decision at all has been taken. Does the hon. Gentleman accept that the sort of speculative figures appearing in the press—prompted by the *Daily Mail*, which is renowned as a propaganda sheet that is always trying to damage the Government—should never be given the time of day? Frankly, I am astonished that the hon. Gentleman and his party have given credence to those entirely spurious figures, which are designed to stir up unjustified anxiety among the public.

**Mr. Davey:** The Minister is trying to have his cake and eat it. He is trying to say that revaluation will happen, but that it will not be the same as in Wales. What the House and the electorate would like to know is how revaluation will be designed. We want to know the Government's policy on revaluation. *[Interruption.]* Unlike the hon. Member for Brentwood and Ongar, who is shouting from a sedentary position, we do not know what the Government's revaluation policy is. They have not set out how many bands will be affected, what the change in the multipliers will be, whether there will be regional banding or anything like that. I believe that this House—and, far more importantly, the electorate—should know what the Government's policy on revaluation is. Will the Minister tell the House what Government policy is?

**Mr. Raynsford:** Does the hon. Gentleman accept that it would be foolish—though a typical example of Liberal Democrat policy—to try to take decisions before seeing the figures? We are quite rightly and properly waiting until we see the actual values in April 2005, the valuation date, before deciding on any changes to the structure of council tax banding. Is it not highly foolish—I accept, of course, that it is typical of the Liberal Democrats—to plunge in and give commitments before seeing the figures?

**Mr. Davey:** The Minister commissioned a balance of funding review, which met for 15 months. All its results are on the Office of the Deputy Prime Minister's website, and the New Policy Institute, as the Minister well knows, investigated the effects of council tax revaluation across England. It looked at four particular scenarios, so the evidence is out there on the ODPM website. That is what people are looking at. What they see is that, for example, in three of the four scenarios envisaged in the report commissioned by the Department, a council tax band C home owner in London would face double-digit council tax rises as a result of revaluation. When the Minister intervenes, I hope that he will answer that point. Is he really going to say that there will be no losers under council tax revaluation? No losers?

**Mr. Raynsford:** The hon. Gentleman will know, because there was a Liberal Democrat member of the balance of funding team, that the review's conclusion was that it would be inappropriate to make any recommendations on changes to the banding system—or, indeed, to local government finance—without considerable further work, which should be based on the latest up-to-date figures. The values are not yet known and we are still three months away from the date of valuation, so how can the hon. Gentleman possibly provide these forecasts? He is scaring people by talking about huge increases, but he simply does not know what he is talking about.

**Mr. Davey:** There is an awful lot of information out there about house prices, as the Minister well knows. He criticised the *Daily Mail*, but I am afraid that he is wrong about that. The Halifax source, used by the *Daily Mail*, is one of the most authoritative sources on house price rises at local level. The Minister knows perfectly well that boroughs across London will be badly hit because their house prices have risen far above the national average.

**Mr. Pickles:** Will the hon. Gentleman give way?

**Mr. Davey:** No, I am engaging with the Minister. I will come to the hon. Gentleman in moment.

Many people are concerned—because they have seen from what happened in Wales—that if they move from a band D to a band E as a result of revaluation, they are likely to face a 22 per cent. increase in council tax. When I visited Cardiff the other week, I met a pensioner on the basic pension whose house had been revalued, and had moved up three council tax bands as a result. She now faces an increase in her council tax of more than 40 per cent. That is why people are worried about revaluation. It is not good enough for the Minister to say, before the general election, that what has happened in Wales will not happen in England. People need to know more about this very significant decision.

The problem is made worse by the double whammy effect of the grant system—

**Mr. Pickles:** Will the hon. Gentleman give way?

**Mr. Davey:** I am worried about the hon. Gentleman's health, so I will give way to him this time.

**Mr. Pickles:** I could not be happier. Will the hon. Gentleman say why, if he feels so strongly about the matter, he, with his Liberal Democrat colleagues, twice voted in favour of the extra bands? Was that a mistake? Did they not mean to do it? What are the Liberal Democrats' policies in this matter?

**Mr. Davey:** Time and again, Liberal Democrat Members have voted in this House to scrap council tax altogether. I am sure that the House would be more interested to learn the Conservative party's plans for

council tax reform. Conservative Members talk about revaluation and an unfair council tax, but despite many nods and winks, we do not know what their policy will be at the general election. My party has put its policies forward again and again. We want to scrap council tax, stop the revaluation, and introduce a fair system of local income tax.

The final problem with revaluation is storing up huge difficulties. If a council's council tax base increases above the national average, that council will lose grant. That is the double whammy that has hit Wales, and the same thing will happen in England. Councils in London, the south-east and the south-west, in particular, will have council tax bases way above the national average, according to the new figures. As a result, their grants will be cut significantly and council tax will have to rise.

We need reassurances that the one-off increases in the pre-Budget report will become permanent, that the concerns about the dedicated school grant will be dealt with, that the council tax revaluation will be dropped and that council tax itself will be replaced. Otherwise, although the Government may survive this year's round of council tax increases, they will be storing up huge problems for the future.

6.32 pm

**Mr. Bill O'Brien** (Normanton) (Lab): We have listened to the hon. Member for Kingston and Surbiton (Mr. Davey) make his presentation for 25 minutes. I was waiting to hear what the Liberal Democrat programme would be if that party ever had the chance to introduce a local income tax, because that is what people want to know. Will parish, district and county councils, as well as the metropolitan authorities, levy the local income tax?

In my area, the parish and town councils would raise the tax, as would the police and fire authorities and the district council. Is that what the Liberal Democrats propose as a mechanism for raising local authority revenue? If so, it would cause panic. People would not understand what the Liberal Democrats were trying to achieve. In 25 minutes, we heard nothing about the party's policy in that respect.

**Matthew Green:** There is plenty of evidence about our policy, if the hon. Gentleman wants to read it. All the bodies to which he referred levy council tax already, and they could therefore also levy a local income tax. That is what happens in America, most of Europe and most industrial countries around the world. The Liberal Democrats did not invent local income tax. Many countries around the world use it already.

**Mr. O'Brien:** The difference is that it is clearer to use a property tax to raise money for parish and town councils, and for police and fire authorities, and so on. In contrast, a local income tax would mean that local people would be asked for details by all the bodies whose services they use. That approach would not be accepted by the electorate.

**Matthew Green:** Will the hon. Gentleman give way?

**Mr. O'Brien:** No, I must move on.

I pay tribute to my right hon. Friend the Minister for the award that he has made to local government, which builds on what has happened in the past. During 14 years in opposition I served on the Front Bench as spokesman for local government and the environment, and then for Northern Ireland. During that period, we defended local services and local government against the cuts that the Tory Government introduced. My right hon. Friend the Minister and his Department have had to build from a low base to maintain and improve services, and to introduce additional services. The Tories' last measure before the 1997 election was to introduce nursery vouchers, and the Labour Government's first action was to scrap them. That was a wise move, because the vouchers were unfair.

The Tories cut social services and highways maintenance. I served on the Standing Committee that considered the Bill to introduce the poll tax. Mrs. Thatcher declared that she would abolish the rating system and introduce the poll tax. It was implemented for 12 months, but caused great anxiety, so a lot of public money was spent on scrapping it. That is the Tories' record on local government. My right hon. Friend has made local government credible with improved services. People in local government now understand where their resources come from and what they are provided for.

I draw my right hon. Friend's attention to the environmental protection and cultural services block, because more consideration should be given to those services. The EPCS block provides the majority of funding for many local priority services that deal with liveability, antisocial behaviour, street lighting, libraries and waste collection and disposal. Local authorities want to develop those important services. The Government have recognised the importance of those priorities and it is vital that adequate resources are provided to support that agenda. The EPCS block receives the lowest funding, and I plead with my right hon. Friend to reconsider that when the formula is reviewed, because the services involved are important.

I also draw my right hon. Friend's attention to the neighbourhood renewal fund, which, with the co-operation of the Treasury, has provided many resources to help deprived areas. It should continue to contribute to our strategic objectives of improved funding for employment, education, crime prevention, health, housing and environmental matters. In areas such as the former mining community that I represent, where closure of collieries has led to deprivation, the neighbourhood renewal fund needs to continue. It is one way to tackle social exclusion and help deprived areas. We should continue to support deprived communities through the neighbourhood renewal fund.

A further point concerning areas of deprivation is the fact that we are subject to data loss whereby authorities lose resources when people move out of the area. The population is reduced, but the people who are left are usually the most vulnerable and therefore most in need of care and attention. The settlement should take that data loss into consideration, particularly in metropolitan areas, which sustain most of the loss. My right hon. Friend the Minister is aware that SIGOMA has constantly made representations on that issue.

*[Mr. O'Brien]*

I draw attention to the "Balance of Funding" report published by my right hon. Friend, who also set up the independent inquiry into local government funding by Sir Michael Lyons. That review's terms of reference are such that local government will benefit when the report is published later this year. One of the problems facing local government, the effects of which we have witnessed in the distribution of resources and grant, is gearing. The Select Committee that considered the "Balance of Funding" report is convinced that gearing has a negative impact on local authorities because it distorts accountability and magnifies any weaknesses in the formula and the grant system, making the entire system less clear.

The Select Committee report accepted that gearing was a major factor in the grant system, making a difference of, on average, a 12.9 per cent. increase in council tax bills in 2003–04. Questioning of the Office of the Deputy Prime Minister has confirmed that there is no evidence that gearing has any positive effects on efficiency. I am pleased to note that in the ODPM report, the Government accept that gearing can cloud the accountability and transparency of local spending decisions. The possibility of abolishing gearing is to be welcomed, and I ask the Minister to ensure that there is no repetition of gearing in future.

There is also the question of the three-year rolling programme of grant for local authorities. The Select Committee made it clear that that would enable authorities to publish at least indicative budgets and associated local taxes for the same period. The Government are to be commended for that programme because it helps local government to plan the provision of its services.

Hon. Members on both sides of the House have referred to council tax. The Select Committee reported that council tax should be retained, provided that it and council tax benefits are reformed in line with other recommendations in its report. In addition, local authorities need greater freedom in the use of their other resources and the revenue that is collected at local level, to ensure that council tax payers are not exposed, as at present, to a large increase in annual bills. The Minister gave an assurance today that there would be a cap on large council tax bills. From the point of view of metropolitan authorities, SIGOMA considers that the award outlined by my right hon. Friend is a good award, from which the majority of local authorities throughout the country will benefit. I therefore commend the award to the House.

6.45 pm

**Mr. David Curry** (Skipton and Ripon) (Con): Listening to the debate, I am reminded of the dramatic monologue, "Albert and the Lion". Finding

"nothing to laugh at, at all",

everybody has been

"seeking for further amusement",

so we had a nostalgic trip down the tunnel of love that is represented by Mrs. Thatcher, and one or two rollercoaster rides on futuristic rebanding and revaluation. I thought I might be rather eccentric and speak about the settlement.

The first thing to say is that it is all a phoney war. There is not going to be a war this year about the settlement. Local authorities will come in uncannily at 4.9999 per cent., they will be able to get in under the threshold, and they will wave the tattered banner of Gershon in order to do so. It is a pretty unconvincing banner because it is a rather unconvincing piece of work. I shall be surprised if the Minister has to do more than utter the occasional mildly blood-curdling threat. The settlement is relatively generous and the reason for that is obvious. Both a national election and local elections are approaching, and the one thing that unites councillors and Members of Parliament is an anxiety to be able to continue in their current employment.

There is none the less a series of wrinkles about the settlement, which it is worthwhile examining. The Minister made a wonderfully Kafkaesque remark about the census: the Government would not apply the census because that might lead to redistribution. I thought the purpose of the census was precisely in order to decide how to distribute and redistribute funding. I can see the arguments for stability, but the Minister omitted to say that stability has a price as well, in the non-gain as well as the non-loss. As a result of not applying the new census data for the service-specific formulas, North Yorkshire county council has a loss of £3.4 million. The council may well appreciate the stability, but there is a cost because of the data not being applied.

There is also a wonderful underpayment for Westminster and Manchester. I served on the Standing Committee that considered the Identity Cards Bill. The Government told us about the potential individual cost of identity cards, based on the number of people who would come forward for them. I wondered whether that would be based on the same data as had led the Office for National Statistics to lose a significant part of Manchester and to miscount quite a large area of Westminster, in which case the cost might be actuarially somewhat different from that predicted by the Government.

The Government are obliged to pay the money due, but in order to do so they are taking back money that councils have already spent. In 2005–06, North Yorkshire will have to pay back £1 million from its 2003–04 spend, and in 2006–07 it will pay £1 million from its 2004–05 spend. That can come from only one place. If North Yorkshire were to post a council tax increase of 4.9 per cent., 0.6 per cent. of that would be to raise the funds to give to the Government to distribute to Westminster and Manchester because of the faults in the distribution system. It is curious that this rebate, as it were—this recapturing—has been applied only to the upper-tier authorities in two-tier areas, and the districts have got away scot-free.

The interesting thing about the settlement is that it is marooned between the Raynsford report and the Lyons report. I hope that it is the last in quite a long line of settlements promoted by the Minister, but for which in many ways I think he is not responsible. He is a very able Minister, but he works in a difficult environment. The settlements have been improvised, they are hole-plugging, and panic stations is written all over them. He has been talking about stability, but there has been absolute panic quite a large part of the time.

When the Minister says that the settlement is not manipulated to help Labour-controlled councils, of course he is dead right—it does not need to be. The previous settlements are the ones that were manipulated. This is based on the previous ones, for 2003 and 2004, and it follows the same arithmetic. He will recall the wonderful rumpus over education expenditure to which that miscalculation gave rise. The sad thing about that in many ways is that the much-vaunted stability has meant that the Government are now too petrified to change anything at all. The Government have offered a minimum education funding guarantee. They will centralise school funding, and given that the Home Secretary was previously the Secretary of State for Education and Skills, I wonder how long it will be before we have pupils under house arrest in order to secure the efficiency of the settlement.

I recognise that the Government have tried to help education and social services, but I agree with the hon. Member for Normanton (Mr. O'Brien) when he said that yet again the services that will experience the greatest stress fall under what is now called environmental and protective services, which do tend to be closest to the citizen. Ironically, it is just those sort of areas that the Deputy Prime Minister has been talking about in Manchester this week when he talked about clean, green, safe cities. The money to deliver that comes specifically out of the blocks that are under the greatest pressure in the settlement.

I am tempted to say that this settlement is as good as it gets. It might well be the best settlement of the decade. I say that because from now on the skies will be dark with the chickens of the Government's spending splurge coming home to roost. I suspect that whichever party wins the general election, the next settlements will not be as welcome as this one. The Minister said clearly that he did not expect to increase the yield from a rebanding and revaluation. I happily accept that, but of course it will be significantly redistributive as well. If, as he hinted, there is not merely an increase in the bands at the top, but there might well be a new lower band, and given the large number of properties that fall under that bottom band A threshold, particularly in, for example, the towns that have had quite a vocal representation here today, and which are part of the pathfinder projects, then the redistribution will be quite significant. I would not exclude the possibility that the Government might decide that they need to find some cash to throw at stabilisation at the upper ends of the bands to prevent too great a disruption in the system.

My hon. Friend the Member for Brentwood and Ongar (Mr. Pickles) was right to say that if we do have a regional banding there will be areas that outperform the region and where individual householders could find that they are moving up bands. As we all know, those who benefit tend not to indicate their gratitude, while those who are penalised tend to be vocal in their discontent.

I echo what my hon. Friend said about stability. We will get the Lyons report. I agree with the hon. Member for Sheffield, Attercliffe (Mr. Betts) about the business rate. There has been an inversion in the proportions of business rate and council tax towards local government funding. The structural reorientation of the business rate solved part of the balance, but it does not solve any part of the funding. We need to solve the funding as well as the balance. However, I do think that local government will look for stability. I understand that the Minister has said that the Government's latest wheeze is that the structures of local government will be voluntary ones, and that there will be no central prescription. I hope that that is the case. A facultative system where local government could decide whether it is in its interests to move to one system or another would be sensible. What matters most of all is having a predictable and clear funding flow that delivers accountability more realistically locally, and means that local government looks rather less as if it has been occupied by an army of occupation that is occasionally enabled to operate a form of token democracy.

I hope that this is the last of a line of improvised settlements. Once we have been batted about because of particular pressures, there will be an opportunity with the Lyons report to establish a basis for stability in the system. I hope that whoever wins the general election will regard that as their most urgent priority.

6.54 pm

**Mr. Lindsay Hoyle** (Chorley) (Lab): This is a very important debate, as we are talking about local government and its financing and future. I thank my right hon. Friend the Minister for Local and Regional Government for the 5.7 per cent. increase that he gave to Chorley, and I recognise that it is significant by comparison with what we have had for many years.

The history of Chorley is simple, however. Prudence was not born in the Treasury across the road; it was born in Chorley. Chorley has always been a low-spending authority, and it has prided itself on low spending, but that has always been its difficulty. Unfortunately, Chorley was not historically a large-spending authority. It saved money and, because it had good balances, it encountered problems with the Conservative Government. It was penalised for prudence in the past, and as it was a low-spending authority, it always had a low base to begin with. Tragically, whichever Government were in power, it never seemed to get its fair dues, and it was heavily penalised historically under previous Governments.

It is that problem that comes through today. A 5.7 per cent. increase is a huge amount of money, but on a small base it means only £370,000-odd in reality. The difficulty that I face, along with the local authority and council tax payers, is that the way in which the floors have been set means that £1,324,000 is trapped. That is the case because of three years in which the ceilings have been removed, but in which the floors have been set at a certain level and the money has never been allowed to come through.

Looking to the Minister, I need some good news for those council tax payers. I do not believe that they should have been penalised because the money has been withheld. People might not like the terminology, but that is the reality, and I am not on my own. There are six other districts in Lancashire, and a total £9 million is being withheld from those local authorities, along with the ability to set a fairer budget for council tax payers in Lancashire. Throughout the country, the total for the districts from which money has been withheld is only £29 million, which is an absolute pittance. The Department probably spends more on window cleaning over three years than the amount involved in giving the money to those districts.

*[Mr. Lindsay Hoyle]*

Even if the Minister cannot tell me now that we will get the money, I look to him to tell me that he will look at the formula that will release that money to ease the pressure on council tax payers in Chorley and the other districts in Lancashire and allow them to have the fair share that they would have had if the floor had been moved slightly. I am not asking for other local authorities to be penalised, although that argument might be used. I do not want to pick on other authorities, and the amount involved is a small one in the budget of the Department. Surely, there is a way of rectifying the situation not only for Chorley and Lancashire, but for the whole country. A total of £29 million is involved. Let us resolve the matter and ease the pain for the future of Chorley. It is only right to do that.

I therefore not only congratulate the Minister, but ask him to please look at the problem, not least for Chorley and the other Lancashire districts. The amount is £9 million for Lancashire and £29 million for the country. I know that that situation can be resolved. What we want is a green light from him in his winding-up speech and an assurance that he is willing to look at the problem when the Government reconsider the formula. That is the only fair thing to do by those council tax payers in Chorley, who should not be penalised for something that is not their fault, but is a historical problem that has arisen because of the Conservative party.

It was the previous Conservative Government who put in place that trap for us. They were unjustified in sweetening their own authorities around London. Whether it was Westminster, Wandsworth or wherever, the Conservative authorities were the flagship authorities that always got all the trimmings and extra presents going to local government. We were the ones who had nothing on the table when it came to Christmas, because unfortunately we were penalised. Let us put those wrongs right; we have the chance to do so, although it has been a long time coming. I hope that my friends the Ministers will take that point on board. Many hon. Members wish to speak, so I shall take no more time, except to say to my friends, "Please look after the good council tax payers of Chorley."

6.59 pm

**Sir Teddy Taylor** (Rochford and Southend, East) (Con): The whole House will wish to congratulate the hon. Member for Chorley (Mr. Hoyle) on being so kind to other Back Benchers who wish to speak, by making his effective point briefly. In view of the number of hon. Members who wish to speak, I hope that we will all try to do the same.

I wish to put a basic point to the Minister about which I hope he will think carefully: although everyone accepts that the local government settlement for 2005–06 is relatively generous, it is desperately unfair to Southend-on-Sea and other seaside towns in the south-east. Procedures have been applied irrationally and unfairly, and despite Southend's massive social problems it has been obliged to cut vital public services in the fields of leisure, recreation and social services.

The document detailing all-purpose authorities lists just under 50 authorities with a summary of their percentage increase in grant. As the Minister said, Wokingham gets a 13.2 per cent. increase. West Berkshire gets 11.3 per cent., as does Milton Keynes, and Peterborough gets 10.1 per cent. The obvious question is: what problems do those authorities face that Southend does not experience?

Southend is a seaside town with a multitude of social problems and many houses in multiple occupation, so we have more problems than most. For example, I heard this morning that we now have 310 children in the care of the local authority. Which of the authorities that I cited experience such a problem, in addition to the problems with asylum seekers that we face? So what is the percentage for Southend? It is 4 per cent., and as I said before, I challenge the Minister to find any other all-purpose authority throughout the length and breadth of England with a lower figure. The figure is the basic amount—as low as it can go—but the basic percentage is only part of a wider story.

We have been pursuing the question of the population level for years. Formulae have been based on the 1991 census, and Ministers have been reluctant to use the updated 2001 census figures because of the substantial changes that they could make to funding. In a letter to me dated 1 September 2004, the Minister for Local and Regional Government stated that he did not intend to use the 2001 census figure for the 2005–06 settlement. His reason was that that would provide stability and prevent big changes in funding. However, he has incorporated the basic census figures, but not the extent of the social problems detailed within that total.

The effect on Southend has been catastrophic. The 2001 census tells us that our population has gone down from 176,000 to 160,000, but the council and I think that those figures are wholly wrong. For a start, the 2001 census excluded many addresses, and even if we ignore that basic point, our general practitioner patients figures show that there are 178,000 patients in Southend, although the Government clearly ignore 18,000 of them. When we pursued those issues with census officials, they advised us that the numbers were all part of the margin of error.

Even if we accepted such a remarkable fall in population, which is certainly not accurate when one bears the number of asylum seekers and houses in multiple occupation in mind, the council is really infuriated that the details of the new assessed population are not taken into account in the funding formula. Even if we assume that the 2001 figures are totally correct, which we do not, they show that there has been a big increase in our elderly population, which in itself should justify an additional £1.5 million in the funding formula. How can it be fair for the Minister to bring in the basic figures, which have led to us facing a massive reduction, but not incorporate other changes, such as the increase in the elderly population that should have given us an extra £1.5 million? It seems unfair and irrational to use the 2001 figures but not include the details.

Then we have the consequences of the unfair settlement. If a council was given a bad settlement, the logical thing would be to look for savings across the board. If the Minister looks at the figures, he will see that Southend has a budget of £197 million and spends £97 million—about half the total—on education. That is an area that the council would obviously consider

cutting. However, the Government did not tell it, "You can cut back on that and other areas", but instructed it that although its increase is £5.1 million, it must spend an extra £5 million on education because of ring-fencing. As the council is obliged to spend that sum of money on education, in effect there is no increase at all. What about social services—again, a huge spender? How on earth can the council cut down on social services, given the multitude of problems faced by Southend and other seaside towns? Furthermore, some spending increases cannot be avoided—for example, the financing of pension funds for the staff, which involves an extra £1.5 million. There are many other such items.

The Minister is obviously enjoying the conversation that he has been having with his neighbour during the past six minutes while I have been speaking, but I hope that if he cannot listen now, his officials will at least ensure that he reads about this and considers it carefully. Incidentally, although I asked for a meeting to discuss it, I was told for the first time in 40 years as a Member of Parliament that that was not possible.

The one and only area where the council does have freedom is in leisure, recreation and arts. That has necessitated an horrendous and cruel list of cuts in vital services for the community. There are plans to close five community centres, some of which provide vital services in deprived parts of the town, and to close the Palace theatre. There is a significant and detailed plan of 12 separate cuts. As I am sure that my hon. Friend the Member for Southend, West (Mr. Amess), who attends to these matters vigorously at all times, will confirm, the council does not want to go ahead with these proposals, but what on earth is it meant to do if it wants to stay solvent?

I appreciate that drawing up complex funding plans can be difficult, but I hope that the Minister will accept that his proposals are brutally unfair to Southend and its people. If he had time to come and visit us, he would realise that it is an area where more help is required and the needs of the community are very substantial.

The Minister said at the beginning of his speech that he intends to bring forward some revised plans to take into account certain changes. He should bear in mind the fact that the census has denied us £1.5 million to which we are entitled and that Southend, like other seaside towns, faces massive social problems. I hope that he will think again about a settlement which, although generous overall, has done a brutally unfair service to Southend-on-Sea and caused great distress to its people, including borough councillors of all parties.

7.8 pm

**Richard Burden** (Birmingham, Northfield) (Lab): I should like to say one or two things about the impact of the settlement on Birmingham and what it is likely to mean for my constituency, then draw a few conclusions in relation to the national scene.

I welcome the settlement, which is very good for Birmingham. We have received a 6.73 per cent. increase in formula grant, which is generous by any stretch of the imagination, and is one of the better settlements in the country. Like every other town undergoing rapid change, I am sure that we could use more, and I reserve my right to come back in the future and say that we want it, but we must recognise what the Government have done for Birmingham on this occasion—in fact, not just on this occasion but following year-on-year above-inflation increases.

We wait to see how the Conservative and Liberal Democrat coalition that now runs Birmingham reacts to this settlement. Given what Liberal Democrat Members have said on several occasions, including today, and knowing the views of some Liberal Democrats in Birmingham, I cannot understand how they have accepted the Birmingham leadership taking them into bed with the Tories, but I guess that is up to them. The focus is now on their management of Birmingham city council. They cannot claim that they have had a bad deal from the Government, though perhaps they could explain what over £4 billion of cuts under a Conservative Government would mean for them.

I want to consider youth facilities and play facilities for younger children and the amount of money that is available for them. In my constituency, a recent report was made to the district committee—a pioneering new structure that the former Labour administration set up to devolve power and influence in Birmingham. The report highlighted what we already knew: there are not enough play facilities in my constituency. When I talked to residents on estates throughout Northfield, they emphasised the importance of improving provision for young people. We have set up a youth commission locally, with cross-party support—people of good will from different parties in Northfield all support that—to ask young people what they want.

The previous Labour administration secured an extra £8 million of Government money for meeting various performance targets, and £7.3 million of that sum was allocated to improving facilities for young people and estate clean-up projects. It worries me that, in the past few weeks, the Tory-Liberal Democrat coalition that now runs Birmingham has decided to cut that £7.3 million from those priorities for my constituents. It claims that it has done that because it has to cope with an overspend in the social services budget.

It is true that social services in Birmingham have longstanding problems. That is not a party issue; even the former Labour administration had a long way still to go to tackle them. However, party is important when it comes to the need to exercise proper financial monitoring and financial control throughout the year and not simply panic half way through or towards the end of the year and end up cutting the money from youth facilities, which the Tory councillors in my area—we have no Liberal Democrat councillors—say that they want to increase. The administration in Birmingham must therefore answer some questions. It cannot complain about lack of money, but it must answer questions about its management of the council.

I want to consider the way in which spending by local authorities, other agencies and the Government translates into, for example, neighbourhood renewal. The first speech that I made in this place many years ago was about the fact that, in my constituency and many others, deprived areas exist alongside areas that are not so deprived. Consequently, when figures for deprivation are compiled at ward level, averaging occurs and so-

*[Richard Burden]*

called pockets of deprivation miss out. In Birmingham, where there are wards of 17,000 to 20,000 people, the pockets are pretty large.

I am pleased that, last year, the basis for calculating deprivation changed to become much more local through Government action on what are called "super-output areas". Let me make a plea to my hon. Friend the Under-Secretary: can we think of another name? No one understands what the term means. However, changing the basis for calculation means that issues can be addressed and it is important that they be tackled in the context of local policy. Pockets of deprivation should be identified and their needs met when policy is decided locally. Birmingham is simply too big to try to do everything centrally and dealing with deprivation locally is therefore especially important.

Devolution has made a good start in Birmingham. There are local projects, such as safer neighbourhood projects, in my area that have an impact on tackling crime and antisocial behaviour. However, the money needs to reach local level to back up those good initiatives.

Much estate development work is happening in Northfield. In the medium term, the prospect of that is good. However, in the short term, people cannot get their repairs done. It is galling for someone who sits on the edge of an estate and sees that another person's home is scheduled for redevelopment to know that their home is not and to be unable even to get repairs done. More local control of matters such as repairs budgets is important and of more than academic significance. I ask my hon. Friend to consider what the Government can do to encourage that process locally.

I have written to the city council about all the issues that I have raised but I ask my hon. Friend the Under-Secretary to consider how the Government can encourage such processes. The grant figures that have been announced and that we are debating are good, but the way in which they are used locally is vital. We need to tackle that in Birmingham.

7.14 pm

**Mr. Hugo Swire** (East Devon) (Con): There seems to be a growing consensus, at least on the Government Benches, that this is a fair and generous settlement. Perhaps that is to be expected, but it is not a sentiment that I acknowledge or recognise; nor is it shared by my constituents in East Devon—*[Interruption.]* The Minister says that it is a shame. It is; or perhaps not, if we take into account what many of my councillors and constituents believe: that the settlement is merely the latest instalment in the Government's determination to drive through a regional agenda and to undermine local government infrastructure so that it becomes unpopular. Perhaps they could then replace it with a unitary authority in advance of their regional programme.

East Devon district council has been debt free for many years, with capital reserves of about £20 million. However, it is now being encouraged to spend that money. The Government do not want any council to be debt free, because they could not then insist on that council complying with their ever increasing number of directives.

We have heard a lot about a replacement for council tax, and that is an entirely legitimate discussion to have. I commend any Government who want value for money. Building on the Gershon report, the James report has also identified great waste. All Governments have a duty to ensure that they deliver value for money to the taxpayer. I have looked into the possibility of a local income tax. On the surface, it would have some attraction in a constituency such as mine with very high property values and a high pensioner population. However, on reflection, and after much study, I have concluded that any fair means of raising local council tax has to retain an element of property valuation.

Over the past seven or eight years, there has undoubtedly been a shift from central Government providing the funding for local government to local government having to find increasingly large amounts for itself. The Government's announcement that they are likely to cap local councils is only to be expected in the run-up to a general election. No Government holding an election in May or even sooner would want to have it on the back of council taxes increasing as they have done in the past few years.

Furthermore, capping involving a blanket figure is manifestly unfair. East Devon is the lowest-charging council in Devon. To apply the same maximum increment to East Devon as to the others will continue to make the gap in its overall receipts much wider, while its statutory responsibilities remain exactly the same as those of any other council. Where would be the incentive to be prudent and to deliver value for money, as East Devon does? It has the lowest council tax in Devon, as I have said: the average charge for a band D property is £102.09, compared with the county average of £124.33. Where would be the incentive for a district council to behave in a manifestly honourable way, and to deliver good value for money? The answer is that there would be none. Nothing in the settlement—or nothing that we have heard this evening—would contribute towards remedying that.

East Devon has been judged by the Audit Commission, and it achieved a good rating while continuing to give the best value for money. However, the council tax now pays for only about 23 per cent. of the £24.5 million needed to provide the necessary services. As the Government have withdrawn their funding, local authorities such as East Devon have been boxed in, in terms of finding the deficit funding. They are faced with a simple equation. In order to keep the increment down, they have to reduce what they do.

This Government over the past few years have increased the statutory requirement on local government year on year. Local government has no option but to perform to those new targets. What does that leave? It leaves a district council faced with having to cut those non-statutory responsibilities. That is what is happening in East Devon: the double whammy of a council tax increase and a cut in services. I do not blame the council for that—it has performed extremely well. It provides good value and has some exciting projects such as the regeneration of Exmouth and Seaton, and bringing its remaining housing stock up to standard to meet the statutory requirement.

All those things are positive, but equally the Government must accept responsibility for the crisis that they find themselves in. I shall use technology as an

example of the additional work that councils have to do without receiving financial compensation for doing it. The Government require East Devon to invest between £4 million and £5 million by the end of this year, but what is their contribution? It is £1 million, so the deficit in respect of that requirement alone will be £3 million or £4 million. Also, the cost of recycling in East Devon next year will be about £1.5 million. Where will that come from?

On reflection, what do we face? The council has the lowest grant in the country, and 75 per cent. of the council tax money, which we have been using to prop up our precept over the years, is to be confiscated from East Devon and redistributed around the country. That is the crisis we face.

I want quickly to touch again on the Liberal Democrat plan to replace council tax with a local income tax. I was intrigued to see a letter in the *Express and Echo* of 25 January from Councillor Margaret Rogers, a Liberal Democrat councillor in my constituency, pointing out that I have misunderstood the Liberal Democrat plans for a local income tax and inviting those taking part in the Sidmouth Town ward by-election to

"try to understand the correct facts about local income tax."

Well, I think they did understand those facts, because 57 per cent. of them voted for a Conservative councillor. That proved to Margaret Rogers that they understand the Liberal Democrat alternatives.

It is worth pointing it out to the Liberal Democrats that they cannot have it all ways. They cannot say they want to abolish council tax and yet vote on two separate occasions to reband houses under the council tax.

There is much that I want to say—much that I hope to have another opportunity to say—about the unfair settlement that we face, but other hon. Members wish to speak. I urge the Government, therefore, to look again at those councils that are delivering good value for money, such as East Devon.

7.23 pm

**Mr. Gordon Prentice** (Pendle) (Lab): Other colleagues want to speak, so I shall be brief. Although I do not want to be the only person to spoil the party on this side of the House, there are certain things that I want and need to say.

The 6.6 per cent. increase for Pendle is welcome and we need it. Pendle is a deprived area, sitting next door to Burnley, with a huge number of social problems that need to be tackled, but our difficulty goes back to the introduction of the new formula grant system in 2003–04. It has produced such a situation—my hon. Friend the Member for Chorley (Mr. Hoyle) outlined this—that money that should come to Pendle and other district councils in Lancashire, and indeed across the country, is being withheld.

As the right hon. Member for Skipton and Ripon (Mr. Curry) said, the introduction of the new formula grant system has a purpose. That purpose is to redistribute resources to those parts of the country that need the extra money. The perversity is that, three years into the new system, a lot of resources that should come to local authorities in Lancashire such as Pendle, Chorley, Burnley and Hyndburn have been withheld. We are talking about significant sums, and we are entering the third year of transition. Pendle borough council is waiting—I do not know whether we will ever get it—for £1.8 million that would have come to it had the new formula grant system been applied. My hon. Friend the Member for Chorley spoke earlier about the £1.3 million that would have gone to Chorley; my hon. Friend the Member for Burnley (Mr. Pike) spoke earlier about the £1.5 million withheld from Burnley, with all its problems; my hon. Friend the Member for Hyndburn (Mr. Pope) spoke about the £1.5 million withheld; and so it goes on.

Those are significant sums. For a small district council such as Pendle, whose budget comes in at about £13 million, £1.8 million is significant, so while we celebrate the 6.6 per cent. increase, we want to know when we will get the money that was promised to us as a result of the move over to the new funding system. It is all a question of fairness and giving local authorities the resources that they need to tackle the problems that we face.

The Under-Secretary will say, I am sure, that there is not a big pot of cash somewhere that we can raid. He will say, I am sure, that the money must be used to ease the pain of the losers under the new system, and that we must let the losers down gently. The Minister for Local and Regional Government told us at the beginning of the debate that one of the losing authorities is Preston in Lancashire. It is totally unacceptable, however, that local authorities such as Pendle, Chorley and Burnley—for God's sake—should be bailing out local authorities such as Preston. That is the reality. It is the Government who should ensure that local authorities such as Preston do not go into financial free fall, not local authorities such as mine which should gain from the new financial system.

I want to finish on the Liberal Democrats and local income tax. My hon. Friend the Member for Normanton (Mr. O'Brien) tried to coax some information out of Liberal Democrat Members about how that would work in practice, but got absolutely nowhere. Local income tax is an idea that is shrouded in mist. When we try to get details about how this local income tax would work in practice, those details are not forthcoming. We heard today from one Liberal Democrat Member that all sorts of tiers would be able to vary the rate of local income tax—not just county councils or district councils, but parish councils.

**Mr. Edward Davey:** Will the hon. Gentleman give way?

**Mr. Prentice:** Not unless the hon. Gentleman wants to correct that for the record. That did not relate to council tax but specifically to local income tax. The cost of administering such a byzantine system is ludicrous. If the hon. Gentleman, who calls himself an expert on such matters, wants to intervene and tell me that I am wrong, I would welcome that.

**Mr. Davey:** I am more than happy to intervene. We have published a huge amount of details on local income tax and how it would work, dealing with all those issues. The hon. Member for Normanton (Mr. O'Brien) refused to allow us to intervene to answer the question that he posed. The hon. Gentleman is therefore completely wrong, again.

**Mr. Prentice:** That was a complete non-answer. I invite the Liberal Democrats to initiate an Opposition day debate on local income tax. Let us discuss it in detail then.

Let me return to the point I made earlier about the sums that have been withheld as a result of the introduction of the new grant system. My hon. Friend the Member for Chorley said that the cost would be only £29 million nationwide. That is de minimis in the context of the Government's budget: it is absolutely nothing. To right the injustices in Lancashire, a derisory £9 million would be required.

I do not know what the answer is. I know that my right hon. Friend the Minister has a busy schedule, but like the hon. Member for Rochford and Southend, East (Sir Teddy Taylor) I tried to arrange a meeting with him and was astonished that his diary was so full that he could not meet me—along with representatives of the six local authorities in Lancashire that are wrestling with this problem. I hope that the Under-Secretary will be able to give some comfort to local authorities such as Pendle that need resources that are being unfairly withheld from us.

7.31 pm

**Mr. David Amess** (Southend, West) (Con): A year ago I initiated an Adjournment debate entitled "Southend Borough Council (Financial Settlement)", to which the Under-Secretary replied. Sadly, many of the points that I made then are still pertinent this evening.

Southend borough council is an extremely well run local authority, and I pay tribute to all the women and men who work for it, but unless the Government do something to help it in its present financial crisis, services will be decimated in the town of Southend—and let there be no doubt that if that happens the Government will be entirely to blame.

**Mr. Raynsford:** That is total nonsense.

**Mr. Amess:** It is not. I will come to the Minister's remark in a moment.

When I first arrived in Southend, the authority had decided to become unitary. At first that worked extremely well financially, but unfortunately—as the Minister of State knows only too well—it has recently not been to the authority's financial advantage.

In Southend we had many brilliant leaders of our council. Norman Harris and Norman Clarke, for instance, are well known as local government pioneers. The leaders who have followed those two gentlemen are every bit as able, but because of the Government's continual interference with local government, they have not been able to develop Southend as they would have liked to. Last year Southend borough council had to make savings of £7 million to bring spending levels down to the formula spending share, and council tax increased by 6.8 per cent.

I would have expected the Under-Secretary to listen to the points I made a year ago about the census. If the Minister of State had allowed me to intervene when he opened the debate—

**Mr. Raynsford** *indicated dissent.*

**Mr. Amess:** The Minister of State is wrong. I am the only Member to whom he did not give way. All I wanted to ask was, would he please meet a delegation from Southend to discuss issues relating to the census? In the 22 years for which I have been a Member of Parliament—I have listened to many of his speeches—it has always been common courtesy to see delegations led by Members of Parliament. I think it very regrettable that he is not prepared to meet a delegation from Southend to discuss the census.

**Mr. Raynsford:** I am sorry that the hon. Gentleman has not understood something that I have explained on several occasions. In a year in which there is no change to the formula and it is therefore not possible to respond for requests for changes of the kind that he and his colleagues sought, it is not right for us to see delegations from some areas and not others. When we accept delegations, we always accept the principle that any local authority that wishes to come and see us is free to do so. We made it quite clear this year that because there were no formula changes we would not see individual delegations from individual authorities but would accept delegations from bodies representing local government—and we did see members of a body representing unitary authorities on which Southend was represented. It is simply not the case that we have not listened to Southend's views.

**Mr. Amess:** It certainly is the case that the Minister of State has not listened, because he is pre-judging the meeting that would take place. During his opening remarks, he agreed to meet one of his hon. Friends on a specific issue. I ask him to reconsider his decision not to meet a delegation from Southend, because the impact of having 20,000 fewer people on the census than there actually are is tragic in financial terms.

The Minister of State may laugh, but there is nothing funny about the issue. I represent a huge number of elderly people. In fact, my constituency has more people aged between 100 and 120 than any other—*[Interruption.]* Sorry, between 100 and 112; I was slightly exaggerating. Florence Reeves is the eldest.

Unless the Minister of State meets a delegation and listens to what we have to say, there will be further cuts of £5 million, which will mean redundancies, restructuring of services, withdrawal of free school transport to voluntary-aided schools, with the exception of the transport for disadvantaged children, a reduction in school uniform grants to children from disadvantaged families, closure of the Palace theatre, closure of community centres, closure of a mobile library, a reduction in park ranger services, a reduction in grounds maintenance, the withdrawal of all bus route subsidies for elderly people, and a 3 per cent. increase in charges for Southend borough council services.

It actually gets worse than that. Because there is likely to be a council tax increase of over 9 per cent. and the Government will cap it, there will have to be another £2 million of cuts. A number of libraries will be closed. The boat patrol will be cut. There will be a further 2 per cent. increase in charges for Southend borough council services. All non-statutory services will be abolished and there will possibly be even more redundancies.

**Mr. Raynsford** *indicated dissent.*

**Mr. Amess:** It is no good the Minister of State shaking his head. I have been overwhelmed by the number of local residents who have made telephone calls. There has been a rally. I have received umpteen letters. Misery is being piled on the good residents of Southend because the Government will not listen to the points that the local authority is making about the census. I ask the Minister of State not to behave churlishly and to reconsider meeting a small deputation.

7.38 pm

**Mr. Tony Clarke** (Northampton, South) (Lab): The need for brevity will perhaps lead me to be less courteous than I would like to be in my comments, but I start by congratulating my right hon. Friend the Minister and his team on delivering the eighth consecutive inflation-plus rise to local government since the Government came to office. I say that with all sincerity. Those of us who served in local government before coming to the House remember the rises below inflation that were delivered year on year to local government by the Conservatives. However, I say to him sincerely how dissatisfied we are in Northampton with the settlement. He will remember that when he gave the figure in November, I questioned his language because he said that he had listened very carefully to the needs of those in growth areas, yet he delivered to Northampton borough council a settlement of 2.7 per cent., compared with settlements in neighbouring districts of 10.5 per cent. for East Northamptonshire district council and 7.4 per cent. for Wellingborough borough council. There seems to be an imbalance between the amount given to them and that given to Northampton borough council, which will have to take on a lot of that growth.

I blow to pieces the assertion of the hon. Member for Brentwood and Ongar (Mr. Pickles) that this is some sort of class war or that we are taking a partisan approach. I am here representing—or trying to—the needs of a Conservative-led administration in Northampton not because it deserves it, but because it is unfair that it be required to cut back substantially on the services that it offers.

I take the point made earlier that rather than looking for savings across the board, local authorities tend to go just for the big figures in the hope that they can cut out the fat. Conservative-led Northampton borough council is making a right hash of trying to ensure that it achieves the figure that it is supposed to achieve. It is making some incredible mistakes, such as offering its leisure centres to private management, with no thought as to whether anybody wants to purchase them. That is supposed to be achieved before March, but we all know that it will not be possible. It is increasing car parking charges, increasing charges for leisure services across the board and increasing cemetery charges by 10 per cent., which proves that even the cost of dying goes up under a Conservative-led council.

There is a further staggering initiative that I did not believe when I first heard it. The council is introducing a £12 charge for the collection of large items from outside people's houses, such as fridges and furniture. I suppose that there is nothing wrong with that in itself, although it should be noted that an increase from zero to £12 is huge. The council says that those who pay the £12 can have their large item picked up within a week, but only last week it announced that dealing with fly-tipping was one of its priorities and that any fly-tipped item would be picked up within 24 hours. So under a Conservative-led council, lawful citizens of Northampton can pay £12 to have their items collected within a week, while others can dump them outside, phone them in as fly-tipped and have them picked up within 24 hours. That is the level of competence that we are dealing with in Northampton, against the backdrop of a very poor settlement. *[Interruption.]* It is a Conservative-led council, under which the cost of dying goes up by 10 per cent.

I want my right hon. Friend the Minister to take this issue seriously. In November, the Lords Select Committee on the West Northamptonshire Development Corporation looked very seriously at the Office of the Deputy Prime Minister's record in consulting on the imposition of an urban development corporation for west Northamptonshire. We are having a hard time convincing our electorate that it is good for them, and it is even harder to do so when we are asked to deliver growth against the backdrop of a 2.7 per cent. settlement that is in no way adequate for what is the largest non-unitary council in the country. It should be unitary, and the right hon. Member for Suffolk, Coastal (Mr. Gummer)—he is not in the House today—admitted that the previous Conservative Government made a mistake in that regard. I ask my right hon. Friend to start correcting some of these wrongs. Let us make sure that Northampton does become a unitary council and that it can deliver growth. But let us also ensure that the Government and the ODPM take seriously the need to treat us fairly. Then, we can bat on their side, rather than suggesting that the figure granted to us is wrong.

7.43 pm

**Mr. Michael Foster** (Worcester) (Lab): I am grateful for being called, Madam Deputy Speaker, and grateful to my colleagues for being brief, thereby enabling me to be the final Back-Bench contributor this evening. It would be churlish of me not to congratulate the Government on another generous settlement for Worcestershire this year. I do not want my comments on what I regard as an inconsistency in the local government funding formula to be taken in the wrong way. I want to tackle the long-standing issue of the area cost adjustment, which my colleagues on the Front Bench know all about. The Government have not yet dealt with it, and it is causing much disquiet among my constituents.

I want to deal briefly with how this inconsistency arises by looking at the example of the education formula spending share. The EFSS has an element of top-up under the category of deprivation, and the three deprivation factors used—income support-level claimants, low-achieving resident ethnic minorities, and working tax credit claimants—are all residence-based. However, in calculating the area cost adjustment, instead of using average earnings according to a residence-based criterion, a workplace-based criterion is used.

What does that mean for my constituents? Some of the deprived, low-earning areas in the west midlands conurbation rightly qualify for additional top-ups for deprivation, but some of them also qualify for a top-up

*[Mr. Michael Foster]*

for high earnings under the area cost adjustment scheme, because the Government use work-based qualifications to assess average earnings.

How the system hurts Worcestershire so much can be seen in the latest local council figures, particularly in the comparison between residence-based earnings and work-based earnings in the west midlands region. Unsurprisingly, Solihull is the highest on both the residence and work-based criteria and receives the area cost adjustment. Warwickshire is the second highest on residence-based earnings, third highest on work-based earnings and also receives the area cost adjustment. Worcestershire is the third highest authority with respect to residence-based earnings, but only the eighth highest when it comes to workplace earnings and it does not qualify for area cost adjustment. It is the inconsistency between residence-based qualifications and workplace-based qualifications that I want the Government to address by making changes to the funding formula.

What adds insult to injury is the fact that some areas within the west midlands conurbation have lower earnings on the work-based criteria than Worcestershire—in theory, they should not qualify for area cost adjustment—but because the Government recognise the large grouping of the west midlands conurbation, those areas end up benefiting from the area cost adjustment, even on the flawed basis adopted by the Government.

In conclusion, I am grateful for the opportunity to make a brief comment on the area cost adjustment and I urge the Government to look carefully at the Blanchflower-Oswald report on area cost adjustment. When the changes are made, I urge the Government to consider carefully their impact on places such as Worcestershire, which seem to suffer on both the work and residence-based criteria for local government funding.

7.46 pm

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope):** We have had an interesting and lively debate, though we have occasionally witnessed what I think could be described as tired and emotional interventions from the Opposition Whips. We have, I think, dealt with them. We have heard a variety of views about the adequacy of the total grant settlement proposed for next year.

The views expressed have included a welcome from my hon. Friends the Members for Sheffield, Attercliffe (Mr. Betts), for Chorley (Mr. Hoyle) and for Normanton (Mr. O'Brien), who all referred to a "generous" settlement for the forthcoming financial year. The right hon. Member for Skipton and Ripon (Mr. Curry), who is no longer in his place, described it as the best settlement of the decade—and we have not yet reached the end of it, Madam Deputy Speaker, so we are clearly doing extremely well. I am pleased to see that our debate on the Government's substantially generous and good settlement for local government has, perhaps with only one exception, been positive. We want local government to provide better, more efficient and more effective services in the next financial year.

We have also heard Members propose some novel and ingenious methods for distributing the total differently. The area cost adjustment was mentioned a few moments ago. Other subjects mentioned included census figures, amending reports, the question of stability versus turbulence, redistributing rebates and even a discussion of super output areas and pockets of deprivation. Interestingly, if not perhaps coincidentally, the changes advocated by different Members would benefit their own constituents and their local authorities. That is par for the course.

It always amazes me that Conservative Members stand up and demand more money for their councils at the same time as supporting a manifesto commitment not just to freeze spending on local government, but to make massive cuts of some £4.8 billion to the Office of the Deputy Prime Minister budget.

**Mr. Pickles** *rose—*

**Phil Hope:** Let me remind the hon. Gentleman before he stands up that we have had interventions from Tories such as the hon. Members for Altrincham and Sale, West (Mr. Brady), for Rochford and Southend, East (Sir Teddy Taylor), for Beckenham (Mrs. Lait), for Runnymede and Weybridge (Mr. Hammond) and for Upminster (Angela Watkinson), the right hon. Member for Skipton and Ripon, the hon. Members for East Devon (Mr. Swire) and for Southend, West (Mr. Amess), all of whom have complained about insufficient funds for their local councils. It is entirely acceptable for right hon. and hon. Members to champion the councils in their constituencies, but they cannot do so while at the same time supporting a manifesto commitment that would clearly cut funding to their own councils.

**Mr. Pickles:** The Minister must be clear about Conservative policies. We are saying, clearly and unambiguously, that we will protect education, health and the police service. In addition, we guarantee that local authorities will get, at the very minimum, an increase that will protect them against inflation. On top of that, we have identified £1 billion in savings that local authorities will be free to use as they choose. Councils will be removed from the shackles of control that the Government impose on them.

**Phil Hope:** We have just heard an Alice in Wonderland contribution from the hon. Gentleman. His fantasy world will not be tolerated in this House. My hon. Friend the Member for Sheffield, Attercliffe specifically asked about waste and housing. The Opposition are proposing cuts of £35 billion in public services, part of which is a cut of £1 billion in housing.

**Mr. Swire:** Will the Minister give way?

**Phil Hope:** That would mean fewer affordable homes for the sons and daughters of all constituents in London and the south-east.

**Mr. Swire:** Will the Minister give way?

**Madam Deputy Speaker (Sylvia Heal):** Order. The Minister will indicate when he is willing to give way.

**Phil Hope:** I will give way to the hon. Gentleman, as I said earlier that I would do so.

**Mr. Swire:** I am grateful to the Minister, as he mentioned me in his list of Opposition Members. Does he understand that if the Government stopped insisting that local councils must meet so many targets, and if they also abandoned their policy of taking 75 per cent. of capital receipts from the sale of remaining housing stock, East Devon district council would not need any more money?

**Phil Hope:** I may be wrong, but I think that it is the Conservative party's policy to sell off housing association stock under the right-to-buy scheme. That would strip out all affordable housing for people on low incomes. The hon. Gentleman cannot make an intervention like that and think that he can get away with it.

The Opposition ask for money and then whinge about council tax rises. I remind the House that, on average, Tory councils raised council tax last year by 5.4 per cent. That is in sharp contrast to the rises imposed by Labour councils of an average of 4.7 per cent. For far too long, Tory councils have hiked council tax and then sent their local MPs to Parliament to blame the Government. Neither we nor the electorate are fooled. Opposition Members would be better advised to use their time persuading their authorities to keep council tax levels down.

I turn now to the Liberal Democrats. I was interested to hear the hon. Member for Kingston and Surbiton (Mr. Davey) say that the Labour Government have made Britain a fairer society. I am grateful for that generous recognition of what we have done over the past eight years to support our poorest people. After that welcome contribution, however, he then trotted out more details of the Liberal Democrats' proposals to replace council tax with their uncosted, unworkable and unfair local income tax.

My hon. Friend the Member for Sheffield, Attercliffe reminded the House about the loophole in the Liberal Democrats' schemes that means that the very wealthy would pay no local income tax at all. My hon. Friend the Member for Normanton pointed out that, when challenged, the Liberal Democrats refuse to define their policies, which do not stand up to scrutiny. They do not want to be reminded of the policies that they would pursue because they do not want us to remind the electorate of the record increases in local government funding that this Government have made. In addition, they want to distract attention away from the record of Liberal Democrat councils, which last year raised council tax by the largest amount—5.8 per cent. on average.

The Liberal Democrats were challenged too by my hon. Friend the Member for North Durham (Mr. Jones), who said that they had announced, during the Brent, East by-election, that they would give pensioners vouchers worth £100. Those of us who worked the streets in that election remember that promise. However, as soon as the election was over the £100 voucher disappeared. Moreover, I remind the House that this Labour Government have made available £100 for every household with a pensioner over 70. That money is in pensioners' pockets now, and is helping pay the cost of local council tax.

The Liberal Democrats then described their daft proposals, which would remove the need for council tax revaluation. Their so-called research has created headlines that are factually wrong—ludicrously so. Those headlines, in newspapers such as the *Daily Mail* and the *Evening Standard*, reveal how ill informed, ignorant and, frankly, how stupid the Liberal Democrats really are.

Let me repeat what I and my right hon. Friend the Minister have said many times in this House. The revaluation does not mean that individuals will pay more council tax just because their house has gone up in value. The council tax for their house will depend largely on how much their property has increased in value compared with the average. If their property has increased in value in line with the average, it will not go up a band. Even properties that have increased in value by more than the average will not necessarily move up a band if they are currently valued towards the bottom of an existing band. Yes, some properties may go into a higher band, but many will stay in the same band and some will go into a lower band and pay less council tax.

The crucial point is that the revaluation will not increase the amount of money raised overall from council tax, because we have made that commitment. Ignorant speculation like today's that a fairer council tax system will lead to huge increases in council tax is simply untrue. The hon. Member for Kingston and Surbiton quotes the example of Wales, but it has been made clear that it is not a parallel model and cannot be read across to England. Interestingly, by the way, it was Conservative and Liberal Democrat Assembly Members in Wales who voted in favour of the banding system that Wales has introduced.

We have had contributions from various individual Members and I shall make a few comments in response. My hon. Friend the Member for Normanton emphasised the importance of spending on liveability, and he was right to do so. As MPs, we know from our surgeries that people are concerned about how clean, how safe and how green their communities are. We are doing much to support local government to provide better services in their areas. The Clean Neighbourhoods and Environment Bill, in particular, contains measures to increase the liveability of local communities. A recent MORI poll pointed out that the track record has greatly improved in recent years.

My hon. Friends the Members for Chorley and for Pendle (Mr. Prentice) asked us to look again at how the floors operate. I wish to emphasise that no money has been withheld—my hon. Friend the Member for Pendle was right to say that—because the money has been distributed to pay for the floor to help councils such as Preston. We understand the concerns that my hon. Friends raised. The formula is being reviewed and we will want to look at those questions, but stability in local government funding is also important. We have to get that right.

**Mr. Hoyle:** Will my hon. Friend give way?

**Phil Hope:** No, because time is running short.

My hon. Friend the Member for Birmingham, Northfield (Richard Burden) welcomed the generous settlement that Birmingham is to receive, but he made the clear point that it is only good money if it is spent well. He has been a real champion for his constituency in standing up for youth and play facilities. I hope that

*[Phil Hope]*

the Conservative-Liberal Democrat coalition that runs the council in Birmingham gets the decision right, to ensure that facilities are protected for young people.

My hon. Friend the Member for Worcester (Mr. Foster), whom I have met on many occasions to discuss the particular issue that he raised—[HON. MEMBERS: "Oh!"] I should emphasise that the meetings were not about this particular settlement. We are not making any changes to the way in which we calculate the area cost adjustment during this formula freeze, but we will listen carefully to my hon. Friend's representations, and those from other hon. Members, about the ACA in the future.

The hon. Member for East Devon made a point about what appeared to be a regional plot and then mentioned the James review. As he knows, the James review is not about savings, but about savage cuts to local government.

There will never be a local government settlement that is universally welcomed, but if there were to be such a mythical beast, it would look pretty much like this year's settlement. It includes an increase in formula grant of £2.6 billion, or 5.6 per cent. All councils will receive a formula grant increase at least in line with inflation, with extra on top from specific grants. As my hon. Friend the Member for Northampton, South (Mr. Clarke) said, the settlement builds on sustained grant increases over the years since 1997. The choice is clear. Do people want massive Conservative cuts in grants to councils, followed by the inevitably huge increases in council tax, an uncosted, unworkable and unfair local tax system that would mean a massive increase in income tax, or this settlement, which is a good deal for local government and for the council tax payer?

*It being six hours after the commencement of proceedings on the first motion relating to Police Grant Report (England and Wales)]* MADAM DEPUTY SPEAKER *put the Question, pursuant to Order [this day].*

*Question agreed to.*

*Resolved,*

That the Local Government Finance Report (England) 2003–04: Amending Report 2005, HC 241, a copy of which was laid before this House on 27th January, be approved.

MADAM DEPUTY SPEAKER *then put the remaining Question required to be put at that hour.*

## LOCAL GOVERNMENT FINANCE

*Resolved,*

That the Local Government Finance Report (England) 2005–06, HC 242, a copy of which was laid before this House on 27th January, be approved.—*[Gillian Merron.]*

## Punjabi Community

*Motion made, and Question put,* That this House do now adjourn.—*[Gillian Merron.]*

7.59 pm

**Rob Marris** (Wolverhampton, South-West) (Lab): I welcome my hon. Friend the Minister. I know that she takes a great interest in the Punjabi community in the UK and is very knowledgeable about it, as are many right hon. and hon. Members.

Since I was elected to Parliament almost four years ago, I have had the honour and pleasure of being treasurer of the all-party parliamentary group, Panjabis in Britain. As the Minister and other hon. Members know, Wolverhampton has a large and successful Punjabi community, which is an integral part of our city. In my constituency there are four gurdwaras, five mosques, one Buddhist vihara and one Hindu temple. There is also another Hindu temple just 30 m across the boundary. One example of the outward-looking and generous nature of the community is the fact that Sikhs, Ravidassi, Muslims and Buddhists in Wolverhampton have so far raised about £100,000 for the tsunami appeal.

Wolverhampton's diverse communities are one of the many strengths of our great city, and we all work hard together successfully to build and maintain good community relations—a far cry from the situation that existed when my predecessor Enoch Powell was the local Conservative Member of Parliament.

Punjab, as many Members will know, was divided by partition in 1947; part of it is in India and part in Pakistan. Indeed, I believe that Pakistan is an acronym in which the P stands for Punjab. There are many Sikh holy sites in Pakistan, most notably the birthplace of Guru Nanak. The large Punjabi community in the UK originates from both sides of the border. The biggest proportion of that community consists of Sikhs, who number about 700,000 in the UK.

I paid a private visit to Punjab last October. Because some people have questioned me about that, I make it clear that I paid for the visit myself. I was keen to learn more about Punjab—and what a wonderful experience! I very much hope to go there again. I visited Amritsar, where of course one finds the Golden Temple complex, and within that the Golden Temple itself, the Harmandar Sahib. I visited Chandigarh, the state capital. Both the state legislature and the city itself were designed and built by Le Corbusier in the 1950s; it is a modern city. I visited the ancient city of Anandpur Sahib, the birthplace of the Sikh Khalsa in 1699. I also visited Jalandhar, a bustling commercial city and the centre of the district from which many Punjabi families in Wolverhampton originate.

I take this opportunity to congratulate the UK Government on opening a visa screening office in Jalandhar about 18 months ago. It is run by a subsidiary of Kuoni Travel. I visited the office and spoke to the staff; it is an impressive facility.

It is important when talking about the Punjabi community in the UK to stress that their principal concerns are similar to those of most other people in the UK: a stable economy, jobs, rights at work, support for families and pensioners, and continued investment in

public services such as the NHS and education. However, there are certain specific issues facing Punjabi communities in the UK, and I shall touch on a few of those.

The first is pension credit. My hon. Friend the Minister will no doubt be aware of early-day motion 1730, tabled in the last Session by my hon. Friend the Member for Kingswood (Mr. Berry). To maintain links with their families, many Asian-English pensioners return to the subcontinent for several weeks each year. However, pension credit recipients who are abroad for more than four weeks have to reapply for pension credit on their return home to the UK. Thirteen weeks, as called for in the motion, would be a much more appropriate interval. Will the Government consider changing that rule?

**Mr. Khalid Mahmood** (Birmingham, Perry Barr) (Lab): My hon. Friend gave an approximate figure for the number of Sikhs in this country, and rightly raised the issue of services for the community. Does he agree that the Sikh community should be included in the census figures, so that we can be sure that we have the right figures to determine what service provision is needed?

**Rob Marris:** I agree with my hon. Friend. I intended to deal with that point. I and many other right hon. and hon. Members support the call for the separate monitoring of Sikhs in the United Kingdom census. That has cross-party support. Since 1982, following the Mandla case involving a schoolboy, Sikhs have been recognised under the race relations legislation as a separate race within the United Kingdom for those purposes. We need separate monitoring to discover the demographic profile and to help to target the provision of services. Do the Government support the separate monitoring of Sikhs in the United Kingdom census?

To help provide appropriate services, we need both separate monitoring and consultation with the Punjabi communities in the UK. What mechanisms are there for ensuring that the diverse views of the Punjabi communities are taken into account by Government? What steps are the Government taking to encourage an increase in the number of appointments of members of the Punjabi communities, especially women, to local and national decision-making bodies?

I draw the Minister's attention to early-day motion 464, which I tabled, regarding English language proficiency for Sikh priests. A similar early-day motion was tabled by the hon. Member for Brent, East (Sarah Teather) regarding English language proficiency tests for Hindu priests. That is a live issue in the Punjabi communities in the UK. The rules were changed last August, to the effect that a priest applying for a visa to come to work in the United Kingdom as a religious office holder must have level 4 proficiency in English. Under the current arrangements, that will be raised in time to level 6 proficiency in English, which is proficiency in reading, writing and speaking English.

Ironically, about 18 months ago the Ramgarhia board gurdwara in my constituency was initially refused entry for a priest. The reason given was that he spoke English too well, and the entry clearance officer feared the priest might disappear once he had arrived in the UK. His application was allowed on appeal, and I can reassure the Minister that I saw him last Sunday. He is still working at the gurdwara and doing a fine job.

I understand the desire to encourage the use of home-grown priests who speak English as a means of helping to pass on culture and beliefs to the younger generation. That is a matter for the temples to decide. However, no Government should seek to dictate the language in which a religion is practised in our country. That is a private matter for the followers of that religion. I urge the Government to think again, particularly about priests on short-term visas.

As hon. Members know, Vaisakhi is a Punjabi lunar harvest festival, which is usually celebrated in April. I am pleased that it is now celebrated by the Government, with a reception at the Foreign and Commonwealth Office last year, which I attended and at which the Minister spoke. In Wolverhampton Vaisakhi has grown into a big event for the whole city, not just for Sikhs, with a relaxed and festive march ending in West park in my constituency. The event is run by the Wolverhampton Council of Sikh Gurdwaras, led by the very able and committed Dr. Sadhu Singh. However, there are problems every year with getting police agreement for road closures and so on. Will the Government please issue guidance on such matters? What Government support is there nationally for Vaisakhi celebrations?

On faith schools, I know that the Minister is familiar with the Sikh secondary school in Hayes, adjacent to her constituency. I understand that a Sikh primary school is being built in Hayes. What further Government support will there be for faith schools?

Most Sikh men and women carry a kirpan as a sign of their faith. Too often, it is misunderstood. Wolverhampton local education authority has issued very good guidance on the matter for schools. A kirpan is a ceremonial knife, one of the five Ks of Sikhism. It is never used aggressively. As far as I am aware, there has never been an incident in the United Kingdom of a Sikh using his or her kirpan aggressively. What progress has been made on the issue of the wearing of kirpans by Sikh employees in restricted areas at UK airports?

Some hon. Members will know of the case of Mr. Fauja Singh, who is a marathon runner. He is in his 90s and he runs the London marathon. Because of his athletic prowess, he was invited to the London Eye for a celebration. When he got there, he was refused entry because, understandably, he refused to remove his kirpan—he is a devout Sikh. What steps are the Government taking to widen knowledge of the importance of the kirpan and the sensitivities surrounding it?

In France last year the wearing of religious symbols in French schools, such as the hijab or the turban, was banned. That is of concern to the Punjabi communities in the United Kingdom, because the UK and France are both part of the European Union. I should like to know what representations the UK Government have made to the Government of France and to the EU on the issue.

The final issue of concern to the Punjabi communities in the UK that I want to raise tonight is that of human rights. Hon. Members will remember Operation Bluestar in June 1984, when the Golden Temple complex was stormed by the Indian army. I tabled

*[Rob Marris]*

early-day motion 664 in the last Session on that issue. It was followed in November 1984 by the pogroms, particularly against Sikhs, in Delhi and elsewhere in India. I tabled early-day motion 662 on that issue in the last Session.

Those outrages and human rights abuses, which continued for many years when the Indian part of Punjab was in fact closed, were never properly investigated. There has never been a proper independent investigation. As far as I am aware, no criminal charges have ever been brought against, for example, any police officer, for well documented cases when, to put it mildly, the police stepped out of line. What further pressures are the UK Government and the EU bringing to bear on the Government of India for a proper investigation and, where appropriate, for proper criminal charges to be brought and convictions secured, particularly against police officers, for those human rights abuses in June and November 1984 and for many years after that?

On a happier note, I invite the Minister to attend the all-party parliamentary group Panjabis in Britain public meeting to be held here at the House of Commons in Committee Room 10 on Wednesday 9 March from 3 pm until 5 pm. I know that the Minister is extremely busy, but I hope that she will find time to come to that event.

8.11 pm

**The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart):** I thank my hon. Friend the Member for Wolverhampton, South-West (Rob Marris) for raising this subject tonight. I am familiar with his work on the all-party group. We have regularly attended meetings of the group together since he has been a Member of Parliament. I know that many of the themes of his contribution were informed by the work of that group.

I was pleased by my hon. Friend's reference to the substantial contribution that the Punjabi community, and specifically the Sikh community, have made to our wider society. I am looking forward to Sunday when I am going to a gurdwara in my constituency, and part of what I shall be doing there is receiving a very generous cheque from the community for the victims of the tsunami.

My hon. Friend referred to the visa screening unit at Jalandhar, the existence of which is largely to do with the work of the all-party group.

My hon. Friend managed in a short time to get through a large amount of territory, and I hope that I will give all the issues that he raised a proper airing and response. I hope that he will forgive me if I fail to deal with everything fully, but I am slightly daunted by the range of his contribution.

The first issue that he addressed was pension credits. Currently, people who journey abroad for more than four weeks need to reapply for pension credit on their return. As my hon. Friend rightly said, that has given rise to concern among people who might be away for longer than that. No decision has yet been made to change that, but officials are researching a range of options for potentially extending the period for which pension credit can continue to be paid to customers who go abroad within that 52-week envelope. We need to look carefully at the matter and see whether we can do something to meet the demand, but we need to research it properly.

We have a good story to tell in terms of meeting the pension needs of ethnic minority communities generally. The Pension Service has worked hard to identify the barriers that exist in some communities to claiming entitlements, and has produced more accessible material. For example, my hon. Friend the Minister for Pensions launched a "Race to Improve" guide at the Southall gurdwara. That shows the determination to ensure that our services are accessible at every level to every community. That is an important theme in the Government race equality and community cohesion strategy, which I launched just a few days ago.

The second point that my hon. Friend the Member for Wolverhampton, South-West raised was ethnic monitoring, on which my hon. Friend the Member for Birmingham, Perry Barr (Mr. Mahmood) also commented, and the demand that British Sikhs should be able to be separately monitored. I assure the House that Sikhs have the same status as all other ethnic groups in the statutory code of practice on the duty to promote race equality under the Race Relations (Amendment) Act 2000. The code encourages public authorities to use the same ethnic classification system as was used in the 2001 census.

The concern is that that does not deal with the specific need. The reason for taking that approach is to ensure consistency, allowing comparisons to be made over time and across different areas, but it is important to note that the code provides public authorities with the flexibility to adapt categories to fit local circumstances, provided that they are the same as, or similar to, those used in the 2001 census. It is open to public authorities to choose to use the question on religion to determine the number of Sikhs in their area. That is an eminently sensible approach. It is clear that the question on religion, which is the optional question in the census, has been widely answered. It has not had the dip in answers that was predicted by those who opposed its incorporation.

The Office for National Statistics recognises that the concept of an ethnic group is complex and delicate, and that it changes over time. The ONS has met Sikh groups, and it took into account their needs in developing a new publication, "Ethnic Group Statistics: A Guide for the Collection and Classification of Ethnicity Data". The guidance recommends that, where possible, national and religious identity questions be asked in addition to the standard ethnic group question. The ONS will consult widely with the intention of reviewing the classification system for the 2011 census, and it should be able to accommodate some of the views expressed when adapting the current ethnic categories. I know that the Sikh community will wish to register its views during the process, and I certainly encourage members of that community to contribute to the debate leading up to 2011.

My hon. Friend asked whether we would consult the Punjabi community widely. I am glad to answer that question. Much of what we have been doing in faith communities and ethnic groups is engaging and consulting, and making sure that our work reflects the concerns and demands of different communities in Britain. In 2003 and last year, a review of the

Government's consultation with faith communities was carried out by a steering group, which I chaired, including ministerial colleagues and senior faith community representatives. The group produced a report, "Working Together", which contained valuable recommendations to help Departments and faith communities to work more closely and effectively together. We will soon be reconvening to measure progress. I will be inviting the faith communities themselves to audit what we have achieved, if I can put it that way, to ensure that a wide range of views, including those of women in those communities, are fed into government.

A further way of engaging that my hon. Friend highlighted was public appointments. Different Government Departments set targets to make public appointments more representative, and I am pleased that the proportion of ethnic minority public appointments has continued to increase from 7.4 per cent. in 2003 to 7.7 per cent. in 2004. We need to ensure that our diversity objectives are achieved, and some of the mechanisms for driving forward a more effective race equality strategy that I recently announced in "Improving Opportunity, Strengthening Society" will help us with that.

One problem with public appointments is that change takes time because only a limited number of positions—about 18 per cent. of the total—become available each year. Even if one achieves a representative proportion of people for current appointments, making change is a slow process. However, each Department publishes an action plan with the aim of increasing the number of appointments held by people in under-represented groups. It is published annually, and this year includes targets to be achieved by 2007 and details of recent activities. Although my Department does not currently break public appointments down into specific ethnic or gender groups, we undertake an appropriate and wide circulation of all our public appointment vacancies and work hard to ensure that the diversity that is at the heart of Britain's strength is reflected in our public appointments.

I could tell that the English language requirement was my hon. Friend's major concern. I am glad that his constituent's appeal was successful, because it is precisely such people with a good command of the English language who can take up responsible leadership roles in the faith communities. They can enable their communities to fulfil important parts of their role in civil society, such as engaging with people beyond a specific faith and playing a significant role in building a better, wider society. One reason why we introduced the new English language requirement for ministers of religion entering the UK from abroad was because although we are committed to continuing the special opportunity for people to get work permits, we also want to ensure that such a wider role can be fulfilled.

The measure is not an attack on the Punjabi language, which is, I think, the second most commonly spoken language in Britain, or on that language being used in worship. If Sikh congregations wish to use Punjabi in their worship, that is a matter for them, not for the Government, as my hon. Friend rightly said. The requirement has been in force since last August with the purpose of ensuring that overseas ministers of religion who come to the UK have the skills needed for ministry in a diverse and cohesive society. We want to create a situation in which at least one senior cleric in every gurdwara, mosque, Hindu temple and so on is sufficiently fluent in English to be able to interact satisfactorily with local government, other faith communities, businesses, voluntary bodies and other parts of the local community. Fluent English also enables those people to preach in the language that many in their congregations will speak in their daily lives. It also allows them to reach younger members of their congregation who often feel less connected with faith institutions than others.

My Department will soon begin a second stage of consultation with faith communities on further measures that we want to introduce to ensure that ministers of religion who are admitted from abroad are able to play a full role in their communities and that they gain an understanding of British civic life. We accept of course that there will be workers in gurdwaras who are not involved in preaching, do not have the leadership duties that I discussed and might not be affected by the new requirements. As part of the second stage of consultation, faith communities will be invited—as they were during the first stage—to express any worries that they have about the impact that the measures might have on religious workers with non-pastoral roles who try to enter the country under the minister of religion category. Kirtani is a classic example within the Sikh religion.

I hope that the Sikh community will take advantage of this opportunity. We consulted Sikh groups alongside other faiths in the first round of consultation. Five Sikh representative bodies were included in the first round of consultation, together with major gurdwaras in Birmingham and Southall. Other organisations were invited but chose not to participate. I believe that the second round of consultation might provide an opportunity to drill further down into the question of whether there might be some flexibility for people who have religious roles but do not fulfil all the requirements that I have been discussing.

My hon. Friend mentioned the Vaisakhi festival and the question of road closures. The position is clear. Whoever wants roads closed for a religious or other festival needs to apply to the relevant highway authority—the Department for Transport for trunk roads or the local authority for local roads. We do not intend to issue special guidance to the police on that subject, but I know that ministerial colleagues would be willing to listen to further representations if present arrangements are not working well enough. We do not have plans for further Vaisakhi celebrations at Government level, but, like my hon. Friend, I think that what we have done so far has been useful. We are always willing to mark faith festivals in a suitable way, and I look forward to any suggestions that might be put to me about this.

My hon. Friend asked what further support we can give to faith schools. The Government continue to support those schools in the maintained sector that have changed their status to one based on a particular faith. That support is given provided that the change of status has gone through a school organising committee.

**John McDonnell** (Hayes and Harlington) (Lab): I know that time is short, but I want to place on record on behalf of the whole House my congratulations to Guru Nanat school in Hayes on the fantastic results that it received this year and on the work that is going on there. I congratulate the Government on the investment in that school, which has produced remarkable results for the whole community.

**Fiona Mactaggart:** As an MP who helped, together with my hon. Friend, to persuade the Government that that was the right route to take back in 1998, I feel proud of Guru Nanat school's achievement, too. It is an exemplar of how excellent a faith school is capable of being. Other Sikh schools have been supportive. The Government will continue to consider each proposal on its merits. I have personal experience from my constituency of the positive way in which the Department for Education and Skills has responded to demands for Sikh schools.

My hon. Friend the Member for Wolverhampton, South-West raised the issue of the kirpan. As he is aware, my Department and the Department for Transport agreed with Sikh representatives that Sikh staff in security zones at UK airports could carry the kirpan as long as the blade did not exceed 7.5 cm. Unfortunately, in January 2003 EU regulation 2320 set out new requirements for airport security. It bans knives, among other prohibited articles, including ceremonial ones with blades longer than 6 cm. In June 2004, we argued strongly before the regulatory committee for retaining the 7.5 cm length, but were outvoted. The Government are therefore in breach of the regulation, and we need, in consultation with the Sikh community, to find a way of meeting it. The Department for Transport recently met Sikh representatives to discuss the matter, and I shall be watching developments. I believe that because the London Eye operates aircraft-type security, the episode to which my hon. Friend referred is a straight read-across from that issue.

On human rights in India, the Government condemn the persecution of individuals or groups because of their religion or belief and deplore any widespread attack on Sikhs in India. We welcome the remarks by Dr. Manmohan Singh in his first press conference as Prime Minister. When asked about the 1984 events, he said:

"We are all anguished by such violence... We are the most tolerant civilisation"—

*The motion having been made after Seven o'clock, and the debate having continued for half an hour,* MADAM DEPUTY SPEAKER *adjourned the House without Question put, pursuant to the Standing Order.*

*Adjourned at twenty-nine minutes past Eight o'clock.*

# House of Commons

*Thursday 3 February 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## TREASURY

*The Chancellor of the Exchequer was asked—*

### Debt Relief

1. **Ms Christine Russell** (City of Chester) (Lab): If he will press G7 Finance Ministers, at their meeting in February, to take further action on debt relief. [213415]

3. **Mr. Clive Betts** (Sheffield, Attercliffe) (Lab): If he will make a statement on the initiatives that the Government will bring forward during the UK's presidency of the G7 on cancellation of debt in the poorest countries. [213417]

10. **Tony Lloyd** (Manchester, Central) (Lab): What plans he has to extend debt cancellation to heavily indebted poor countries; and if he will make a statement. [213424]

**The Chancellor of the Exchequer (Mr. Gordon Brown):** For the G7 Finance Ministers' meeting, which takes place in London tomorrow and Saturday, the UK has put forward detailed proposals for 100 per cent. multilateral debt relief for poor countries. We will discuss using International Monetary Fund gold and financing World Bank debt service payments. The aim is to bring to an end once and for all the tragedy of poor countries' unpayable debt.

**Ms Russell:** I thank my right hon. Friend for that answer. Today, many of my constituents have travelled down from Chester to attend the "Make Poverty History" rally, which I believe will be addressed in an hour's time by the former President of South Africa, Nelson Mandela. I am sure that all Labour Members welcome him to London. [HON. MEMBERS: "Hear, hear."] He is on record as calling for the world's richer countries to make a bigger contribution to helping the poorer ones achieve their millennium goals. What more does my right hon. Friend think that Britain can do to galvanise global action to eradicate poverty and debt throughout the world?

**Mr. Brown:** I am grateful to my hon. Friend, who has taken a huge interest in these matters. All Members of the House will want to welcome former President Mandela to London and to welcome his wife, Graca Machel, who is joining him. I gather that he is speaking in Trafalgar square in only a few minutes' time, which perhaps explains why so few Conservatives are here today. I had the privilege of meeting him yesterday, and he urged us to move forward with our proposals on debt relief and on the international finance facility. He speaks not just for the developing world and the emerging markets countries, but for a very large proportion of industrialised countries, which want a solution once and for all to the tragedy of promised debt relief not being given to the poorest countries.

**Mr. Betts:** I congratulate my right hon. Friend on the tremendous lead that he has given on this issue on the international stage, but will he clarify two points? First, how can we guarantee that the money saved through debt relief will be spent on health and education, and not on more arms and luxurious lifestyles for some of the leaders concerned? Secondly, how would he provide the money for debt relief if, at the same time, he had to cut £35 billion from public expenditure?

**Mr. Brown:** I am grateful to my hon. Friend. When I had the good fortune to be in Tanzania and to meet President Mkapa only a few days ago, he agreed that the additional debt relief that we are providing unilaterally to Tanzania will go directly towards financing secondary education, free of charge, to pupils in his country. When we signed a similar agreement with the Prime Minister of Mozambique the next day, she said that the money would be used for health, education and infrastructure development. If our proposals for Mozambique come off, debt as a share of its national income will fall from 6 per cent. to 2 per cent., and then to just 0.5 per cent. That would be a major advance, because Mozambique is spending more on debt interest today than on education or health.

On the proposals of all parties in this House for dealing with the debt tragedy, I hope that the shadow Chancellor can say today that he supports us in providing the resources for debt relief, and that he would not cut his party's overseas development budget.

**Tony Lloyd:** May I also congratulate my right hon. Friend on his personal commitment to this initiative, which will make an enormous difference to the quality of life—and, indeed, the lives—of millions of people? I know that he is keen to promote poorer countries' access to trading systems, so that they can trade with markets such as ours. Does he accept, however, that although freeing up trade for such countries is very important, it is also important that they do not face unfair competition from rapacious producers in countries such as ours, who would simply destroy their developing trading structures?

**Mr. Brown:** My hon. Friend, who has also taken a huge interest in these matters, speaks for the millions of people in this country who are concerned about not just debt relief but trade justice. One proposal that we will advance at the G7 Finance Ministers' meeting is that, as we seek a solution during December's world trade talks in Hong Kong, we will make resources available to build up the capacity of such countries, particularly those in

Africa, to engage in trade in the international community on equal terms. By capacity we mean help with infrastructure—road, rail and communication—and with training and education. That would be an important advance.

My hon. Friend also rightly points to the key element of debt relief, and I am pleased to tell him that yesterday, Canada supported our proposals. Its Finance Minister stated that Canada wants 100 per cent. debt relief, and I praise him for doing so. Every day, additional countries are saying that they are now prepared to support a final settlement to the issue of providing 100 per cent. debt relief for multilateral debts owed to the IMF and to the World Bank.

**Dr. Vincent Cable** (Twickenham) (LD): May I add my appreciation for the Chancellor's work on overseas development and debt, which may stand him in good stead when he is promoted to become the Secretary of State with responsibility for foreign affairs and overseas development?

Specifically on tsunami relief, will he clarify the position? The Government have offered debt relief and debt cancellation, but the two countries that have applied are apparently being told that payments will be postponed and that interest will be fully capitalised and has to be paid in full. It has even been suggested that there will be interest on the interest. That is certainly not debt relief, let alone debt cancellation. If there is genuine debt relief, where in the public accounts is provision made for extra funding over and above the pre-existing Overseas Development Administration-Department for International Development budget?

**Mr. Brown:** The hon. Gentleman makes the issue of debt relief complex, but he is simply wrong. He is wrong because we told Indonesia that there would be a moratorium on debt interest payments until such time as the International Monetary Fund and the World Bank complete the needs assessment. That assessment will be available this weekend, and we will then look again at the position of Indonesia, which already has a moratorium. We have to look into what more we can do. Indonesia has also been offered a very substantial loan from the IMF for emergency assistance.

For the second country, Sri Lanka, we have offered not only a moratorium on debt relief, but cancellation of the debts that the country owes to the World Bank and other international institutions. We have agreed that Sri Lanka, as a low-income country, should now join the list of 70 countries eligible for debt relief. I hope that the hon. Gentleman would support that.

We have put money into the tsunami disaster appeal from the reserve and also provided extra money through tax relief on gift-aid donations. We have also provided tax relief on VAT requirements in respect of the national concert record and the CD that has been issued. No VAT will be charged as a result and we will give a similar payment to the appeal. Through public expenditure, debt relief and forgone tax revenue, we are providing substantial resources and we look forward to discussing with the World Bank president and the managing director of the IMF on Saturday what more we can do for what I hope we all agree should be a united effort among all the rich countries to help these two countries in difficulty.

**Sir Peter Tapsell** (Louth and Horncastle) (Con): Did the Chancellor learn, perhaps on the bush telegraph while he was relieving debt in Africa, that the Prime Minister was planning to relieve him of his burdens at the Treasury here in Britain?

**Mr. Brown:** I might listen to the hon. Gentleman if he had ever got anything right. He was completely wrong when he opposed the independence of the Bank of England and he is completely wrong again.

**Mr. Alistair Carmichael** (Orkney and Shetland) (LD): Can the Chancellor give the House an absolute assurance that essential services such as education in heavily indebted poor countries will not be damaged while the countries themselves are in the process of qualifying for debt relief? Surely we do not want to find ourselves facing the situation that we saw in Uganda where the Government introduced fees for primary education as a justification during the qualifying process.

**Mr. Brown:** The hon. Gentleman must look at the facts. In Uganda, the number of children in primary education has risen from 2 million to 6 million and primary education there is free. If the hon. Gentleman considered Tanzania, Mozambique and South Africa, as well as Uganda, he would find that attempts have been made to remove charges for primary education and health. What worried me most when I visited African countries was that fewer than 10 per cent. of pupils were able to get secondary education and those who did had to pay fees. It is with respect to secondary education that the issue of fees arises. That is why we signed an agreement with Tanzania—so that secondary education could be provided free of charge—and why the World Bank has changed its position and is now opposed to user fees for primary and secondary education. I believe that our duty to those countries is to make it possible, through our proposals for the international finance facility, to finance both universal and free education and health care.

**Mr. Tom Clarke** (Coatbridge and Chryston) (Lab): My right hon. Friend pointed out very tellingly that something like 80 per cent. of the poorest countries' historical debt is owed to the international institutions. Does he agree that it is absolutely right of him to press the IMF to consider the use of its existing assets, including gold, as stability and growth in the developing countries is useful to those institutions as well?

**Mr. Brown:** My right hon. Friend has an honourable record in pushing this issue, and especially debt relief. The poorest countries in the world owe the IMF $12 billion. If the IMF were prepared to revalue or sell its gold, that would be the best way of removing those countries' liability. I believe that there is an understanding in most of the industrial countries that that is the best way to deal with the problem. I hope that, in the next few weeks, we will secure agreement among the G7 member countries that that proposal can be

made to the IMF meeting to be held in Washington in April. It is to the credit of all parties in this House that time has been devoted to these issues today, but the important thing—especially as we listen to people making their case in Trafalgar square and elsewhere—is to get an agreement among the major countries.

## Personal Savings

2. **Mr. Henry Bellingham** (North-West Norfolk) (Con): If he will make a statement on current levels of personal savings. [213416]

**The Financial Secretary to the Treasury (Mr. Stephen Timms):** The savings ratio has risen over the past year. With individual savings accounts, the new child trust funds, the Sandler suite of stakeholder savings products available from April and an expanded pilot of the saving gateway for low-income savers, we are encouraging personal saving with new incentives, simpler products and better consumer information.

**Mr. Bellingham:** Is the Minister aware that, when the Labour party took office, it inherited a very healthy household savings ratio of nearly 10 per cent., and a private pension sector that was the envy of the western world? Eight years on, household debt has reached a staggering £1 trillion, and the private pension sector is in crisis. What has gone wrong?

**Mr. Timms:** The savings ratio is about at the level of the early 1960s, and above its level in 1988, when the hon. Gentleman was on the Government Benches. It is much higher than it is in the US, and about the same as in Japan. As I said, it has risen in the past year, but we want to do more to encourage saving and to build a savings culture across the UK. The new child trust fund is an excellent example of that, and we have made welcome changes in respect of pensions. Across the board, we are doing what is necessary, but I emphasise that the UK's savings ratio is extremely healthy compared to the position in the US and Japan.

**Mr. Bill O'Brien** (Normanton) (Lab): Does my hon. Friend accept that people now have more scope for saving than ever before, and that their quality of life is much better now than was the case under the Tories? Will he and my right hon. Friend the Chancellor ensure that Tory proposals have no chance to threaten those things, and that we are allowed to continue along the lines that have been set out?

**Mr. Timms:** I certainly will. My hon. Friend is absolutely right: there have been substantial increases in pensioner income since 1997, and the rate of increase has been significantly higher than that of earnings. That is extremely welcome, but we will also make sure that pensioners do not suffer from the very high rates of inflation and the 15 per cent. interest rates that we had under the previous Conservative Government.

**Mr. Howard Flight** (Arundel and South Downs) (Con): Does the Minister appreciate that the Government's £5 billion pension tax has served to knock some £100 billion off the value of pension fund investments as well as costing them some £40 billion in accumulated income?

**Mr. Timms:** The Turner commission pointed out that the impact of that change was comparable to the change introduced in the Finance Act 1986, about which we hear rather less from the Opposition. No party in this House argues that the change should be reversed, and I know that the hon. Gentleman will agree that the last thing that we should do is go back to the days of very high inflation and 15 per cent. interest rates. Those conditions were very damaging, for pensioners and for everyone else.

**Mr. Barry Sheerman** (Huddersfield) (Lab/Co-op): Does my hon. Friend agree that there would be a higher level of personal saving if banks had a better reputation among consumers? That reputation could be secured if banks did not charge people for taking money out of cash machines and if they did something about orphan funds—such as investing them in overseas development.

**Mr. Timms:** It is important, as the Treasury Committee has said, to build confidence in long-term savings. I look forward to giving evidence to the Committee shortly, specifically on the point about ATM charges made by my hon. Friend. We need to build confidence, and all the measures that we have taken, particularly the introduction of the Sandler suite of stakeholder products from April, will help the industry as a whole to build confidence among its customers.

**Mr. Richard Spring** (West Suffolk) (Con): Given the desirability of savings, not least to pay extortionate council tax bills, and given the view of the Association of British Insurers that there is an annual savings gap of no less than £27 billion, will the Minister limit the terrible damage that his taxes have done to pensions savings by ruling out any further tax grab on Britain's beleaguered savers?

**Mr. Timms:** I do not agree with a number of the hon. Gentleman's comments. The change in pension funds that he referred to was offset by the accompanying reduction in corporation tax. The impact of the change is about one tenth of the difference in performance between the best and worst performing pension providers. Pensioners and everyone in the UK have benefited enormously from the remarkable new stability that we have achieved in the economy since 1997, and our focus is on making sure that those benefits continue.

## G8 Presidency

4. **Colin Burgon** (Elmet) (Lab): What his economic priorities are for the G8 presidency. [213418]

**The Chancellor of the Exchequer (Mr. Gordon Brown):** Our G8 presidency will focus on global growth and stability and measures to achieve it, structural economic

reform, modernisation of the international financial institutions, climate change and, as we have said this morning, issues of global poverty.

**Colin Burgon:** I thank the Chancellor for his reply. What specific measures does he intend to propose to the G7 to maintain economic stability and increase growth in the world economy this year?

**Mr. Brown:** I am grateful to my hon. Friend. He will know that in his constituency we now have the lowest interest rates, inflation and unemployment for many years. *[Interruption.]* The Conservatives become restive when we talk about low inflation, low interest rates and high employment, because we did not have much of that when they were in power in the early '90s. As for the G8, we will discuss not only the economic issues arising from the current account exchange imbalance but the path of global growth over the next year. It will be up to every continent to make a contribution to global growth and stability. The American President spoke last night in his State of the Union address about the need to cut deficits, and European Ministers will speak about the need to intensify economic reform. Japan will be asked to look at its financial sector and how it can reform so that it can play a part in achieving growth. The way forward for the global economy is for each continent to say this weekend at the meeting of the G7 Finance Ministers that we will all contribute to higher growth levels in the world economy this year.

**Mr. Francis Maude** (Horsham) (Con): Will the right hon. Gentleman spend a little less time worrying about other countries' economic difficulties, because the reality is that if Labour wins the next election, he will not be Chancellor of the Exchequer? It is common knowledge that the Prime Minister has decided that he is unfit to be Prime Minister after him.

**Mr. Brown:** I would spend more time listening to the right hon. Gentleman if he had not spent all his time as shadow Chancellor predicting a recession in Britain. He should congratulate us, because we are the only major industrial country that has maintained consistent growth in the past seven and a half years of a Labour Government. That would not have happened under the policies that he advocated.

**Ms Julia Drown** (South Swindon) (Lab): During our presidency, will the Chancellor tackle global poverty by raising the issue of looted assets. The United Nations estimates that $11 billion has been looted by corrupt people from Kenya and Nigeria. Much of that money is in western banks in the developed world. There has been an initiative to try to tackle money laundering for terrorism and drugs. Could that be extended so that money can be returned to the poorest countries where it is most needed?

**Mr. Brown:** As my hon. Friend will know, the question of looted assets from Nigeria is being discussed in some detail by the authorities. As for the general issue of action against terrorism and drugs, there will be a discussion about that at the G7 meeting. We must agree to tighten up in every country the rules governing the treatment of those issues. I hope, over the course of the year, that we will be able to secure a general statement from the International Monetary Fund and the World Bank on those matters.

**Miss Julie Kirkbride** (Bromsgrove) (Con): The Chancellor said that climate change would be one of his priorities for the G8. Is that just another example of his trying to lecture others when he does little about the issue at home? One of the most obvious things he could do would be to create a differential between unleaded fuel and other fuels, which would significantly cut carbon dioxide emissions. He does not do that. Is that because he is more interested in tax revenue than in the right policy?

**Mr. Brown:** The hon. Lady speaks for a party that when it was in government introduced an above-inflation rise in petrol, saying that it was doing so for environmental reasons. The minute we said we would continue with that policy, the Conservatives dropped their policy in its entirety. They said that they would support us on climate change yet they oppose the climate change levy. We shall take no lectures on the environment from the Conservatives.

**Dr. Nick Palmer** (Broxtowe) (Lab): Will the Chancellor explicitly reject the suggestion from the Opposition Benches that we should take no interest in the economic policies of other countries? Does he agree that nowadays Britain needs more than ever to work with its partners in the European Union and across the world because the world is interdependent and our prosperity depends on it?

**Mr. Brown:** I am going to take an interest in the economic performance of other countries, and so should every party in the House. When the shadow Minister for deregulation did so and asked,

"What are the most attractive locations today?"

he talked about "the lure" of the United Kingdom.

**Mr. Oliver Letwin** (West Dorset) (Con): Given that China's productivity growth is running at about three times the rate of the G8 countries', I am sure that the Chancellor will agree that productivity needs to be a priority for the G8. But how can he hope to put that vital topic on the G8 agenda when his taxes and regulations have caused a drop of a third in Britain's productivity growth rate?

**Mr. Brown:** I just mentioned the shadow Minister for deregulation who has congratulated us on our record on the economy—[HON. MEMBERS: "Answer the question."] This is the answer to the question. The right hon. Gentleman mentioned the problems that he thought we were creating. Businesses are reluctant— *[Interruption.]* This is what the shadow Minister for deregulation said:

"The single most important consideration is the cost impact of Government. Businesses are reluctant to locate in places where . . . tax rates are high . . . Places like . . . the UK . . . attract because their tax rates for business are low."

That is the answer to the right hon. Gentleman's question.

**Mr. Letwin:** The Chancellor's concept of an answer is an interesting one. He did not mention productivity

growth rates, which are what my question was about. There is of course a reason why he did not mention them. Britain's productivity growth rate has been only 1.8 per cent. a year over the last eight years, compared to a G8 weighted average productivity growth rate of about 2 per cent. over the same period. The Chancellor did not always avoid the subject. In 1998, he described productivity growth as

"a fundamental yardstick of economic performance".

I agree. So why, instead of leading the G8 efforts to improve productivity, is he proposing to damage our productivity further by more regulation and more tax?

**Mr. Brown:** I have to tell the right hon. Gentleman that he should look at the facts. Year on year, there has been productivity growth in the British economy. Year on year, there has been manufacturing productivity growth. That did not happen under the previous Government when productivity suffered negative growth. If he wants to know about the comparison with other countries, we have closed the productivity gap with Japan, we have closed the productivity gap with Germany, we are closing the productivity gap with France and we are making inroads in the productivity gap with the United States. The reason that we are doing so is that we have achieved a level of economic stability in this country that his party could only dream of.

## Children's Services

5. **Lawrie Quinn** (Scarborough and Whitby) (Lab): If he will make a statement on current and projected levels of public spending on children's services and provision for the under-fives. [213419]

**The Chancellor of the Exchequer (Mr. Gordon Brown):** Total investment in Sure Start, child care, nursery education and children's services is expected to rise from £7.3 billion to £9 billion in 2007–08. That is to ensure that not just some children but every child has the best start in life.

**Lawrie Quinn:** I thank my right hon. Friend not only for that answer but for the incredible priority that the Government have given to such an important matter for the future of our nation. Last Friday, I visited a brand new children's centre in the Barrowcliff area of my constituency. Can my right hon. Friend tell the House how the ambitions for the people of east Whitby for a similar children's centre can be rolled out in the future? I hope that he will be able to continue with those policies so that those people can achieve what they really want.

**Mr. Brown:** My hon. Friend has supported the creation of the Sure Start centre in his constituency. The number of Sure Start children's centres will rise from the 550 that we have at present, to 2,500 over the next few years. That major extension in the number of Sure Start centres has been made possible by the extra spending that we are proposing. The unfortunate thing, however, is that the Conservative party plans to cut that spending on those children's programmes.

**Rev. Martin Smyth** (Belfast, South) (UUP): We welcome the extra money for children's welfare. I take it that that money is spread throughout the United Kingdom, not just the English and Welsh economy. Given the presence on the Treasury Bench of a Northern Ireland Minister who is responsible for education, may I press the Chancellor to ensure that some of that money will go to help the homework clubs, which have been doing a lot to improve the welfare of children in Northern Ireland?

**Mr. Brown:** The Under-Secretary of State for Northern Ireland, my hon. Friend the Member for Brent, North (Mr. Gardiner), who is sitting on the Treasury Bench, has informed me that that is exactly what he plans to do, so I hope that the hon. Gentleman will be able to congratulate him in person.

**Mr. Ken Purchase** (Wolverhampton, North-East) (Lab/Co-op): May I congratulate the Chancellor on his excellent programme of alleviating difficulties for children, particularly with the Sure Start programme and its like? Does he agree that even more money could be spent effectively and that the source of that money may well be a windfall tax on the excessive profits of the banks? I suggest that he start with £8 billion—the additional profit over the £40 billion that they recorded for last year.

**Mr. Brown:** Without the need for a windfall tax, we have managed to increase investment in those services by £1.7 billion over the next few years—that is why my hon. Friend's constituency can look forward to something like three or four Sure Start centres—but that would not have been possible without our decision to use this country's resources to invest in children. In the old welfare state, children and mothers received maternity services and vaccination, and they were then asked to appear for school at five years old. The range of services now available in Sure Start, day care, and nursery places, as well as all the help that is now available to mothers, shows that this is the new frontier of welfare policy, helping every child in this country.

**Tim Loughton** (East Worthing and Shoreham) (Con): May I invite the Chancellor to put right the erroneous statement that he just made? The Conservative party supports the expansion and improvement of Sure Start, as he knows only too well, and I hope that he will not wish to mislead the House. I am sure that he would not want just to grab headlines without doing the figures first, so will he explain how he intends to increase the number of Sure Start centres from about 500 to 2,500 over the next three years—a five-times increase—when he has only doubled the amount of cash that he has given to that programme?

**Mr. Brown:** The number of Sure Start centres in the programme will rise first from 550 to 1,000, then to 2,000 and then to 2,500, and they are all properly

financed, as the hon. Gentleman can see from our programme. As for the Conservative party's programme—*[Interruption.]*

**Mr. Speaker:** Order. The hon. Member for East Worthing and Shoreham (Tim Loughton) gets only one bite at the cherry.

**Mr. Brown:** The shadow Chancellor should listen to this. We would look in the first instance to some of the money currently spent on Sure Start to fund the programme, thus cutting

"the conveyor belt to crime",

to which the shadow Chancellor referred when he was shadow Home Secretary. During a Conservative party conference, he said:

"The cost is modest and could easily be accommodated within the less well-focused Sure Start programme."

Again, he has got to answer for a proposal to cut Sure Start budgets.

**Mrs. Joan Humble** (Blackpool, North and Fleetwood) (Lab): May I tell my right hon. Friend that there is an excellent Sure Start project in Fleetwood in my constituency? I am looking forward to the extra money that he has announced enabling more Sure Start projects and more children's centres, but will he make sure that, as the funding for Sure Start projects is incorporated into mainstream budgets, especially those of local authorities, there is a proper framework within which they will further develop the children's centres and Sure Start to ensure that that excellent project continues?

**Mr Brown:** I am grateful to my hon. Friend for championing the Sure Start programme in her constituency. She is absolutely right to suggest that there must be help with early learning and health services for the young child and the mother. One of the advantages of the Sure Start programme is that we get invited sometimes as Ministers to open those Sure Start centres. To see a Sure Start centre working, with all the parents and children directly involved in its running, is something that makes me proud of our Government's achievements.

## Government Borrowing

6. **Andrew Selous** (South-West Bedfordshire) (Con): What assessment he has made of the effect of levels of Government net borrowing on the level of taxation. [213420]

**The Chief Secretary to the Treasury (Mr. Paul Boateng):** The 2004 pre-Budget report set out the Treasury's latest projections for net borrowing and tax receipts.

**Andrew Selous:** With the Government forecasting their borrowing at £93 billion over this Parliament and a further £114 billion over the next four years, and with corporation tax revenue, especially, expected to be lower than forecast, will the Chief Secretary tell the House which taxes will rise to pay for that borrowing? Will he do that with a little more accuracy than the Prime Minister, who when asked before the last election,

"whether any reasonable person wouldn't suppose that you therefore propose to increase National Insurance Contributions",

replied, "They shouldn't"?

**Mr. Boateng:** The hon. Gentleman well knows that our borrowing is sustainable. We have an excellent forecast record. For him to suggest for one moment that the Government need to learn anything from him or his party about borrowing is to live in cloud cuckoo land. The fact of the matter is that today's borrowing at 35 per cent. is way below that in 1996–97, when it was 44 per cent. of gross domestic product. He should remember that in every year since 1997 and in every year of the forecast period, tax has been seen to be below that projected in the last Budget for which the Conservative party was responsible. Our party has delivered stability and continuing growth, but his party is one of borrowing, boom and bust.

**Kevin Brennan** (Cardiff, West) (Lab): Is there not a difference between a Government who borrow to invest in public services as part of the economic cycle, and a Government who borrow to waste money on unemployment because they believe that unemployment is a price worth paying?

**Mr. Boateng:** I am afraid that that is true. That was the record of the last Conservative Government, under whom we saw some 3 million people unemployed, double-digit interest rates and double-digit inflation. At the end of their period in government, they were paying more on the amounts that they had borrowed than they were on education. Conservative Members should be ashamed of that record.

**Mr. Edward Leigh** (Gainsborough) (Con): Was the Institute for Fiscal Studies right to say in its "Green Budget" that the Government would need to borrow £3 billion more than the amount predicted in the pre-Budget report owing to

"stronger-than-forecast spending, and weaker-than-expected revenues"?

**Mr. Boateng:** I always listen with care to anything that the hon. Gentleman says—after all, he is Chairman of the Public Accounts Committee. I listen with care, too, to the reports and work of the IFS, because that is well worth while. Only two weeks ago, it said that the most recent public finances data were good news for the Government and that current receipts were on track to meet the Treasury's pre-Budget report forecast. Indeed, it said that current spending was moving closer in line with that outlined in the pre-Budget report. I listened to that with care, and the reality is that the Government have met their fiscal rules and will continue to do so.

**Mr. Michael Jabez Foster** (Hastings and Rye) (Lab): My right hon. Friend the Chancellor reminded us a while ago that highly indebted countries in Africa were spending more on interest than education. Given that that situation with schools and debt existed in this nation in 1997, what is the appropriate ratio today?

**Mr. Boateng:** We are trying to ensure—and we will ensure—that we do not return to the days when

borrowing was at 8 per cent. We will continue to ensure that we maintain our commitment to our fiscal rules and a programme of investment in our public services and infrastructure. That is the way in which we ensure that we continue to have growth to such an extent that we have had 50 consecutive quarterly periods of growth. That is a record to be proud of and we intend to maintain it in government.

**Mr. George Osborne** (Tatton) (Con): Has the Chief Secretary found time this week to read the comments of the Prime Minister's former chief economic adviser, who says:

"Brown talks a good game on wealth creation, but actually has much less idea what makes the private sector tick. Britain's economic arteries are slowly being furred up by a higher and more complicated tax system, excessive regulation and endless micro-management"?

Does the Chief Secretary find it refreshing that the Prime Minister receives such candid advice on the Chancellor's economic policies, and will he avoid blocking Britain's economic arteries by avoiding further tax increases?

**Mr. Boateng:** There is one answer both to the hon. Gentleman and to the former economic adviser. It is that the present Government with the present Chancellor have delivered 50 consecutive periods of growth and seen the creation of 2 million jobs, low inflation and low interest rates. A Government of which the hon. Gentleman was a member would see a return to double-digit inflation, double-digit interest rates and—yes, I am bound to say it—boom and bust.

**Mr. Stephen McCabe** (Birmingham, Hall Green) (Lab): How much extra tax and borrowing are likely to be needed to deal with the wave of unemployment that will hit my constituency if it is subjected to the £54 million worth of cuts that the shadow Chancellor has threatened?

**Mr. Speaker:** Order. I have told the hon. Gentleman before. The fact that I have a good memory is causing difficulties for him.

**Mr. David Laws** (Yeovil) (LD): Does the Chief Secretary recall the Chancellor saying not long ago that there are two different types of Chancellor of the Exchequer: those who fail and those who get out in time? What connection could there be between the present black hole in the public finances and today's news that the Chancellor is moving to the Foreign Office?

**Mr. Boateng:** There is no such black hole and I am not aware that any credibility attaches to such news.

**Mr. Dennis Skinner** (Bolsover) (Lab): Is the Chief Secretary aware that I am a bit of an expert on blocked arteries? I have just come back from hospital where I was told, "You have to keep with a consistent regime—stick with what is working. And one thing you must always remember is: never go back to a lousy diet"—like we had with the Tories.

**Mr. Boateng:** I could not agree more with that recipe for good health. Long may it continue.

## Gas Price Increases

7. **Mr. Laurence Robertson** (Tewkesbury) (Con): How much additional revenue the Exchequer has received due to the recent increase in gas prices. [213421]

**The Economic Secretary to the Treasury (John Healey):** This year, Government revenues from North sea oil and gas are expected to increase by about £1¾ billion over Budget forecasts, largely because of increased oil and gas prices. However, the overall impact on public finances is likely to be more limited because of other direct and indirect effects of the higher prices.

**Mr. Robertson:** The industry estimates that the effect will be somewhat greater. Does the Economic Secretary agree that the best thing that we can do to ensure security of our energy supply and so that we do not become over-reliant on imported sources is to increase investor confidence, and that talk of a windfall tax—or, worse, its imposition—would destroy confidence at the very time that we need it?

**John Healey:** When making decisions on the North sea oil and gas taxation regime we attempt to balance a desire to promote investment with ensuring that the companies pay a proper price for the exploitation of a finite natural resource that is a national asset. When profits and prices are high, oil companies pay more tax. Next year, we expect oil companies to contribute almost £6 billion through North sea taxes alone. We have no plans to introduce a windfall tax on oil companies.

**Mr. Michael Clapham** (Barnsley, West and Penistone) (Lab): My hon. Friend will be aware that the Ofgem report produced last year suggested that one of the factors that had caused the increase in gas prices was that the companies all carried out their maintenance at the same time of the year, causing the spike. That resulted in windfall profits. If he is not prepared to go ahead with a windfall tax, will he consider encouraging those companies to put much more money into anti-fuel poverty measures?

**John Healey:** A number of the companies are making such contributions to relieving fuel poverty. I know that my hon. Friend plays an active role on the Trade and Industry Committee, which is looking into high oil prices. In the Treasury as much as in the Department of Trade and Industry, we look forward to the Select Committee's report in due course.

**Mr. Andrew Tyrie** (Chichester) (Con): If Labour wins the next election, everybody knows it would put our taxes up. It has an £11 billion black hole to fill. The Chief Secretary has just confirmed to us that the IFS is well worth listening to, and it says the figure is £11 billion. Everybody knows that Labour would try and do it without people noticing. A windfall tax on oil and gas

would fit Labour's bill. We have had questions this afternoon on that tax, and a refusal, point blank, to rule it out. We have had—

**Mr. Speaker:** Order. I give those on the Front Bench the privilege of asking a question at their request. They must ask a question, not make a speech.

**Mr. Dennis Skinner** (Bolsover) (Lab): Come on, answer, professor.

**Mr. Tyrie:** I will take that as a compliment.

Will the Minister go further than what he has just said, which was, "We have no plans to introduce a windfall tax"? That is exactly the form of words that the Chancellor used early in his tenure, just before he introduced new and higher taxes.

**John Healey:** I am not sure the hon. Gentleman heard the answer that I gave in clear terms to the hon. Member for Tewkesbury (Mr. Robertson). I suggest that he look at the *Hansard* record tomorrow.

**Mr. Peter Pike** (Burnley) (Lab): Can my hon. Friend estimate what the average family is saving, despite the increase in VAT because of prices going up, bearing in mind the fact that when we came into government VAT was 8 per cent.? The Tories intended it to be 17.5 per cent. How much has the average family benefited because of the Labour Government's policy of reducing it to 5 per cent.?

**John Healey:** My hon. Friend is right to remind the House that one of the first things that we did on coming to office in 1997 was to reverse the increase in VAT that the Conservatives had put on fuel. He is right to say that householders have benefited also from the changes that we made in the competition regime for the supply of electricity and gas. Over the past couple of years UK prices have been among the lowest in Europe for gas and electricity, for industrial and for domestic consumers.

## New Deal

8. **Mr. Ronnie Campbell** (Blyth Valley) (Lab): If he will make a statement on public investment in the new deal. [213422]

**The Chancellor of the Exchequer (Mr. Gordon Brown):** For the £3.6 billion that has been invested in the new deal, 1.2 million men and women have been helped, with long-term unemployment down three quarters since 1997 and unemployment benefits, which cost £10 billion in 1997, now costing only £5 billion.

**Mr. Campbell:** Coming from a constituency that had high unemployment under the Tories all those years ago, I can tell my right hon. Friend that the new deal has been a godsend to young people especially, and my constituency now has record low unemployment. Rather than cut the new deal, as the Tories said they would, will he sustain it, if not increase it?

**Mr. Brown:** We are not only retaining the new deal; we are improving it all the time. It is sad that what should have all-party support is opposed by the Conservatives and would be abolished by the Liberal party as well. The Chairman of the Public Accounts Committee, commenting on youth unemployment, said that the programme had been effective in reducing long-term unemployment and

"clearly many young people have been helped by this programme".

That was not from a Labour Member, but from the hon. Member for Gainsborough (Mr. Leigh).

**Mr. Eric Forth** (Bromley and Chislehurst) (Con): Given that in 1996 and 1997 unemployment was falling at the rate of 50,000 a month, and given the number of immigrants who seem to be able to find jobs readily in this country, what is the point of the new deal?

**Mr. Brown:** We have halved unemployment since we came to power—that is the point of the new deal. More than 2 million people have been helped and we have 2 million more jobs in this country. For the right hon. Gentleman to say that the new deal is useless when unemployment has been halved just shows how out of touch the Conservative party is.

**Huw Irranca-Davies** (Ogmore) (Lab): Does my right hon. Friend recognise that the undoubted success of the new deal is underpinned both by economic stability and by the success of schemes such as objective 1 in the south Wales valleys and the west of Wales? Will he, with me, offer congratulations on the milestone that has been passed today in Bridgend, where objective 1 funding has created almost 2,500 growth jobs, safeguarded an equal number of growth jobs and helped more than 2,800 small and medium-sized enterprises? The way forward is to continue with the new deal programme, economic stability and more funds coming in to west Wales and the valleys.

**Mr. Brown:** Unemployment in Wales is now lower than it has been for 30 years. One of the reasons for that is that public investment in the regional policies of the European Union and in the new deal have made it possible. I have to ask Conservative Members this: what sense does it make for them to want to abolish, as an act of dogma, a programme that is so successful?

**Mr. Damian Green** (Ashford) (Con): Let us look at the facts. The admirable purpose of the new deal is to reduce the number of young people who are not working, training or studying. The fact is that the number of young people who are not working, training or studying has gone up since the new deal was introduced. Why does the Chancellor think that the programme is such a success, given that simple fact?

**Mr. Brown:** I will give the hon. Gentleman the facts. In 1985, 350,000 young people had been unemployed for more than a year; today, fewer than 5,000 are unemployed—an average of seven per constituency. The hon. Gentleman should be congratulating us, because unemployment has halved in his constituency.

**Andy Burnham** (Leigh) (Lab): Does my right hon. Friend agree that the 2.7 per cent. unemployment rate in Greater Manchester shows that the new deal has been worth every single penny and that it contrasts sharply with the 10 per cent. plus unemployment rate that was shamefully described by the Conservatives as a price worth paying? Rather than scrapping the new deal and introducing a token £1,000 payment to 14-year-olds, will my right hon. Friend not only give a commitment to extend the new deal, but give a real push to modern apprenticeships, which are beginning to work?

**Mr. Brown:** I visited Manchester only a few days ago and saw how employment is increasing, how research-based industries are growing, how the university and colleges are creating new businesses and new jobs for the future, and how the new deal is having an impact That is why, when the shadow Chancellor says that to cut the new deal means painful cuts, he knows precisely what it would mean: more unemployment. Unfortunately, the Conservatives believe that unemployment is a price worth paying.

**Mr. Desmond Swayne** (New Forest, West) (Con): What has happened to the disappeared young people who are not registered as unemployed, are not studying, not in training and not in full-time education of any kind? That is the key statistic.

**Mr. Brown:** There are more young people in work than at any time for 30 years. The hon. Gentleman does not want to face up to the fact that in his constituency and in the country youth unemployment has fallen by two thirds. He should be congratulating us and saying that in future more resources go towards helping those who remain unemployed.

## Charities (VAT)

9. **Chris Bryant** (Rhondda) (Lab): If he will recompense charities for the VAT paid on goods they sell. [213423]

**The Paymaster General (Dawn Primarolo):** There is VAT relief on certain goods sold by charities, including donated items and goods sold in connection with certain fund-raising events. Charities benefit from tax relief worth £2.4 billion a year.

**Chris Bryant:** The Treasury has, rightly, been generous over the past few years in ensuring that VAT is returned on some goods—for example, the Band Aid single—and we did not see such generosity in the 1980s. However, there is injustice in one area. We have, rightly, made it possible for many museums and galleries to open their doors free to the public, which has dramatically increased the number of people going in, but some museums and galleries still have to charge VAT on admission. Will the Treasury consider that in the months to come?

**Dawn Primarolo:** I know that my hon. Friend takes a close interest in the impact of VAT on charities, particularly in his constituency. As regards museums, following a long consultation on delivering the Government's policy on free entry to museums, one aspect of the arrangements that museums requested was the ability still to reclaim VAT. That required a particular settlement within the system. If, as my hon. Friend suggests, museums wish to reopen that consideration, I shall be happy to hear their representations.

## Africa Visit

11. **Tony Cunningham** (Workington) (Lab): if he will make a statement on his recent visit to Africa. [213425]

**The Chancellor of the Exchequer (Mr. Gordon Brown):** In January I visited Kenya, Tanzania, Mozambique and South Africa and attended a meeting of the Africa Commission.

**Tony Cunningham:** For far too long the problems of Africa have simply been ignored, but not any more. A main reason why Africa has been pushed to the top of the political agenda is the passion and commitment of the Chancellor himself, and I pay tribute to him for that. I am sure that on his visit my right hon. Friend saw many of the problems facing Africa, but also the tremendous potential and promise of Africa. Could he say something about that?

**Mr. Brown:** I thought that all parties wanted to see debt relief and progress in Africa. I hope that the Opposition will join us in wanting a solution to the debt problem and in taking measures that will unleash the potential of Africa. Over the past 10 years many African countries have achieved greater economic stability than in the past, but they have not got growth rates similar to Asian economies. That is why it is important that once and for all we deal with the debt issue, support the private investment and trading opportunities that exist in many of those countries, and help countries that are asking us for help on transparency and macro-economic policy. That is why it is also important in December to have a solution to the trade round.

From my visit to Africa I came away with the thoughts that, yes, there is massive and terrible poverty blighting the lives of millions, people suffering from HIV/AIDS in particular, but, yes, there is also potential. To harness it, however, requires a new partnership between the richest and poorest countries.

**Mr. Mark Field** (Cities of London and Westminster) (Con): What was the single most important economic lesson that the Chancellor of the Exchequer learned from his trip to Africa last month?

**Mr. Brown:** It is impossible for the countries that we visited to benefit from the opening up of trade unless they have the necessary infrastructure. If we cannot help them with the infrastructure in transport, communications and education in particular, it will not

be possible, even with the opening of trade, for those countries to move forward in both the African and world economies. I would have thought that there would be common cause on that. To make that happen we must deal with the fundamental problems that still exist from the 1980s. They are: the need for debt relief, to fund education where we can to help countries develop, and the need to get some relationship between rich and poor countries for the development of infrastructure. In particular, I saw young people wanting their economies to move forward. They need a better partnership than we have given them in the past. I hope that all parties can join in promoting that.

**Mr. Andy Reed** (Loughborough) (Lab/Co-op): As my right hon. Friend the Chancellor knows, there is a need for genuine joined-up work between aid, trade and debt relief. He will have learned that in particular on his visit to Africa. In the past, where we have had debt relief and debt cancellation, it has not always had the impact that we have wanted because of interactions, such as collapsing commodity prices in large parts of Africa. In terms of what he proposes as possible for the G7 and G8 this year, can he demonstrate how, by bringing them together, he can ensure that debt relief means real debt relief with a lasting impact for the poorest people in those countries?

**Mr. Brown:** I am grateful to my hon. Friend, who has taken a big interest in these issues. Eighty per cent of the debt that is now owed is owed to multilateral institutions. If they consistently require that interest payments be made over the next few years, most countries will be spending more on interest payments than on education or health. The agreements that we are making with individual countries, meaning that the money that would be paid in interest rates goes to education and health, are an important first step in helping economic as well as social renewal. There are also debts, interestingly enough, owed to Libya, Romania and eastern European countries. We must also find a solution to what is called the non-Paris Club debt.

I believe that there is sufficient good will in the international community and I hope that over the next few months we all will urge all countries to reach a settlement of this issue, which is outstanding from the 1980s. That will make it possible for some of the countries that I visited and other countries to spend resources that they need to spend on tackling terrible and difficult problems of illiteracy, disease and suffering.

## Corporation Tax

12. **Mr. David Heathcoat-Amory** (Wells) (Con): What estimate he made in his 2004 Budget forecast of corporation tax receipts in 2004–05; and what his latest estimate is. [213426]

**The Chief Secretary to the Treasury (Mr. Paul Boateng):** Corporation tax forecasts were provided in the pre-Budget report. Updated forecasts will be provided in the Budget.

**Mr. Heathcoat-Amory:** How does the Chief Secretary answer the Treasury Committee's criticism that this is the fourth year in a row that the Treasury has overestimated tax receipts? Indeed, the loss of revenue is now £37.7 billion in total for those four years. What tax increases are the Government planning to make up the tax gap?

**Mr. Boateng:** The right hon. Gentleman well knows, and I believe that the Treasury Committee accepts, that our overall record on forecasting is good. As he knows from being in government, corporation tax growth is only one element of receipts forecasts. Receipts from income tax, national insurance and VAT—the three largest taxes—have come in broadly as expected in Budget 2004. There is no reason to believe that our forecasts for corporation tax will not be realised. Indeed, they are on track to being realised, as the December figures show.

**Mr. Jim Cousins** (Newcastle upon Tyne, Central) (Lab): Does my right hon. Friend accept that Britain's corporation tax revenues are under relentless attack from several multinational companies and the global accountancy firms' mass production of tax avoidance? Is he determined to mount a robust defence of Britain's corporation tax revenues in the face of that? Will he co-operate with tax authorities in Germany and the United States that seem to be engaged in a similar battle?

**Mr. Boateng:** As my hon. Friend recognises, we are working closely with the countries that he mentioned. He will be aware of the activities of my right hon. Friend the Paymaster General and her agenda of ensuring that we bear down heavily on tax avoidance. We want fairness and we are achieving that with our programmes of taxation reform.

## European Union

12.31 pm

**The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw):** With permission, Mr. Speaker, I should like to make a statement on prospects for the European Union in the next year.

Twelve months ago, I made several proposals to the House to improve the way in which the Government are held to account for the conduct of European Union business. One was the publication of regular White Papers on "Prospects for the European Union", the first of which I published in April last year. As with the White Papers that I published on the EU constitution negotiations, I hope that hon. Members feel that the fuller and more timely information on EU business has helped to stimulate wider debate and discussion. Such discussion shapes and strengthens the Government's position in European negotiations. Consistent with the pledges that I made last year, I have published White Paper Cm. 6450, which sets out the prospects for the European Union in 2005. Copies have been available from the Vote Office since 9.30 this morning.

Let me highlight three of the main areas of work that the White Paper covers: enhancing prosperity across Europe and in this country; working together to tackle common threats to our security; and preparations for the United Kingdom's presidency of the EU in the second half of this year.

In the European Union, Britain is part of the world's largest common market of 450 million consumers. That gives new opportunities to our businesses, greater choice and quality to British consumers and boosts jobs and growth here and across Europe. However, there is much more to do to ensure that we get the maximum benefit from that single market by pursuing further liberalisation and reform.

We will therefore continue negotiating a directive to liberalise services across the EU. Services account for approximately 70 per cent. of the EU's output, but only 20 per cent. of its trade. Creating a true single market in that sector would boost growth in the EU and improve the price, choice and quality of services on offer to businesses and consumers. The Government are also working for better implementation and enforcement of the financial services action plan, which offers great benefits in another sector where this country is especially strong.

We are also working to ensure that EU law—so vital for the operation of the single market—is the most effective possible for business. As my right hon. Friend the Chancellor of the Exchequer announced 12 months ago, the Government have been working closely with the Irish, Dutch and Luxembourg presidencies on regulatory reform in Europe. We have now extended that team work to include the Austrians and Finns, who follow us in the EU presidency next year.

I also greatly welcome the strong lead from Commission President Barroso, whose five-year plan published on 26 January made it clear that better regulation is a priority for the new Commission. We will be working with the Commission to ensure that we have a better assessment of the impact of new proposals and systematic reviews of existing EU legislation.

The White Paper also highlights the continuing negotiations on the European Union's budget. The Government are working especially with Germany, France, the Netherlands, Austria and Sweden to ensure that future EU budgets are limited to 1 per cent. of Europe's economic output and that that money is spent where it most adds value. We also continue to make it clear that the United Kingdom's budget abatement remains fully justified. We, like all other countries, have a veto on any changes proposed in that area.

As well as dealing with the economic aspects of our EU membership, the White Paper also sets out many areas in which our common work in Europe makes the United Kingdom safer and more secure. It shows how we are improving co-operation between police forces and other authorities so as better to tackle international organised crime and terrorism across national borders. It highlights our work to ensure that European measures to stop asylum shopping and to create a level playing field on asylum across the whole of the EU are properly implemented and evaluated. It also describes work on concluding readmission agreements with countries outside the European Union.

The coming year will be an important one for the EU's crisis management and aid operations, which make a direct contribution to our own security. The largest European Union mission to date will help to build stability in Bosnia, under a British commander, Major-General David Leakey. EU police missions will continue to work in Bosnia, Macedonia and the Democratic Republic of the Congo. A new European defence agency, under a British chief executive, Nick Witney, will increase Europe's capacity more quickly to deploy effective forces in response to international crises and ensure that they can work better together.

The Government will continue to play a leading part, along with our colleagues in France and Germany, in Europe's efforts to ensure that Iran's nuclear programme is for peaceful purposes alone. What we have achieved to date, with Iran suspending the processes that could produce fuel for a nuclear bomb, demonstrates the value of this common approach.

The EU is the largest provider of development assistance in the world. As well as delivering Europe's contribution to reconstruction in the areas hit by the tsunami in Asia, we will work to strengthen the European Union's work to support Africa—one of our key G8 priorities.

As I have mentioned, the United Kingdom will hold the presidency of the European Union from 1 July this year. Our presidency will focus on the themes of security, stability and prosperity, both within the European Union and outside. Africa and climate change—the priorities of our concurrent presidency of the G8—will be important parts of that EU agenda. We will continue to push for economic reform and better regulation in Europe to deliver long-term improvements in growth. We will also steer preparations for the next stage in the world trade negotiations.

This White Paper makes clear, as did its predecessors, the central importance for the United Kingdom of our work throughout, and with, the European Union. It also shows Britain delivering in Europe—delivering because we are engaged with our partners on issues that no country can tackle alone. This Government are

*[Mr. Jack Straw]*

proud to have put Britain back where we belong—not carping from the sidelines, but a leading power in Europe. We are winning clear benefits for British consumers, British businesses and British families in areas that make a real difference to their lives.

Through Europe, we are increasing Britain's power and influence in the world. Our approach has helped us to deliver the European Union's greatest ever enlargement and agreement to historic membership negotiations with Turkey, which will begin in October under our presidency. It has got us a European Commission that has made jobs, growth and better regulation a top priority. It has also got us European defence arrangements that work with, not against, NATO, and European co-operation on foreign policy that is again delivering significant results, not least those that we saw recently in Ukraine.

Again thanks to this Government's approach, we have delivered a constitutional treaty that every other country in Europe is calling a great British success. I look forward to debating the facts of that treaty, not the myths of the Conservative party, in the months ahead.

Ten years ago, this country was isolated in Europe. Today, we are where we belong: leading reform in Europe and working together to enhance Britain's prosperity and power. That is the difference between this Government and those who want to detach us from Europe—a difference that is clear from this White Paper. We are confident about Britain's future in Europe and determined to continue shaping that future in the interests of businesses and individuals across the United Kingdom. I commend the White Paper to the House.

**Mr. Michael Ancram** (Devizes) (Con): I thank the Foreign Secretary for his statement and, I must say, for very short advance sight of it.

I am puzzled by the reasons for this statement. The publication of the first such White Paper on 20 April last year was merely announced in passing by the Prime Minister in a wider statement explaining his somersault on the referendum. No detailed explanation was given to Parliament. Why is this statement needed today, particularly as the Foreign Secretary had nothing new to say? Is not the reason that the Government are involved in a taxpayer-subsidised propaganda exercise to try to sell the new EU to the country in advance of the forthcoming referendum and general election?

The Foreign Secretary refers somewhat disingenuously in his introduction to the White Paper to stimulating

"closer and deeper involvement of . . . the general public, in EU affairs".

Can he explain how, in the course of that stimulation, the general public are to become more closely and deeply involved in European affairs? This document, replete—extraordinarily—with five and a half pages of a glossary of Euro-speak, is in truth designed to lull the British people into a false sense of security.

Let me give one example. At page 5, the White Paper claims that the treaty establishing a constitution for Europe

"will make Europe . . . easier to understand".

Yet the Government last week had to publish a commentary of 500 pages to try to explain this easy and simple constitution to the British people. Who are they trying to kid?

One or two matters of detail arise out of this White Paper. Is there really a need for a "new European Gender Institute", referred to on page 14, in paragraph 37? What on earth is wrong with our Equal Opportunities Commission? Is this not yet another example of unnecessary European interference and empire building? Will not this new institute duplicate work to be carried out by yet another new European institution, the human rights agency, to which paragraph 63 refers?

While we are on that agency, why did the Commission, in its recent consultation paper, refer to it not as the human rights agency but as "the Fundamental Rights Agency"? What is the difference? Are the Government merely trying to hide the implications of the inclusion of the charter of fundamental rights, which they have tried so hard over the last few months to play down? Does not paragraph 51 confirm a further encroachment of the EU into areas of fundamental national jurisdiction, namely matters of criminal justice? Does not that fly in the face of previous Government promises that such matters would remain outside Community competence?

At paragraph 56, does not the support of qualified majority voting in matters of immigration and asylum fly in the face of the Prime Minister's boast in 1997 to the House, in relation to QMV, that

"we secured unanimity in all the areas where we wanted it, such as immigration".—[*Official Report*, 18 June 1997; Vol. 296, c. 319.]

Given that the Government have opted into every directive on asylum, is not the assertion in that same paragraph that the

"UK . . . retains the right not to participate in EU asylum . . . provisions"

meaningless?

At paragraph 81, the Foreign Secretary refers to the work that he was doing in Iran. Why is his view of Iran so different from that expressed by the President of the United States in his State of the Union address last night? Has he taken into account, for instance, the reports in today's newspapers that Ukraine has in the past sold long-range missiles to Iran? While we are on the subject of Ukraine, why is the Foreign Secretary so lukewarm about Ukraine's attempts to open negotiations to become part of the European Union?

Paragraph 85 deals with EU-China. Precisely what improvements in China's human rights record since Tiananmen square justify the Government's current support for the lifting of the arms embargo?

Page 11 makes much of the Lisbon agenda. We have long warned that that agenda could easily become all about failed targets and today we see with regret how right we were. Halfway through the 10-year programme, little has been achieved and, as the White Paper itself acknowledges, the prosperity and productivity gap in relation to the United States is widening. In the White Paper, the Government describe that as "falling short of expectations". In the "EUobserver" on 2 February, Wim Kok described the

goal of the agenda as "a bridge too far". But was not Romano Prodi nearer the truth last October when he described it quite simply as "a big failure"? Yet the White Paper merely promises more of the same.

Is it not the case that the real engine of prosperity and growth is deregulation, competition and a genuinely free market? Is it not also the case that the social model acts as a break on that engine, and is that not why the EU is failing economically? Yet the White Paper offers a lot more talk and no action.

The Foreign Secretary knows well that the prospects for the EU in the coming year will remain uncertain until the outcome of the EU-wide process of ratification of the constitution is known. Yet now we hear that the Government intend to put off the referendum in this country until the latest possible date next year. Prolonging the uncertainty can only be bad for the EU. Why do the Government not have the courage of their convictions and hold the referendum now? Why do they not realise that this country will have no part in the constitution, and begin to build an EU that will work for its peoples rather than its elites?

After May, when we are on the other side of the House, we will waste no time in clearing up this uncertainty.

**Mr. Straw:** The self-deprecating smile on the face of the right hon. and learned Gentleman as he mouthed his last point said it all. It was clear that not even he believes such nonsense. One reason why he does not believe it is that, as someone who throughout his political career—until he became deputy leader of the Conservative party—was an ardent supporter of Britain in Europe who not only voted for Maastricht but spoke up for it, he knows very well that Europe above all other issues has wrecked the Tory party and removed its prospects of power for well over a decade.

The right hon. and learned Gentleman asked why the statement was needed. I refer him to a statement I made early last year, when I told the House that in my judgment the British Government ought to be more accountable to the House for what they do in regard to European Union business. I made a series of proposals, one of which was regular publication of these White Papers and an oral statement to accompany those published annually. That is why I am here now, and I find it astonishing that he is running so scared of the facts about our record in Europe that he does not want the issue to be discussed.

The right hon. and learned Gentleman asked about the new gender institute. Of all the issues that he could have highlighted, he fixed on that one. I will tell him why the institute is needed. Even the Conservatives' policy for the European Union accepts the free movement of workers and of people. That means that in increasing numbers—*[Interruption.]* The right hon. and learned Gentleman asked me about this, so I am trying to explain. In increasing numbers, British workers will be working abroad. If they happen to be women, they ought to be entitled to the same protection that they can enjoy here. I should have thought that that was commendable, not a matter for regret.

The same applies to the human rights agency. No, it will not duplicate the work of our own agencies. Indeed, we are far more advanced in terms of gender equality—as we are in terms of race and religious relations—than most, if not all, other European countries. However, it is of great value to our people abroad to be able to secure some minimal protection if they are subject to gender or racial discrimination.

The right hon. and learned Gentleman asked about judicial co-operation and our signature to the Amsterdam treaty. The terms of that treaty were made very clear when the House debated it in 1997. I think that the Conservatives tried to make that and Nice the great election issue in 2001, and they got the answer that they deserved from the British electorate.

I will tell the right hon. and learned Gentleman why we need QMV on aspects of asylum and immigration policy. Back in the early 1990s, the right hon. and learned Member for Folkestone and Hythe (Mr. Howard) signed up to a convention that became Dublin I. It had to be agreed unanimously and it was crazy to sign it, because, although it did not come into force until 1997, it was binding and prevented us from maintaining our bilateral agreement with France to return asylum seekers and illegal immigrants who had travelled through France.

There is no point in the Leader of the Opposition weeping about that decision, which was his responsibility. I tried to get the convention changed, but it took a very long time, because one or two countries proposed vetoing that change. QMV allowed us to make the change, and we now have returns agreements, and the same is true of the Eurodac fingerprinting convention. If the right hon. and learned Member for Devizes (Mr. Ancram) wants better to control immigration and asylum into this country, he must understand that we need co-operation with our European partners, a level playing field and, above all, to be able to change the law in our favour, but he is setting his face against all those things.

The right hon. and learned Member for Devizes asked about our position on Iran. In case he has not noticed, the British Government and the British Parliament are responsible for our foreign policy—I noted the implication of his remarks. Every single decision that France, Germany and the United Kingdom have made has been endorsed unanimously by the governing body of the International Atomic Energy Agency, on which the United States and others sit.

Finally and most absurdly, the right hon. and learned Gentleman pointed out that progress on Lisbon has not been as good as it should have been—I am glad that he has read that section of the White Paper—but then said that the European Union should secure more liberalisation, greater deregulation, better competition and a genuinely free market. What on earth does he think that the Lisbon agenda is about, if not deregulation, greater competition and a genuinely free market? Some people in the European single market are behind the action, which is why we have worked hard and successfully to get a Commission that represents our vision of the future and that will actively pursue the Lisbon agenda, which did not happen under the previous Commission.

**Sir Menzies Campbell** (North-East Fife) (LD): I commend the practice of the regular publication of these White Papers. So far as the Government recognise the

*[Sir Menzies Campbell]*

imperative need for progress on the single market and the Lisbon agreement, they will undoubtedly have our support.

I urge the Foreign Secretary not to ignore the reform of the common agricultural policy, particularly with regard to access for third world countries, and especially those in Africa.

On China, I part company with the Foreign Secretary. How can lifting the arms embargo, which was imposed after the events in Tiananmen square, be justified given the scope of human rights abuses in China, including the detention of thousands of political prisoners, which the Foreign and Commonwealth Office itself has described as a matter of serious concern? The Foreign Secretary visited Washington last week, and will be aware that political opposition to lifting the embargo exists across the board, and I hope that he will reconsider the position.

We have consistently supported the Foreign Secretary on Iran. What is the status of the current negotiations on a long-term agreement with Iran? When the Foreign Secretary meets the new Secretary of State, Condoleezza Rice, tomorrow, will he impress upon her the validity of the European Union's approach?

Finally, on the constitutional treaty, I share the Foreign Secretary's keen sense of anticipation about the forthcoming debate. Does he agree that the campaign for an affirmative vote in that referendum should begin as soon as possible?

**Mr. Straw:** I am grateful to the right hon. and learned Gentleman for his opening remarks. Beginning at paragraph 39, the White Paper includes a good section on the need to reform the CAP. We want to see progress on the reform of the EU sugar regime, which, as the White Paper states, is the most archaic regime in the CAP and costs EU consumers an estimated £3.2 billion each year. The right hon. and learned Gentleman may know, and Conservative Members may not, that we have been able to secure reforms of the CAP only as a result of QMV.

On the EU arms embargo on China, neither the European Council nor the General Affairs Council has made a decision. At the December meeting of the European Council—the summit of Heads of State, Heads of Government and Foreign Ministers—good conclusions were agreed. Among other things, the conclusions stated that if the embargo is lifted, no quantitative or qualitative increase in arms sales by any European Union country to China should occur. I will be happy to debate that matter at greater length at an appropriate moment, Mr. Speaker.

Since 1989, there has been some change for the better on human rights in China, but the change has not gone far enough by any means. We continually raise that point with China, and I raised it when I was there two weeks ago. We have set out our view of the current state of human rights in China in a comprehensive human rights report. The big difference is that since 1989, and following initiatives by my right hon. Friend the Member for Livingston (Mr. Cook), the EU now has a comprehensive arms control regime, which it did not have before. The truth of the matter is that almost all the refusals of licences have been made under the comprehensive arms control regime code of conduct, and not under the embargo, which is narrowly focused and does not include, for example, fighter avionics, which is key high-tech equipment.

Conversely, in all but two rather trivial cases, all cases of refusal under the embargo would have been refused under the code of conduct in any event. We are seeking to strengthen the code of conduct in any agreement that is reached, so that the arrangement is more transparent and allows much better knowledge in both this House and across Europe of what other countries are doing in terms of arms sales.

On Iran, following the decisions made in the middle of November, which were endorsed by the IAEA board, three working parties are currently in discussions with the Iranians. As soon as there is anything to report, I will make it available to the House.

On the constitutional treaty, I, like the right hon. and learned Gentleman, look forward to the Second Reading of the European Union Bill next week.

**Mr. Kevin McNamara** (Hull, North) (Lab): I welcome my right hon. Friend's statement and particularly his comments about the constitutional treaty. The fundamental human rights agency is a new institution that was not subject to any discussions when the constitution was debated. If the new institution will deal purely and simply with the human rights implications of Community law, it will be welcome because it will fill a gap in general human rights law in Europe. If, however, its powers are to be extended so that it seeks to take over the role currently fulfilled by the Council of Europe, it will lead to dangerous duplication and two standards of human rights in Europe.

During the UK presidency of the EU, will my right hon. Friend ensure that the statute that is currently being debated, discussed and drawn up is minimalist in its aim and ensures proper human rights within European institutions, but does not extend beyond that.

**Mr. Straw:** The proposal for a human rights agency has nothing to do with the draft constitution.

**Mr. McNamara:** It is a new institution.

**Mr. Straw:** It is, of course, a new institution. I accept my hon. Friend's concerns about duplication with the Council of Europe, which has also been a concern of ours in drafting the constitution. He will be familiar with the articles that ensure that the jurisprudence of the European Court of Human Rights and the statements in the European convention on human rights are not overturned by the charter of fundamental rights within the constitution.

I will be happy to follow up my hon. Friend's final point and discuss it with him.

**Mrs. Angela Browning** (Tiverton and Honiton) (Con): I notice that the Foreign Secretary is going for "better" regulation. We all recall that his Government set up a Better Regulation Task Force when they first took

office, but they quickly abandoned it because it was not effective. Why does he not go for less regulation instead of "better", and why does he not remove the EU's competences over regulation in this country? British businesses, particularly small ones, might then feel that something is happening.

**Mr. Straw:** Better regulation in many cases means less regulation, which is why I emphasised in my statement that part of the agenda that we, like other presidencies, will follow during our presidency is to ensure not only that there is real focus on new draft regulations, but a systematic process for eliminating unnecessary regulation. However, there are circumstances in which it is in the interests of British business and individuals for better regulation in a discrete area to mean new regulation. Indeed, one can think of a number of such circumstances. It is very easy for people simply to dismiss regulation, but without it, there would be no health and safety at work and we would be back to the situation that existed at the beginning of the 19th century. If that is the view—

**Mr. Mark Simmonds** (Boston and Skegness) (Con): Rubbish!

**Mr. Straw:** The hon. Gentleman may say that, but such measures depend on regulation. The single market, which is very much to the benefit of British business, depends not only on regulations but on their enforcement across Europe. Ours is the country and economy that has most benefited from access to a free market in Europe. We have to ensure that regulation is better, and in many cases that means less regulation, but in some cases it means new regulation.

**Mr. Eric Illsley** (Barnsley, Central) (Lab): As my right hon. Friend knows, the situation in Cyprus has stalled following the Republic's rejection of the Annan V plan. Some of us fear that, in the light of that rejection, Cyprus might try to veto certain aspects of European Union business and the negotiations with Turkey. Given that Turkey has influenced the Republic's decision to reject Annan V by, for example, stationing 35,000 troops in the north—there is also the question of property rights in that region—could my right hon. Friend use this October's negotiations with Turkey to try to find some common ground by persuading it to remove its troops from the north and to reach some accommodation with Cyprus?

**Mr. Straw:** As my hon. Friend knows, this is a very sensitive issue for both the Greek Cypriots and the Turkish Cypriots. There was talk before the December Council of a possible veto by Cyprus, but in the event, following some very difficult negotiations, all members of the Council unanimously agreed a date of this October for negotiations with Turkey to begin. For the future, both Cyprus and Turkey look forward to one product of Turkey's ultimate accession and membership being complete normalisation of its relations with Cyprus, including recognition of that state. But there are strong feelings on both sides about this issue, and there has to be a process that secures consent from each side. We are actively encouraging that process.

**Mr. David Heathcoat-Amory** (Wells) (Con): How can the Foreign Secretary talk yet again about the need for regulatory reform while the European Commission continues to do the exact opposite? For instance, is he aware that the European Standing Committee has just debated a new EU proposal requiring employers to carry out risk assessments of, and to provide information and training on the problems associated with, exposure to outdoor light? The British Government regarded such a proposal as unnecessary, but it is subject to majority voting. How can we take the Foreign Secretary seriously? He talks about regulatory reform, but the culture of the EU continues to be one of yet more regulations, higher taxes, higher unemployment and low growth.

**Mr. Straw:** I am very happy to write to the right hon. Gentleman about the merits of this regulation—*[Interruption.]* I understand from a sedentary comment that the argument in favour of it relates to skin cancer. As is often the case, we hear a parody of the purpose of such regulations. A moment ago, Opposition Front Benchers launched a ridiculous attack on women's rights, instead of understanding that half the population of Europe are women, who would perhaps like their rights to be protected.

On the wider issue raised by the right hon. Gentleman, there has been a sea change in the Commission's culture, which is reflected in its new membership and in the clear policy direction given not only by President Barroso but, for example, by Peter Mandelson. In a very good article in today's edition of the *Financial Times*, Peter Mandelson sets out his and the Commission's vision for ensuring that EU regulation is lighter and more effective.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): My right hon. Friend said in his statement that Africa would be an important part of the European Union's agenda. Is there not an important spillover from the public's response to the tsunami appeals and their willingness to see poverty in Africa tackled? Should we not take the highest ground possible on these matters, and is it not time for an international tax on currency speculation? Many African nations argue for the need for a form of Marshall aid. We might be able to secure a form of Straw aid, which might be more significant than that term would suggest.

**Mr. Straw:** I agree very much with my hon. Friend's more general statement. However, my right hon. Friend the Chancellor of the Exchequer has a number of serious reservations about the proposed Tobin tax, which I share.

**Rev. Martin Smyth** (Belfast, South) (UUP): I welcome the Foreign Secretary's statement and the publication of the White Paper. On security, is he aware that there are still some gaps in the extradition arrangements between the various European Union countries? For example, Spain refused to extradite a criminal to Dublin, and Belgium refused to extradite a particular individual to the United Kingdom. Can the Foreign Secretary assure us that in the fight against international terrorism and criminality, he will aim to tighten up such arrangements?

**Mr. Straw:** Yes, I can. Frankly, extradition ought to be a very straightforward issue within Europe. I understand the hon. Gentleman's frustration with the

*[Mr. Straw]*

system, which frustrated me when I was Home Secretary. I offer my personal commitment on this issue, and that of my right hon. Friend the current Home Secretary.

**Mr. Gordon Prentice** (Pendle) (Lab): I heard Viktor Yushchenko tell the Council of Europe in Strasbourg last week that Ukraine's bid for EU membership would be decided not in Brussels but in Kiev. Does my friend agree with that, and what are the prospects of Ukraine's joining the EU?

**Mr. Straw:** Yes, and Mr. Yushchenko made the very important point that the EU is a union of independent nation states. So of course, the fundamental decision as to whether Ukraine is to apply for EU membership, and whether it achieves that, will be made by Ukrainians themselves in Kiev.

**Michael Fabricant** (Lichfield) (Con): Although France, Germany and the United Kingdom have been negotiating, as the Foreign Secretary said, with Iran about its development of nuclear weapons, the United States Government still think that Iran has withheld information from us and that it is heading towards developing such weapons. Given that China is supplying, for example, Silkworm missiles to Iran, does not the EU's decision to consider lifting the arms embargo send out all the wrong signals?

**Mr. Straw:** I do not accept what the hon. Gentleman says. No such decision has yet been made by the EU and if one is, it will be made only on the strictest conditions and with a very significant improvement in the current code of conduct—including, for the first time, real transparency on arms sales on the part of every single member of the EU. The hon. Gentleman says that the United States complains that Iran has withheld information; so do we. Indeed, that is the basis of the International Atomic Energy Agency's board of governors' original decision to declare that Iran was non-compliant with its safeguards agreement. I recently published a detailed command paper for the benefit of the House, setting out the ways in which Iran has been in breach. But I would also argue very strongly that the negotiations in which France, Germany and I are involved are the best way forward in trying to bring Iran back into compliance.

**Mr. Andrew Dismore** (Hendon) (Lab): May I raise with my right hon. Friend the two draft regulations proposed by the Commission on financial aid to the Turkish Cypriots and the direct trade regulation? Those two have been linked together, but the first is non-contentious, and it is agreed by everyone that the Turkish Cypriots should have €259 million of aid. The second, however, is extremely contentious, protectionist and does little to advance the interests of the Cypriots as a whole, whereas a more free trade approach would. Will my right hon. Friend consider de-linking the two, so that Turkish Cypriots can secure the financial aid quickly while we attempt to apply more sensible trading arrangements on the island, particularly the option of making green line regulation more effective?

**Mr. Straw:** We want the financial aid to reach the Turkish Cypriots as quickly as possible. It is initially for the Commission to make proposals about the linkage or otherwise of the regulations, but I would add that I was present at the General Affairs Council on 26 April last year, when a package of proposals, including these regulations to benefit northern Cyprus, was unanimously agreed. That is not for a moment the same as recognising northern Cyprus as a separate state, but it will benefit the northern Cypriots and it acknowledges that they voted in substantial numbers in favour of the Annan plan. It is a matter of great regret that both the regulations have, in practice, been blocked by one member state since then.

**Dr. Jenny Tonge** (Richmond Park) (LD): I was surprised and somewhat disappointed that, in his comments on the prospects for the European Union, the Foreign Secretary made no mention at all of the middle east peace process. Does he agree that peace in the middle east is crucial to the war on terrorism and the future prospects for peace in the world? Will he clarify what the EU is going to do this year to put pressure on Israel, in particular, to move the peace process forward?

**Mr. Straw:** The White Paper has been available in the Vote Office for the last three hours, which is a modernisation proposal that I thoroughly support—

**The Minister for Europe (Mr. Denis MacShane):** Oh!

**Mr. Straw:** I am grateful for that loyal approbation from my deputy. It has been noticed.

The White Paper is available and paragraph 84 spells out the key points. My statement was a brief summary of what appears there. The EU is doing a lot in respect of the middle east. Javier Solana, the EU special representative on foreign policy, will be present at the London meeting on 1 March that we are hosting, in order better to support the Palestinians as the withdrawal from Gaza takes place. I would like to see the House have a full debate on the middle east, but the truth is that the Government of Israel have moved a long way in recent months. Some quite remarkable things are now happening in respect of better co-operation between the Israelis and Palestinians. We are supporting that process and so, too, is the EU.

**Jane Griffiths** (Reading, East) (Lab): I welcome the White Paper's commitment to continuing reform of the common agricultural policy. Is my right hon. Friend aware of the petition for Africa, signatures for which are being collected in large numbers by churches and individuals in my constituency and, of course, elsewhere? Does he support the aim of the petition—to divert unfair subsidies for European farmers towards poverty alleviation in Africa?

**Mr. Straw:** I am aware of the petition, though I also know of some reservations about its detailed wording. The exercise is an excellent one and I fully support it. It is one of the democratic improvements that appears in the constitutional treaty.

**Mr. Michael Weir** (Angus) (SNP): The Foreign Secretary will be aware that many people in Scotland are

generally favourable to the European Union, but find it absolutely impossible to support the constitution, not least because fishing is included as an exclusive competence under article I-12. Will the Foreign Secretary make any attempts to change the treaty prior to its being put to a referendum?

**Mr. Straw:** The hon. Gentleman knows that one votes either for or against a treaty. He should recall—I certainly do—the European parliamentary elections last June, in which his party majored on the issue of the common fisheries policy and got a bloody nose as a result.

**Mr. Kelvin Hopkins** (Luton, North) (Lab): My right hon. Friend referred in his statement to economic issues, but did not mention the most serious economic problem in Europe. I mean the weakness of the eurozone, which exhibits continuing low growth and high unemployment. It is evidence of serious mistakes in macro-economic policy and problems can only be exacerbated by the recent strengthening of the euro in relation to the dollar. That underlines, I believe, Britain's wisdom in staying out of the eurozone, but does my right hon. Friend agree that if something is not done to improve the performance of the eurozone, it could cause long-term damage to Europe and, indeed, over time, to the British economy?

**Mr. Straw:** The generalisation about the alleged weakness of the eurozone disguises very significant variation within different member states, ranging from countries that are doing very well to those that are not doing well at all. It is important that my hon. Friend bears that in mind. It is true that some countries in the eurozone have serious structural problems connected with the inflexibility of their labour markets, which is holding back growth. Other countries, however, have seized the opportunities provided by greater transparency of the euro and are doing very well indeed. The generalisations are dangerous. My hon. Friend will also know that in Germany, the largest single economy in Europe, Chancellor Schröder and Vice-Chancellor Fischer have courageously embarked on a major programme of economic and social reform. That is causing some pain for the moment, but I am confident that it will lead to precisely the same benefits of greater flexibility that we have seen in this country.

**Mr. Desmond Swayne** (New Forest, West) (Con): How will the European defence agency achieve the fine-sounding objectives that the Foreign Secretary set out, when the reality is that our European partners continue to cut their defence expenditure and commitments? Is not it all just posturing?

**Mr. Straw:** Some do, some do not. One of the exercises that we are involved in is to push European countries to increase their defence spending. We are more likely to achieve that, by the way, through being engaged with them than by carping from the sidelines. In any event, the European defence agency will help to improve efficiencies and interoperability, not least because it has an excellent British official at its head.

**Mr. Mark Lazarowicz** (Edinburgh, North and Leith) (Lab/Co-op): It has been suggested that, in putting growth and competitiveness at the top of its agenda, the new Commission is putting on the sidelines the EU's commitment to tackling climate change. Does my right hon. Friend agree that we must not allow that to happen, given the evidence that is produced almost daily about the effects of climate change? Does he agree that tackling climate change must be at the heart of EU policy, along with the growth and competitiveness agenda, and that the issue should be a priority for the UK—not just for the six-month presidency period later in the year, but during the next few months in the run-up to it, too?

**Mr. Straw:** I absolutely agree with my hon. Friend about the importance of climate change, but I see no evidence whatever that the Commission is back-pedalling on it. Europe is in the lead on climate change. When Russia signed up to Kyoto, it meant that Kyoto would come into force, and one main factor that influenced Russia was the strong representation made by several countries, including France and Germany, to encourage the country to do so. One of the arguments used was that controlling climate change does not lead to lower growth, but helps to sustain our economic prospects in the medium and long term.

**Dr. Vincent Cable** (Twickenham) (LD): What is the Government's reaction to the strange comments made yesterday by Mr. Barroso, the President of the Commission? In the middle of an otherwise very helpful set of comments on services liberalisation, he endorsed the concept of social dumping, which has been imported from the most reactionary and protectionist elements in France to justify restrictions on trade with low-income countries with necessarily lower wages and working conditions. How do the British Government react to that?

**Mr. Straw:** Happily, I was not aware of that remark by President Barroso, so I have no need to comment on it in too much detail. I will look into the matter and write to the hon. Gentleman, but I have to say that President Barroso and his Commission have made a brilliant start and will continue as they have begun.

**Chris Bryant** (Rhondda) (Lab): On two key areas of international policy—the middle east peace process and Iran—the UK has played an important role in ensuring that Europe's position does not contradict that of the US but complements it. Does the Foreign Secretary believe that he will be able to do the same with respect to China?

**Mr. Straw:** Yes, I do. We work extremely hard in co-operation with both the US and our EU partners. Sometimes we may have a difference of view with some of our EU partners, and that was very evident in respect of Iraq. On other occasions—but far less frequently, in fact—there are some issues over which there is a difference of emphasis with our partners in the US. However, by a process of discussion and co-operation, we can usually arrive at a consensus. When we do, we are much the stronger for it.

## Business of the House

1.20 pm

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Will the Leader of the House please give us the business for next week?

**The Leader of the House of Commons (Mr. Peter Hain):** The business for next week will be as follows:

MONDAY 7 FEBRUARY—Remaining stages of the Serious Organised Crime and Police Bill.

TUESDAY 8 FEBRUARY—Opposition day [4th allotted day]. There will be a debate on climate change and the environment, followed by a debate on tackling the causes of crime. Both debates arise on a motion in the name of the Liberal Democrats. There will then be a motion to approve the third report of the Committee on Standards and Privileges.

WEDNESDAY 9 FEBRUARY—Second Reading of the European Union Bill.

THURSDAY 10 FEBRUARY—Remaining stages of the Identity Cards Bill.

FRIDAY 11 FEBRUARY—The House will not be sitting.

The provisional business for the week after the half-term recess will include:

MONDAY 21 FEBRUARY—Remaining stages of the Clean Neighbourhoods and Environment Bill.

TUESDAY 22 FEBRUARY—Motions relating to the draft Social Security Benefits Up-rating Order 2005 and the draft Guaranteed Minimum Pensions Increase Order 2005, followed by remaining stages of the Drugs Bill.

WEDNESDAY 23 FEBRUARY—Opposition day [5th allotted day]. There will be a debate on an Opposition motion, subject to be announced.

THURSDAY 24 FEBRUARY

FRIDAY 25 FEBRUARY—Private Members' Bills.

**Mr. Heald:** I thank the Leader of the House for the business. He will obviously have in mind a date for a Northern Ireland elections Bill. It would be helpful if the Bill were to be published. It may be controversial, but what is the timetable for publication?

Given the deteriorating security situation in Northern Ireland following the recent IRA statement, does the Leader of the House know whether the Secretary Of State for Defence has the intention to reconsider the cuts that he made in the number of infantry battalions based there? Are we likely to have a statement on that in the coming week? He will know that, at the time that those cuts were made, Opposition Members, and indeed many hon. Members throughout the House, pointed out that they were premature and would place more pressure on the defence budget.

The Public Administration Committee report issued today suggests giving Parliament much more control over inquiries such as that into the former Home Secretary. Can we expect an early response? Clearly, Parliament needs to be treated with more respect than has been shown recently to our Select Committees.

Will the Leader of the House make a statement about parliamentary conventions? Two weeks ago, the Government wanted to change the convention that constitutional Bills are debated on the Floor of the House, but ultimately relented. The Deputy Prime Minister was given the Environmental Audit Committee report entitled "Housing: Building a Sustainable Future" early, and subject to a press embargo for Sunday. On Saturday, however, he showed total brass neck by ignoring the embargo in order to attack the report. As *The Guardian* put it:

"Mr. Prescott took the unusual step of reacting to the report a day before it was even due to be released."

The Labour Chairman of the European Scrutiny Committee ignored the convention that the Chairman supports the status quo when he voted to reverse that Committee's request to sit in public. The tied vote then went in favour of those who oppose open government. The Leader of the House himself told us how much he welcomed the original request. He said:

"I very much welcome the European Scrutiny Committee's decision ... Indeed I do. In fact, I would like to see greater scrutiny". [*Official Report*, 15 January 2004; Vol. 416, c. 970.]

Is it not time that the Leader of the House condemned those who wish to go back to the bad, old-fashioned secrecy that has cloaked European scrutiny here? Surely we can rely on him to support such a modest piece of modernisation?

Finally, can we debate the Environmental Audit Committee report itself, which is also referred to in early-day motion 626,

*[That this House expresses its deep concern at the plans to impose massive house building on Hertfordshire; notes that such plans are based on the Government's Sustainable Communities Plan launched by the Deputy Prime Minister; congratulates the Environmental Audit Committee on its report Housing: Building a Sustainable Future, which attacks the Government's plans as not adequately considering the environmental impacts of the proposed increase in house building, with the environment as principal loser, as establishing the principal role of planning as being simply to meet market demand without regard to democratic accountability, as not having an adequate evidence base, as not referring to environmental protection, as making efforts towards sustainability that are little more than window dressing and as likely to result in a dramatic increase in the number of properties flooded; calls on the Government to undertake the research recommended by the Committee to amend its plans to take account of the environmental impacts and not to take forward the current misconceived proposals, which would lead to overdevelopment in Hertfordshire and other parts of the South East and East, and to traffic congestion, train overcrowding and undue pressure on all local services; and condemns the Government for pressing ahead with this plan even though the East of England Regional Assembly has withdrawn its support.]*?

The report attacks the Deputy Prime Minister's massive house building plans in the south-east for ignoring the environmental impacts of such building and ignoring democratic accountability. It states that it is likely to lead to a

"dramatic increase in the number of properties flooded".

That is what that Labour-dominated Committee found. Will the right hon. Gentleman accept that Hertfordshire, my own county, and other counties do not want to become a concrete wasteland to be known as "Prescottshire"?

**Mr. Hain:** I congratulate the hon. Gentleman on that carefully manufactured soundbite, but that is about all that I can say for his contribution. As for the proposals announced by my right hon. Friend the Deputy Prime Minister, I can tell him that two thirds of all new dwellings in England in 2002 and 2003 were built on brownfield sites. That compares with 56 per cent. in 1997. The intention is to use existing brownfield sites wherever possible, and to protect the green belt. We also intend to proceed with more affordable housing by using Government land where possible, so that the main cost borne by homeowners is the cost of their home.

That approach compares with Conservative proposals to cut the funding for housing massively, as part of the £35 billion in cuts that they hope to make. The hon. Gentleman ought to reflect on that, as voters in the south-east and elsewhere will have to decide between a Labour Government who invest in new housing, mostly on brownfield sites, providing opportunities for new homeowners, and a Conservative party that would cut all that support, and take it away from first-time buyers in particular.

On the Northern Ireland elections Bill, we would like to publish it as soon as possible. The hon. Gentleman knows that that is a matter for discussion through the usual channels, and that it is being discussed in the House of Lords at present.

I agree that the IRA's statement is very regrettable, but it would be "premature"—to quote the hon. Gentleman—to start reconfiguring the infantry in Northern Ireland. It is very important to keep the peace process on track, and I hope that Opposition Front-Bench Members, for once under their current leadership, will back the Government in that regard. That would contrast with their usual practice of continually undermining and sniping away at the peace process.

On the Public Administration Committee report, the Government will give a response in due course.

The hon. Gentleman will know that there was an argument about the Constitutional Reform Bill, but that that was resolved satisfactorily in the end. Indeed, he and I had a constructive conversation about the matter. However, I remind him that, on the second day in Committee, no Conservative Member was present at one stage of the debate. It is therefore very hard to tell quite why there was such a hoo-hah about providing extra time, given the sheer indifference among Conservative Members to that important matter.

The hon. Gentleman asked about the European Scrutiny Committee. He will know that the Committee reconsidered the matter last week. I understand that the vote was tied, with 12 hon. Members voting. After that, the Chairman voted and it was decided that the Committee should meet in private—at least for some sittings. The Committee meets in public when it takes evidence, and I have attended in various capacities to give evidence to the Committee. The evidence that I gave was always on the record, and given in public.

However, the Committee's vote needs to be respected by the House. It involved 12 hon. Members, whereas previously just five had voted. That was against the wishes of the Chairman, who thought that there should be proper representation.

The hon. Gentleman asked about the Environmental Audit Committee report, and suggested that my right hon. Friend the Deputy Prime Minister had transgressed the normal protocols. As I understand the matter, that did not happen. I am advised that he was responding to a report of a leak when the question to which the hon. Gentleman referred was put to him. I think he is entitled to do that. If he or any other Cabinet Minister is challenged on the record by journalists, of course they cannot remain silent in the middle of any story that is beginning to run. It is interesting that instead of concentrating on the substance of the policies and arguing their merits—*[Interruption.]* The hon. Gentleman is asking about policy issues in the context of a lot of processy stuff. It is interesting that Conservative Front Benchers are always obsessed with process, never the issues or the policies.

**Mr. Clive Betts** (Sheffield, Attercliffe) (Lab): Yesterday, we had a very good debate about the excellent local government finance settlement for next year, but a number of issues require further explanation, so could my right hon. Friend find time for a debate in which I could ask about a possible £4 billion cut in local government expenditure? As police, education and social services are protected, a cut would surely mean that houses would not be repaired, potholes would not be filled in, litter would not be collected, street lights would be left off, sports centres closed and libraries shut down. That may be the world that the Opposition want to live in, but I am sure that it would find no favour among Government Members.

**Mr. Hain:** I am absolutely sure that my hon. Friend is right. Whether it is cuts that would devastate communities such as his own and others across the country, or the £35 billion of cuts that Conservative Front Benchers are triumphantly proclaiming, everyone understands that they would destroy public services and take us back to high unemployment, economic risk, high interest rates and all the devastation that that would bring.

**Mr. Paul Tyler** (North Cornwall) (LD): In relation to the business announced for next Thursday, does the Leader of the House recall his eloquent plea last week for a full working day on Thursdays? He said:

> "By sitting an hour earlier on Thursday, we will make it again a day on which major business can be scheduled".—[*Official Report*, 26 January 2005, Vol. 430, c. 333.]

That is not yet in place, so how does he justify the inclusion of the Identity Cards Bill next Thursday? Is it not major business? Just because there are deep divisions in the Government and among the Conservatives, that is no excuse for truncating the debate to little more than four hours.

Today, urgent questions were raised by the Joint Committee on Human Rights. Will the Government reply in detail before the debate? He will know that the Chair of the Committee, the right hon. Member for Bristol, East (Jean Corston), wrote to the Home

*[Mr. Paul Tyler]*

Secretary with 14 extremely important questions, and specifically asked for answers before next Monday. Can we be certain that we will have those answers before the debate? The Leader of the House will be aware from reports in both *The Guardian* and *The Independent* today that both inside and outside the House there are extremely serious concerns about the way in which the legislation appears to conflict with our obligations under the European convention on human rights. Will he therefore reschedule the debate for a later date, so that we can have a proper, full debate on a day that even he recognises as suitable for major business?

Can the Leader of the House find an opportunity for the House to vote on the principle of making the other place more democratic and representative? He will be aware from today's papers that he and his Cabinet colleagues are being blocked by the Prime Minister on this issue.

**Sir Patrick Cormack** (South Staffordshire) (Con): Quite right.

**Mr. Tyler:** That is the only support that the Prime Minister has in the House on this matter. In an extremely important article, *The Independent* points out that

"supporters of change have warned Mr Blair that Labour will be outflanked by the Tories and Liberal Democrats, who back a mainly elected chamber".

Is it not time to have that vote? Even the Prime Minister, when answering a question from me last week, admitted that it was a matter for the House on a free vote. When will the House have that free vote?

**Mr. Hain:** A free vote on precisely what? The last time there was a vote on the composition of the House of Lords there was no agreement on any of the options put before the House. The debate was the result of considerable consultation and preparation. As for the hon. Gentleman's objective of a reformed and democratically constituted House of Lords, I share the general principle of that objective, although not necessarily the details. I am on record as doing so, and have voted accordingly. There is therefore no surprise about the proposal or anything new in it. If we are to achieve a consensus, as the Prime Minister wants, that will allow us to move forward and resolve the matter, we must work at it rather than simply springing a vote on the House. I therefore advise the hon. Gentleman to wait and see how matters progress, especially after the general election.

As to whether there is time to consider the remaining stages of the Identity Cards Bill on Thursday, that was discussed by the usual channels, and it was agreed to hold the debate then. There is no question of truncating the discussion. How could the Government seek to truncate a discussion about the Bill, when it has been raging in the media? The Bill itself has been subject to pre-legislative scrutiny and detailed consideration in Committee. It is a major item, and it has been agreed on this occasion, as we have agreed on other occasions, to discuss it on a Thursday. Indeed, we are taking the legislative stages of another major Bill today. It has not been possible to secure agreement to hold Opposition day debates on a Thursday—I am not sure whether the hon. Gentleman would agree to that—but it is possible to make progress on major pieces of legislation.

As for the report on identity cards published by the Joint Committee on Human Rights, we will obviously study it in full. We welcome the Committee's view that article 8 of the European convention on human rights does not prevent the issuing of any form of identity card—that is the key point. Currently, 21 of the 25 European states have identity cards. It is only the United Kingdom, Ireland, Latvia and Denmark—which has a national identity register—that do not. That underlines the point that there is no incompatibility between the Bill and the convention. People have concerns about identity cards, and the Home Secretary and the Government as a whole will wish to consider some of the issues raised by the Joint Committee. I do not, however, accept the hon. Gentleman's central proposition.

**Mr. Andrew Miller** (Ellesmere Port and Neston) (Lab): I welcome the review of road traffic offences published by the Home Office. It is an excellent document and will be welcomed by Members on both sides of the House who wish to deal with the tragedy of death on our roads. Can my right hon. Friend give us an assurance that primary legislation will be introduced after the consultation? More particularly, bearing in mind the fact that the consultation ends on Friday 6 May, if there is a general election in the meantime, can we be sure that enough work will have been done to introduce primary legislation at an early stage in the new Parliament?

**Mr. Hain:** The House is grateful for the consistent attention that my hon. Friend has paid to these matters. He welcomed the Government's introduction of the Road Safety Bill, and he will be aware of the written ministerial statement by the Under-Secretary of State for the Home Department, my hon. Friend the Member for Don Valley (Caroline Flint) today. The consultation paper sets out tough new proposals to reform the framework of offences dealing with bad driving, and seeks to address public concern, which he has ventilated, about the courts' ability to deliver justice, particularly when a death is caused by careless driving, death occurs involving a driver who should not have been on the road in the first place—such drivers may be disqualified or may not even have a licence—or when serious but non-fatal injuries are sustained by victims. We are addressing all those issues, and we will continue to do so, I hope, with my hon. Friend's input in the debate.

**Sir Patrick Cormack:** Will the Leader of the House alter slightly the business for the week of 21 February, and table a motion so that the House can debate removing the privileges that Sinn Fein's so-called Members of Parliament currently enjoy? Surely he agrees that they are no longer entitled to them.

**Mr. Hain:** That is similar to a point made by the shadow Leader of the House. As the hon. Gentleman knows, it is part of the context in which we are seeking to get the peace process back on the rails and secure a permanent democratic settlement to the difficulties in

Northern Ireland. I do not think that it would be right for us to address this matter prematurely, although I understand the point that he is making.

**Jim Sheridan** (West Renfrewshire) (Lab): My right hon. Friend will be well aware of the statement made yesterday by the Secretary of State for Work and Pensions on encouraging people off incapacity benefit and back into work—especially those who have the important skills that our country needs. As there is a perception that the policy is Treasury-driven and an attack on vulnerable people, will my right hon. Friend, in a spirit of fairness and equality, ensure that the Chancellor comes to the House to assure us that the same focus, resource and importance will be given to those who avoid paying tax in this country and whose tax burden falls on honest taxpayers?

**Mr. Hain:** Obviously, the Chancellor, laser-like, constantly seeks to get rid of tax avoidance or tax fraud and has devoted considerable attention to that. However, as my hon. Friend rightly says, the proposals on incapacity benefit are meant not to be punitive but to provide people who have been on incapacity benefit—some for a long time—with the opportunity to work, which everybody wants, and to fulfil their duty to society in some cases. In the south Wales valleys, I have seen for myself examples of exciting pilot programmes. In many cases, hundreds of people have come off incapacity benefit and gone into jobs, which they never imagined having the opportunity to do. With that individual support, which is costly, and with the incentives to come off IB and go into work, everybody is better off: society, because the benefit bill is lower; those individuals, because they gain the dignity and opportunity of work; and businesses with vacancies, which have those vacancies filled. That is win-win for everybody concerned, which is why we are so determined to take this forward.

**Sir George Young** (North-West Hampshire) (Con): I read in the papers that the Leader of the House has just come from a political session of the Cabinet at which no doubt an imminent general election was discussed. May I ask a business question in relation to that and hope for a less dismissive reply than I received last time? The Electoral Commission has proposed new and higher limits for expenditure by constituency candidates, to reflect the extra costs that now have to be reported. Those limits can come into being only when a statutory instrument is laid by the Government. When will they lay that statutory instrument?

**Mr. Hain:** I am sorry if I was dismissive to the right hon. Gentleman. I never try to be dismissive, to him in particular, as he is a senior and respected parliamentarian.

**Dr. Julian Lewis** (New Forest, East) (Con): Unlike the rest of us.

**Mr. Hain:** Some Conservative Back Benchers invite a dismissive response, although it is always done in a gentle and smiley frame of mind, especially to the hon. Gentleman who is a great participant in the theatre—sorry, serious business—of business questions.

We shall obviously consider the matter raised by the right hon. Gentleman. I cannot tell him what went on in the political Cabinet, but it was most interesting.

**Ms Julia Drown** (South Swindon) (Lab): Despite all the ceasefire agreements, violence in Sudan continues, with the African Union reporting that the Sudanese air force bombed a village a few days ago killing 100 villagers. Will my right hon. Friend find time for a debate on Darfur and the violence in Sudan so that we can call for more action, to ensure that those people receive not only the humanitarian aid but the protection that they need.

**Mr. Hain:** I am grateful that my hon. Friend has raised this matter. She is right to keep bringing it before the House. It will of course be discussed in the Security Council shortly. We are providing active support to the African Union monitoring mission to ensure the safety of civilians in Darfur—vehicles, money and plenty of planning support. We have also encouraged the monitoring mission to deploy fully as soon as possible. So far about 1,500 personnel, from a total force of 3,000, have been deployed, and we expect a further 500 to be deployed soon, but that is not really enough, and it is imperative that the Government of Sudan fulfil their responsibilities in compliance with United Nations requirements and end the attacks on innocent civilians in that devastated area.

**Sir Sydney Chapman** (Chipping Barnet) (Con): Will the Leader of the House find time before Easter to hold a debate on the collecting and collating of Government statistics, especially those on the measurement of economic growth and productivity? Is he aware that some people in the Office for National Statistics are expressing concern about the issue? There is suspicion that political pressure is being applied to come up with convenient numbers. As I know that the Government—and not least the right hon. Gentleman himself—want to be transparent, will he find time for this important issue to be raised on the Floor of the House?

**Mr. Hain:** It is indeed important, and I understand the point that the hon. Gentleman raises. I state most emphatically that there is no attempt to rig or in any sense manipulate the statistics provided by the ONS. Indeed, because of some anomalies that have crept in—I shall refer to them in a moment to explain where I think we are—the decision was taken to launch the independent Atkinson review. That decision was taken by the national statistician, not the Government: he himself said that he needed some independent advice. For example, under current measures of productivity, if we decrease class sizes, increase the quality of teaching and improve exam results, the statistics show a fall in productivity. If someone dies, that shows an increase in health productivity. Furthermore, 40,000 fewer people dying early from cancer and heart disease do not show up in the statistics at all. We have to try to make those assessments impartially, and the ONS, especially under its current leadership, is renowned for that robust independence. I am sure that the hon. Gentleman, like me, would want to maintain that.

**Mr. Liam Byrne** (Birmingham, Hodge Hill) (Lab): In the state of New York, the Batson inquiry into fraud at

*[Mr. Liam Byrne]*

Enron has heard evidence that both the Royal Bank of Scotland and Barclays worked with Enron executives in a way that allowed the company to hide the true state of its debts and contributed to its later bankruptcy, throwing thousands of employees out of work. Now that the evidence is on the record, when will we find time for a debate about the steps that the Serious Fraud Office is taking to ensure that our banks are clean and do nothing to encourage company directors to breach their fiduciary duties or their duties to their employees?

**Mr. Hain:** This is obviously a serious point, and given my hon. Friend's expertise and background, I am sure that the House will want to take particular note of it. He has the opportunity to apply for a private Member's debate on the issue, and I hope he will avail himself of that opportunity. I cannot promise him an early debate, but it is vital that such issues are addressed.

**Mr. Keith Simpson** (Mid-Norfolk) (Con): May I draw the attention of the Leader of the House to the state of British manufacturing industry? In my constituency on Monday, a manufacturer of trailers, Crane Fruehauf, closed its doors. The administrator was brought in and 345 employees were made redundant. As the right hon. Gentleman will understand, that has had a devastating impact on the small market town of Dereham. Obviously, that situation came about for many reasons, but is there anything that the Government can do in the short term, through the offices of the Department for Work and Pensions and the Department of Trade and Industry, to help the workers who have been made redundant?

Secondly, it seems that the company, like many others, was having great difficulty exporting, owing, among other things, to the high level of fuel tax on lorries. It seems to me that that is unfair competition, compared with many of our European partners.

**Mr. Hain:** The Secretary of State for Trade and Industry will want to pay careful attention to the hon. Gentleman's point, especially given the importance of the matter in his constituency. For the benefit of his constituents and the House, I remind everyone that Jobcentre Plus provides an enormous range of support for those who, unfortunately, face redundancy. There is also a rapid response service when additional support is necessary, which has made its services available to more than 112,000 people facing redundancy. Unfortunately, manufacturing, more than almost any other sector of the economy, is subject to enormous global pressure and a certain amount of churning and changes in jobs. However, it is important to put it on record that last year manufacturing created £150 billion of our wealth; 3.5 million people earn their living directly from the sector; and it accounts for more than half our exports and three quarters of our business research and development.

There is a thriving manufacturing sector and it is important that we continue to invest in science, skills and other support for it, but obviously I am disappointed about what has happened in the hon. Gentleman's constituency and trust that the requisite services will be provided as soon as possible.

**Mrs. Alice Mahon** (Halifax) (Lab): Has the Leader of the House had time to look at early-day motion 579, signed by 77 Members,

*[That an humble Address be presented to Her Majesty, praying that the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004 (S.I., 2004, No. 3372), dated 17th December 2004, a copy of which was laid before this House on 22nd December, be annulled.]*?

The motion reflects deep concern about the local government pension scheme regulations. He will be aware of the huge concern among public sector workers who believe that they are being given very little time for debate. May we have an urgent debate on the matter?

**Mr. Hain:** I understand my hon. Friend's concern, which she is not alone in expressing. The changes that she describes, which will come into effect in April, are necessary as part of a wider package that the Chancellor announced to reduce pressures on local authority budgets, thus helping to protect front-line services and, crucially, to keep council tax increases—which she is concerned about, as we all are—under 5 per cent. in the coming year. If those changes are not implemented, local government would face increasing pension costs of about £300 million per annum over the next three years, which could involve cuts in services, front-line jobs and pressure on council taxes. These are difficult matters, but her concern is being taken into account.

**Mr. Peter Robinson** (Belfast, East) (DUP): Following last night's statement by the Provisional IRA, does the Leader of the House feel, as I do, that we have heard just about everything from that organisation—an organisation that has butchered our fellow citizens for 25 years, rejected the Government's comprehensive agreement and instead carried out the biggest bank robbery in British history, and now has the bare-faced effrontery to say that the Government have tried the IRA's patience to the limit? Has he seen early-day motion 463, which calls for the withdrawal of privileges from Sinn Fein-IRA in the House,

*[That this House notes with concern the statement by the Chief Constable of Northern Ireland that the IRA were responsible for the raid on the Headquarters of the Northern Bank in Belfast when in excess of £26 million was stolen; recalls the Prime Minister's assertion that the IRA and Sinn Fein are inextricably linked; believes that this act of criminality proves that Sinn Fein cannot be treated like a normal democratic party; and calls upon the House to immediately withdraw all privileges from Sinn Fein honourable Members.]*?

Does the Leader of the House recognise that if he takes the attitude that he expressed in response to an earlier question, many will see that the Government do not have the bottle, the political backbone and the moral courage to take on those gunmen and gangsters?

**Mr. Hain:** I understand the force behind the hon. Gentleman's argument, but does he really want to describe the Government as lacking in bottle, backbone

or moral courage when the Prime Minister put his entire reputation on the line in negotiating the Good Friday agreement and has paid consistent attention to trying to get the peace settlement entrenched permanently and achieve a permanent democratic settlement? The discussions that my right hon. Friend has had with the hon. Gentleman's party are part of that. That is where we should focus. I agree that the events of the past few weeks have been deeply unfortunate and the behaviour concerned unacceptable, but instead of a blame game we must concentrate on really getting down to securing the future of a democratic Northern Ireland.

**John Robertson** (Glasgow, Anniesland) (Lab): I raised with my right hon. Friend some weeks ago ATM charging in poor areas of the city of Glasgow and areas with a high elderly population. I have subsequently found more information on that subject. Is he aware that a charge is made at 78 per cent. of all ATMs in post offices throughout the country? Those charges are made only in areas with low employment and a high elderly population where many people are on benefits. Is it not time that he called a debate in the House to try to get the banks—in particular, the Alliance & Leicester and Hanco, which is owned by the Royal Bank of Scotland—to stop the disgraceful act of charging the poor and the elderly, as well as those who live outside a main city or town?

**Mr. Hain:** I represent a constituency with many outlying former pit villages, so I absolutely understand the point that my hon. Friend makes. It would be very helpful if he could secure a private Member's debate, in which other hon. Members could express their view on the matter and the banks and other institutions responsible could be held to account. As he says, the poorest and some of the oldest citizens, who do not have cars or the ability to go to a free ATM, are most punitively hit by such behaviour. I would certainly welcome the opportunity of a private Member's debate, but I cannot promise him one in Government time.

**Mr. Andrew Robathan** (Blaby) (Con): May I ask the Leader of the House a question of substance and policy that relates to the disgraceful situation of the electoral registration of members of the armed forces? Is he aware that the Government have effectively disfranchised four out of five servicemen and women, while they are willingly sending them to risk their lives in Iraq and Afghanistan? Is he aware that, perversely, under regulation 23 of the Representation of the People (England and Wales) Regulations 2003, each member who is not registered is liable to a fine of up to £1,000? Is he further aware that the Ministry of Defence website is still more than four years out of date on the issue and gives entirely the wrong advice? That is scandalous. What will the Government do about it before the impending general election?

**Mr. Hain:** I endorse the principle that the hon. Gentleman expresses: our armed forces, especially those serving in some of the most dangerous conditions, which he knows of at first hand in Iraq, should have the opportunity to vote at the general election. The Secretary of State for Defence is looking into the matter—

**Dr. Julian Lewis:** Urgently?

**Mr. Hain:** Yes, urgently, and my right hon. Friend will bear in mind the hon. Gentleman's points.

**Anne Picking** (East Lothian) (Lab): On a day when my only personal political hero is addressing a rally on world poverty in Trafalgar square, will the Leader of the House consider holding a debate on world poverty, particularly to support us next month when we launch fair trade fortnight?

**Mr. Hain:** I very strongly endorse the campaign against world poverty in 2005 and the way that the entire world's attention is being focused on it, not least by Nelson Mandela's address in Trafalgar square today and by the action of the Prime Minister and the Chancellor in making poverty in Africa the central agenda item of Britain's presidency of the G8 and the European Union. I know that that is widely welcomed right across the House.

**Dr. Lewis:** Next week, I hope to attend an important conference on the future of Muslim youth in Europe. Does the Leader of the House accept that constructive events such as that are not helped by the use of racial or religious stereotyping in election propaganda campaigns? May we therefore have a debate on that subject on a free vote? The debate could be opened by the Chancellor of the Duchy of Lancaster, and the script could be written by the secret committee that includes Alastair Campbell and various close friends of the unlamented Jo Moore. However, by allowing a free vote, people like the right hon. Gentleman and his deputy, who I am sure are quite disgusted at what was done, would be able to vote with us and ensure that nothing like that ever happens again.

**Mr. Hain:** No one on Labour's side has any time for racial or religious stereotyping. The hon. Gentleman did not make this charge, but for the record I should have thought that that is the last thing that he could accuse me of, given my record on this matter. As he knows, the matter was raised in the House a day or two ago.

**Huw Irranca-Davies** (Ogmore) (Lab): My right hon. Friend will know the importance of miners' compensation to our communities, especially as he represents Neath, and the role that the Department of Trade and Industry has in administering the scheme, which has now paid out more than £51 million in Ogmore alone. However, the DTI also has a bigger role in supporting small businesses in my constituency, so will he please find time for a debate on the role of and the possible efficiency savings in the DTI, bearing in mind Digby Jones's statement in respect of the James review:

"The DTI must have the resources to do its job. There is a world of difference between streamlining a department and cutting it to the bone to the point of emasculation."?

**Mr. Hain:** Both my hon. Friend and Digby Jones make the case very eloquently for a DTI that provides

*[Mr. Hain]*

continuing support to sick miners, retired miners or their families or widows, rather than axing from underneath them all the billions of pounds that our Labour Government have paid out to those miners in his constituency, mine and many scores of others across the country. That brings into sharp focus the whole nonsense of pretending that there can be £35 billion of cuts without affecting such absolutely vital services or abolishing the DTI entirely and, with that, all its programmes, as the Liberal Democrats propose. We need a serious debate and I am keen to find an opportunity to have one, so that the way in which those policies simply do not stack up can be exposed.

**Chris Grayling** (Epsom and Ewell) (Con): I am sure that the Leader of the House sees himself as a man of honesty and integrity. Given his eloquence in the past and his readiness to say how unhappy he is with the European food supplements directive, why on earth last week did his put his name to a Government motion that wholeheartedly supports it?

**Mr. Hain:** I always find that I become a little suspicious when I am accused across the Floor of possessing honesty and integrity, because I wonder what is going to happen next. The hon. Gentleman knows that the issue has been long debated and I have expressed my concerns about it. The other day's decision was taken on a different, although related, matter.

**Mr. Bill Tynan** (Hamilton, South) (Lab): My right hon. Friend will be aware that it is just over a year since cannabis was reclassified and that there is growing medical evidence of the effect of its use, especially on young people. May we have a debate in Government time on the effect of cannabis resin on individuals as soon as possible?

**Mr. Hain:** I am sorry to have to disappoint my hon. Friend, but I cannot promise time for such a debate. However, he is free to apply for one himself in the usual way.

**Dr. Jenny Tonge** (Richmond Park) (LD): Earlier today in the Chamber, the Foreign Secretary said that he hoped that there would be a debate on the middle east peace process very soon. May we please have that debate before the Easter recess?

**Mr. Hain:** I will certainly think about that. The shadow Leader of the House asked me about that because there is a lot of interest in, and concern about, the situation, given both the opportunities and the problems that exist in the middle east. I shall continue to bear the request in mind, but I cannot offer the hon. Lady any encouragement that there will be an early debate, given the current heavy legislative programme.

**Mr. Kelvin Hopkins** (Luton, North) (Lab): In Treasury questions earlier today, concerns were again raised about the enormous tax gap. Additionally, my hon. Friend the Member for West Renfrewshire (Jim Sheridan) touched on the iniquity of tax evasion. Given the enormity of the tax gap and the revenue problems that could be solved if it were closed, will my right hon. Friend make space for a debate during which we could discuss the possibility of perhaps increasing the number of tax officers, introducing new and higher penalties for tax evasion and taking other steps to close the tax gap? Could we not also consider what we might spend the increased funds on, because such measures as free long-term care for the elderly could be paid for by closing a tiny fraction of that tax gap?

**Mr. Hain:** I understand my hon. Friend's concern about the matter. The Chancellor is just as aware of the issue as my hon. Friend, and he and his Ministers have been bearing down on it. Indeed, although there are several reasons for merging Customs and Excise and the Inland Revenue, one of them is to make the operation to target tax avoidance and fraud more efficient. I think that my hon. Friend will find that such measures will be pursued with increasing determination.

**Michael Fabricant** (Lichfield) (Con): A few minutes ago the Foreign Secretary confirmed that the Iranians have been withholding information about their nuclear development programme from the British, French and Germans. Given that last night President Bush said:

"Today, Iran remains the world's primary state sponsor of terror—pursuing nuclear weapons while depriving its people of the freedom they seek and deserve",

may we have an urgent debate on the subject of Iran and precisely what action the United Kingdom would take if there were military intervention there?

**Mr. Hain:** I was encouraged by President Bush's statement:

"We are working with European allies to make clear to the Iranian regime that it must give up its uranium enrichment program and any plutonium re-processing, and end its support for terror."

Such joint action between the USA and Europe—and others throughout the world—can bear down on the problem, as the Foreign Secretary has continuously explained.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): My hon. Friend the Member for West Renfrewshire (Jim Sheridan) earlier referred to the important statement made by the Secretary of State for Work and Pensions on enabling people who are disabled to get into work. That was an important element of the Civil Rights (Disabled Persons) Bill, which was put forward in the House by Lord Morris, my hon. Friend the Member for Kingswood (Mr. Berry) and me, although it was kicked into touch by the then Conservative Government.

Is my right hon. Friend aware that medical examiners necessarily have a key role on incapacity benefit and thus the new proposals? However, there are many problems with medical examinations because some people who are not entitled to benefit receive it, while others who are clearly entitled to it are refused. May we have a debate about medical examiners so that we can find out who examines the examiners and ensure that we get this key issue right?

**Mr. Hain:** My hon. Friend makes a pertinent point. I cannot promise him an early debate, although he might

wish to apply for one in a private Member's capacity. The Government's policy of providing more opportunities for those who have been on incapacity benefit, or are coming on to it, is vital to cut economic inactivity and provide more hope and opportunity for such people. I have seen in my constituency—I am sure that my hon. Friend has, too—the way in which such intensive and quite costly work is liberating individuals who are otherwise trapped at home.

**Mr. Michael Weir** (Angus) (SNP): The Leader of the House might be aware of reports in Scotland this morning that the Ministry of Defence is planning another disgraceful assault on the local ties of Scotland's regiments by forcing the closure of individual regimental museums, which would cause great anger among veterans. Will he ensure that a Minister comes to the House to make a statement on the proposals for the future of those individual museums?

**Mr. Hain:** I am not aware of the detail of the hon. Gentleman's question, but no Minister in the Ministry of Defence—especially not the Secretary of State—would make a disgraceful assault on any part of the armed services or their heritage. I am sure that the hon. Gentleman will want to withdraw that comment, on reflection, and I am equally sure that the Secretary of State will take notice of what he said.

**Several hon. Members** *rose—*

**Mr. Deputy Speaker (Sir Michael Lord):** Order. We must move on to the main business.

## Points of Order

2.6 pm

**Mr. Christopher Chope** (Christchurch) (Con): On a point of order, Mr. Deputy Speaker. May I share with you the latest vivid example of how the Government are making a mockery of Parliament? As you know, the Road Safety Bill is currently being considered in Committee. As a result of a Government guillotine, its consideration must be completed by 5.30 pm today.

The Halliday review, which was commissioned by the Government into road traffic offences involving bad driving, is highly relevant to what the Committee is discussing. Last week, I described the frustration felt by the Committee that the report had not yet been published. I asked the Under-Secretary of State for Transport, the hon. Member for Plymouth, Devonport (Mr. Jamieson), when we would see the outcome of the review. He said:

"I cannot give a precise answer . . . The hon. Gentleman can ask the Home Office about it."—[*Official Report, Standing Committee A*, 27 January 2005; c.172.]

That is exactly what I did, Mr. Deputy Speaker. I tabled a question for priority written answer on Tuesday 1 February, but instead of receiving a substantive reply, I received a holding reply that gave me no information at all. I have still not received a substantive reply. However, at 9.30 am today—five minutes after the Committee sitting started—a copy of the report on the Halliday review was placed in the Library, thus conveniently timed to prevent the debate of its contents in Committee. It is inconceivable that Home Office Ministers did not know on Tuesday that the document would be published today as it is glossily printed and the press were told about it yesterday. Will you, Mr. Deputy Speaker, ask Mr. Speaker to obtain an apology from the Home Office for what has happened?

**Mr. Deputy Speaker (Sir Michael Lord):** The Home Secretary gave notice to the House of a written ministerial statement to be made today about the road traffic offences review. That statement, which announces the publication of the document to which the hon. Gentleman refers, was received by the House of Commons at 9.30 am, as he says. I understand that copies of the document have now been made available to the Standing Committee. However, I say to the House that it is the responsibility of Ministers to ensure that papers that are relevant to a Committee's deliberations are available to all Committee members at the appropriate time. I hope that this example of the kind of thing that goes wrong will not happen again.

**Mr. Paul Tyler** (North Cornwall) (LD): On a point of order, Mr. Deputy Speaker. You will have noted during the business statement that we had no indication of the business that would be allocated for Thursday 24 February—there was a gap. However, in response to protestations from hon. Members on both sides of the House about the necessity for an urgent debate on the middle east, the Leader of the House said that there was no room in the programme and that urgent business was being advanced. He also refused my request to reschedule the debate on the Identity Cards Bill, which has obviously been given time next Thursday that is too

*[Mr. Paul Tyler]*

restricted. Since the Leader of the House is still in the Chamber, will you, Mr. Deputy Speaker, give him the opportunity to explain why we have no business scheduled for that day, although we are being told that everything is so important and urgent?

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Further to that point of order, Mr. Deputy Speaker. As the Leader of the House said during business questions, I have called on many occasions for a full debate on foreign affairs so that we can discuss matters relating to Africa and the middle east. Can the Leader of the House use the opportunity of that Thursday to give us such a debate? There have been considerable developments in both regions since the last time they were discussed by the House, and it is our duty to hold the Government to account on such important matters.

**Several hon. Members** *rose—*

**Mr. Deputy Speaker:** Order. I am not prepared to allow an extension of business questions now, but it would be reasonable if the Leader of the House were to respond briefly to the point of order.

---

**Mr. Hain:** Further to that point of order, Mr. Deputy Speaker. I am grateful for the point of order, although I was wondering whether business questions were being extended by hon. Members seeking to raise matters that they had missed.

I had hoped to be able to announce consideration on that Thursday of a Northern Ireland Bill, but was unable to do so as it has been bogged down in discussions between the usual channels in the House of Lords. It is intended to introduce the Bill as soon as possible, so there is no scope for the debate sought by the hon. Gentlemen, which in principle I would like to secure.

**Several hon. Members** *rose—*

---

**Mr. Deputy Speaker:** Order. We must now move on to the main business.

## Serious Organised Crime and Police Bill (Programme) (No. 2)

**Mr. Deputy Speaker (Sir Michael Lord):** I inform the House that Mr. Speaker has selected the amendment in the name of the hon. Member for Hayes and Harlington (John McDonnell).

*Motion made, and Question proposed,*

That the Programme Order of 7th December 2004 relating to the Serious Organised Crime and Police Bill be varied as follows—

1. Paragraphs 4 and 5 of the Order shall be omitted.

2. Proceedings on consideration shall be taken in the order shown in the first column of the following Table.

3. The proceedings shown in the first column of the Table shall (so far as not previously concluded) be brought to a conclusion at the time specified in the second column.

TABLE

| *Proceedings* | *Time for conclusion of proceedings* |
|---|---|
| New Clauses, amendments and new Schedules relating to Clause 122 and Schedule 10; new Clauses, amendments and new Schedules relating to blasphemy. | One and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to the use of intercept evidence in legal proceedings. | Two and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to the protection of organisations from economic damage or other interference with their activities. | Three and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to the status and powers of staff of the Serious Organised Crime Agency. | Four and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to behaviour in vicinity of Parliament Square; remaining proceedings on consideration. | Five and a half hours after the commencement of proceedings on consideration. |

4. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion six and a half hours after the commencement of proceedings on consideration.—*[Fiona Mactaggart.]*

2.11 pm

**Mr. Andrew Mitchell** (Sutton Coldfield) (Con): I am astonished by the brevity with which the Minister has started this important debate. Our debates on programme motions often have the qualities of a choreographed Greek chorus, with outrage expressed by the Opposition about the nature of the motion and the Government saying that their predecessors behaved in precisely the same way, but I submit that today's motion is an outrageous abuse by the Executive of their programming powers. I shall explain why I think so and invite colleagues on both sides of the House to vote against the motion.

The Bill, whose Report stage is next Monday, was described by the Government during the debates on the Gracious Speech as a "flagship Bill" and Ministers have made it clear that they attach the greatest possible importance to the legislation. The Minister will confirm that the Opposition have behaved in a classically responsible manner when discussing the Bill on the Floor of the House. On Second Reading we set out those

aspects that we supported and those about which we had reservations. Furthermore, no programme motion was required in Committee: we agreed with the Government through the usual channels that eight sittings would be acceptable, although we would have liked more. We said that, in so far as it was within the power of Her Majesty's Opposition to report the Bill at 7 o'clock on the appropriate evening, we would do so, and the Bill was reported within 90 seconds of that time. Almost all the key clauses were discussed, and the Opposition's approach was at all times constructive.

We asked for two days on Report precisely to prevent what is now about to happen on Monday. The first knife in the proposed motion will fall one and a half hours after the debate starts on the provisions dealing with religious hatred. Those provisions might be acceptable to the House, and with good will on both sides we might be able conclude our discussions on that topic within the allotted time.

**Mr. Eric Forth** (Bromley and Chislehurst) (Con): I shall be interested to hear why my hon. Friend believes that an hour and a half would be remotely sufficient to discuss a subject as important as religious hatred, given that all hon. Members, I am sure, have received anguished letters from constituents on the subject and Report provides the only opportunity for those who did not have the privilege of being members of the Standing Committee to debate such matters. Will my hon. Friend reconsider his comment, albeit that it was an attempt at generosity on his part?

**Mr. Mitchell:** Despite the fact that what he says is true, I invite my right hon. Friend to listen to my comments on all the other aspects of the programme motion and to consider, in the spirit of the good will that the Opposition are trying to engender, whether one and a half hours to debate religious hatred might be sufficient.

The second topic of discussion is intercepts. It is dealt with in a new clause, which has attracted support from hon. Members of all parties. Although it was discussed only briefly in Committee, it is a key provision that abuts on a subject of great concern across the House—those people who are currently locked up in jail and are outside the criminal justice system. An authoritative argument has been made that the use of intercept evidence in court could enable those people to be brought back within the criminal justice system. Acres of print have been published on the subject and it has been discussed on every television channel. It relates to the question of house arrest, and to our liberties, yet under the programme motion we shall be able to discuss it for only half an hour. It will take me almost all that time to move and explain the new clause that stands in my name. If the hon. Member for Hayes and Harlington (John McDonnell), who has tabled a perfectly reasonable amendment to the programme motion, succeeds in persuading the House to accept it, the House will have absolutely no time at all—zero minutes—to discuss the important question of intercepts.

**Mr. Peter Luff** (Mid-Worcestershire) (Con): To clarify the argument that my hon. Friend is making so powerfully and convincingly, let me say that we anticipate at least two votes when the first knife falls, and that they will probably take half an hour.

**Mr. Mitchell:** My hon. Friend is absolutely right. Even if the amendment to the motion is not accepted, the maximum time available to us will be half an hour.

The topic has not been debated on the Floor of the House. It has been the subject of heavyweight reports by Lord Lloyd and Lord Newton. The report of a Joint Committee of both Houses of Parliament, including senior Privy Councillors from both sides of the House, made it clear that intercept evidence should be discussed and preferably agreed upon by Parliament.

**Mr. Bill Wiggin** (Leominster) (Con): I am perplexed. Can my hon. Friend think of any reason why the Government want such a tight programme, and why we should not be able to discuss such an important issue of liberty for a little longer?

**Mr. Mitchell:** My hon. Friend is right to stress the importance of the issue. It has been widely discussed outside the House, but we are not to have time to discuss it in the House.

The next subject of the knife is our debate on animal rights terrorism—a matter of great importance on which my hon. Friend the Member for Huntingdon (Mr. Djanogly) has produced much good work. During our constructive debates in Committee, he won some concessions from the Government, as did the hon. Member for Oxford, West and Abingdon (Dr. Harris). I have just come from an on-the-record meeting with the Under-Secretary of State for the Home Department, the hon. Member for Don Valley (Caroline Flint), who is considering aspects of the Bill, and I understand that some matters have not yet been decided. Our approach has been constructive, but the Government are proposing to allow only half an hour if there are two votes after the preceding debate.

The next group of provisions relates to the Opposition's concerns about the nature of a constable. Under the Bill, regardless of their training, every officer of the Serious Organised Crime Agency, whose creation we support, could have the powers of a constable—that is, powers of arrest. This is a serious matter of principle, and again, of liberty, because it changes the nature of police powers to which this country has adhered for more than 400 years. If the Government want to make that change, they have the right to do so—if they can win a vote in the House—but to allow only a half-hour debate on it is wrong.

The final knife before Third Reading falls on the debate on behaviour in the vicinity of Parliament square, which is another important aspect of the freedom to protest. As I said, I have come from a meeting with the Under-Secretary of State for the Home Department, who was extremely helpful on the Committee. I pay credit to the hon. Lady. She is still considering whether a change should be brought before the House on Monday on the way in which the issue of Parliament square is handled. This is a matter of concern across the House. There are divisions in all parties on the subject, and it needs to be dealt with on the Floor of the House. Nothing has yet been tabled by

*[Mr. Mitchell]*

the Government. Even now the Minister is still considering what the Government should table on this important matter, to be discussed on Monday.

**Mr. Forth:** My hon. Friend may not know that today I tabled some modest amendments to that part of the Bill, partly because I think the Bill could do with improvement, and because considerable discussion is merited on an issue of the greatest importance not just to the House, but to all citizens. Notwithstanding what the Government may or may not do to their own Bill, I am sure my hon. Friend will agree that my amendments will deserve substantial debate.

**Mr. Mitchell:** I have indeed read my right hon. Friend's amendment, which reduces the cordon sanitaire from 1 kilometre to 200 metres—

**Mr. Forth:** Yards!

**Mr. Mitchell:**—to 200 yards. It is an interesting amendment, and I can tell my right hon. Friend that the Government are considering it. They are taking a responsible attitude and trying to work their way through the problem. However, it is outrageous that the Executive should come to the legislature and tell us that we can have only half an hour to discuss the matter on the Floor of the House—along with all the other issues, on which we are being allowed only half an hour.

That is ridiculous. It is a Government abuse because they have a large majority and can win votes. They should not be able to stifle debate. This place works on the basis that we have a right to be heard. If the House can spend 700 hours discussing foxes, surely we can have two days on Report and Third Reading on the Government's flagship Bill. If the Under-Secretary of State for the Home Department, the hon. Member for Slough (Fiona Mactaggart) looks back at the record—I speak as a former senior Government Whip—she will see that no Tory or previous Labour Government ever behaved in such a draconian way by curtailing discussion as the motion does. The motion is an insult to every hon. Member, and to those who send us here and pay us to represent them. Above all, it makes a mockery of scrutinising legislation.

2.22 pm

**John McDonnell** (Hayes and Harlington) (Lab): I beg to move amendment (a),

In the Table, in the entry relating to the use of intercept evidence in legal proceedings, in column 2, leave out from 'Two' to 'New' in column 1 in the entry relating to protection of organisations from economic damage or other interference with their activities, and insert—

| | |
|---|---|
| ' | hours after the commencement of proceedings on consideration. |
| Amendments relating to the abolition of the Royal Parks Constabulary | Two and a half hours after the commencement of proceedings on consideration.' |

I tabled amendments yesterday that were in order and tabled within the appropriate time for them to be considered for selection. I accept that when the Government drafted the programme motion and published it this morning, they were unable to take into account the amendments that I tabled.

My amendment seeks to find half an hour in a hectic programme to discuss what I consider to be an important issue. I was not privileged to be a member of the Standing Committee. The Committee considered the transfer of the Royal Parks constabulary to the Metropolitan police, but it did not address the individual rights of members of staff who are to be transferred. If we in the House have any role, our prime role is to protect the rights of the individual, whether they be constituents or others.

The Royal Parks police consists of 141 officers, of whom 42 are members of a trade union, the PCS. Those members of staff, who have served loyally in the royal parks and were commended in Committee for their work, will lose their right to be members of a trade union when they are transferred to the Metropolitan police. They will also lose the value of their pension—estimated at about a 30 per cent. loss. There was no debate about that in Committee, because I do not believe that many hon. Members understood the implications.

I can find no opportunity for debate on Monday, except in the last section of the programme, when many other issues will be debated. As the relevant clause is clause 144, it is unlikely to be reached. We are breaching the fundamental human rights of the individuals in question. When we discussed GCHQ and the protection of the right to become a trade unionist, the Government were clearly committed to those human rights. The measure will also affect the future standard of living of those members of staff, and that warrants a debate. For that reason, I have suggested that we give a small amount of time—half an hour—one third of the way into the programme so that we can deal with the matter.

If we cannot amend the programme motion in that way today, I urge the Minister to take the matter back to her colleagues. It has not been addressed, and I urge her to give sympathetic consideration to the amendments that I tabled and make a statement on Monday about how the Government propose to address this important matter.

2.25 pm

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): The amendment illustrates how chaotic the programme motion is. It is still possible to table amendments today, and the Government's programme motion does not take into account the issues that Back Benchers may want to raise. The problem with the amendment is the priorities that the Government have set and the time that they have allocated. The business in the first one and a half hour debate is highly likely to provoke two votes, which will take almost half an hour. Accepting the amendment means that we would have no debate on intercept evidence, which is extremely important. That is frustrating and worrying.

The Procedure Committee presented a report that aimed to improve the way programming works, and to provide encouragement through the usual channels to produce a consensual programme that would fit most of the business in. Sadly, on the advice of the Government, the House rejected the report. As a fall-back from the

Procedure Committee's proposals, the Government would have to use the guillotine process. The report was an attempt to force the Government to recognise the need to build an understanding throughout the House of what should be in the programme. Having rejected that, the Government have become addicted to managing the business for their own convenience, not for the effective scrutiny of legislation nor for effective debate.

The programme motion does not allow enough time for adequate scrutiny of fundamental matters such as intercept evidence and the whole new area of vital legislation on animal rights extremists and the effect of their activities on people's legitimate right to carry out their business. The future of Parliament square is bound to be controversial, so all the remaining topics will receive no consideration. The Government have failed to protect the business so that Back Benchers have an effective and adequate input. Yet again the Government are passing the buck to the other place to scrutinise the legislation. I urge them to recognise the error of their ways, withdraw the programme motion, acknowledge the need for more time on Report and Third Reading, and come back with a far more thought-out proposal.

2.28 pm

**Sir Patrick Cormack** (South Staffordshire) (Con): The hon. Member for West Aberdeenshire and Kincardine (Sir Robert Smith) has spoken modestly and moderately, just as the hon. Member for Hayes and Harlington (John McDonnell) moved his moderate amendment in a modest and moderate way.

The Minister has perpetrated an outrage today. She had the brass nerve to stand at the Dispatch Box and move the programme motion formally—she did not explain for one minute why the Government are doing this. We are seeing evidence of an elective dictatorship. That is exceptionally serious. Programming is bad enough. It is happening with every Bill, and it is happening without proper and adequate consultation—but this is a programme too far. In his admirable speech, my hon. Friend the Member for Sutton Coldfield (Mr. Mitchell) went through the parts of the Bill showing how they directly and indirectly touch the lives of millions of our fellow citizens. There is almost no one in this country who will not be affected in one way or another by the implications of this Bill.

I support many parts of the Bill, and my hon. Friend the Member for Sutton Coldfield made that clear. My Front-Bench colleagues have some objections to the Bill that I do not share, and I shall explain why. On some parts of the Bill, I am more on the side of the Government than of the Opposition. They are only small points, but they exist.

**Mr. Forth:** What's new?

**Sir Patrick Cormack:** My right hon. Friend asks, "What's new?"—and I do try to bring an independent mind to most things. But the fact of the matter is that the Government are ignoring Parliament, sidelining it and treating it with derision. We were all sent here to play a part in holding the Government to account and in scrutinising legislation that is put before us. It is a duty that we cannot perform if this programme motion is voted through. It will be impossible to debate adequately any of the subjects that the Bill touches upon.

Probably a couple of hours—certainly an hour and a half—will be taken up by Divisions and, as my hon. Friend the Member for Sutton Coldfield said, half an hour may be spent on intercepts. If the modest amendment tabled by the hon. Member for Hayes and Harlington, which I should like to support, were made, there would be no time at all.

There was a time when someone came into the Chamber, or its predecessor, pointed to the Mace and said, "Take away that bauble," and Parliament was suspended. The Government have introduced plenty of stealth taxes, and they are now attacking by stealth the very integrity of Parliament, with a series of motions that emasculate it. That should be a matter of supreme importance to every Member, whatever his or her views and whatever constituency he or she represents. We cannot do our job if motions such as this are passed.

Most people in this House will accept that I try to behave as a House of Commons man: I seek consensus where it can be found. I hope that I am independent-minded on most subjects. But if the Government persist in this way, the official Opposition would be entirely justified in withdrawing all support, in leaving the Modernisation Committee and saying: "We will have no part of this and we will not do anything that can be construed in any way as conferring legitimacy on an operation that is designed to obliterate the proper function of Parliament."

This is a sad and serious moment. It is a programme motion too far, and I hope that the Minister, who has not yet uttered a word, will take it away, and then return and give us two days. That is modest enough for a measure of such far-reaching importance, but we could then work together again in a consensual spirit, ensuring that as far as possible—we accept that the timetable is truncated because an election is looming—we discuss, at least briefly, every aspect of this far-reaching Bill.

2.33 pm

**Mr. Eric Forth** (Bromley and Chislehurst) (Con): What is so symptomatic about the charade in which we are now engaged is that, first, the Minister—all too typically, I am sad to say—did not see fit to explain to the House why the Government saw fit to truncate our deliberations in this vicious and draconian way. This now routine guillotining of our proceedings sums up all too well the narrow relationship between the Government and the House of Commons. As has been eloquently explained on both sides of the House, we are faced yet again with a major piece of legislation containing serious and controversial matters that we shall not have proper time to debate.

Frankly, my hon. Friend the Member for Sutton Coldfield (Mr. Mitchell) was over-generous to the Government. He was as angry as the rest of us, but said that, for example, a one and a half hour debate on religious hatred might be enough. The matter has caused great concern to people up and down our land, and rightly so, and deserves prolonged and serious considered debate in this House. Yet the Government announce peremptorily in the programme motion, "No, you will have only a limited amount of time on this because we, the Government, see it that way." That eloquently states the narrow relationship between the Government and the House.

*[Mr. Eric Forth]*

I have done a quick count of amendments, but further new clauses and amendments may be tabled today, so it is by no means complete. The Order Paper lists 17 new clauses—some were tabled by the Secretary of State, so the Government are still amending their own Bill—and some 133 amendments, of which 70 were tabled by the Government, on subjects such as intimidation of persons, animal research organisations, the power to seize, interception, which my hon. Friend mentioned, religious hatred, and restrictions in Parliament square.

In the good old days when there was a proper relationship between the Government and the House, that last matter alone might have taken a day's debate. We are talking about the possible restriction of the ability of our citizens freely to demonstrate in the vicinity of the Houses of Parliament. That is a very serious matter, and one on which I am sure that we all have a view, because it touches on the fundamental rights of our citizens. Yet the Government have apparently dismissed it as worthy of little discussion or deliberation.

I tabled a couple of amendments, because the Bill requires deliberation and improvement. If the draconian guillotine is swept through today by the Government with their huge majority—sadly, we are used to that—I doubt whether I shall have an opportunity to bring the matter to the House. That is just one relatively small example. It is a sad, sad day when we are left in this position, whereby the Minister, secure with her huge Government majority, knows that she can come here and not even do the House the courtesy of explaining what the guillotine is about, and assumes that it will go through with little protest.

That is all well and good, but I hope that some day people will wake up to what has happened to this Parliament, and to this House in this Parliament. We are effectively handing over our responsibility, as the House of Commons, for the proper scrutiny of legislation—ironically, to the unelected House of Lords. It does a wonderful job of scrutinising legislation properly: it works more days and longer hours than we do, it has more serious debates, and it is not subject to draconian Government timetables. I wish that I were a member of the House of Lords.

2.37 pm

**Mr. Edward Garnier** (Harborough) (Con): My right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth) said that this is a sad day. Just as he thought that my hon. Friend the Member for Sutton Coldfield (Mr. Mitchell) was too generous, I think that he was too generous. This is not a sad day; it is a shameful day. Indeed, I suggest that it is a shameless day because we are being led to the parliamentary slaughterhouse by an amoral Government.

This Government, with a majority of 165, ought to have the confidence to present their ideas to this House so that they can be tested. We all know where the votes will come from. We all know that people will leave their offices, switch off the television and come here to troop through the Aye Lobby in favour of the Government. But at least they might do us and, more importantly, our constituents, the courtesy of allowing us to test their ideas through argument. Some of those ideas need to be tested to destruction. Some need to be tested so that they can be improved; my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack) mentioned one or two that he is concerned about. Some, if the Government condescended to explain them to us, might receive all-party support, as perhaps they did during earlier stages of the Bill. But at no stage should any Government come to this Chamber and simply assume that we as representatives of the people of this country should simply buckle up, sit down and say, "Oh masters, please tread all over us."

**Mr. Andrew Mitchell:** One extremely good example of what my hon. and learned Friend is saying is the issue that was raised by my right hon. Friend the Member for Bromley and Chislehurst and my hon. Friend the Member for South Staffordshire—Parliament square, in which respect even now the Minister is refining the Government's proposals. She is actually doing a good job in trying to reach consensus on this difficult issue, but if she returns to the House and wants to win its support, she will not be able to do so because there will not be enough time for her to take account of opinion, listen to what is said and explain her proposals.

**Mr. Garnier:** It gets worse. No doubt at some stage some Minister will stand up and say that the matter was fully canvassed in Committee. We all know what happens in Standing Committees nowadays. There are knives, the Government majority are compliant and silent, and Opposition Members are prohibited by the time scheduling from expanding the points of view that many members of the public wish to hear debated and considered. It is no good the Government saying that the matter was adequately discussed in Committee.

Furthermore, we all know that Standing Committees are a limited representation of the House of Commons. Those of us who are not on the Bill Committee want an opportunity on behalf of either our constituents or a wider interest group to express our concerns or perhaps our support on issues, such as the curtailment of freedom to do with the law on religious hatred. The hon. Member for Oxford, West and Abingdon (Dr. Harris) and I share the same view of the law on religious hatred. We think that it is a bad idea and that the public should hear the arguments from Members other than those on the Committee.

As my hon. Friend the Member for Sutton Coldfield said a moment ago, intercept evidence along with the question of religious hatred are two of the most important issues concerning civil liberties that the Bill will destroy. What are we supposed to do with half an hour to discuss the civil liberties of our citizens? Do you remember, Mr. Deputy Speaker, in 1998 the then Home Secretary, the right hon. Member for Blackburn (Mr. Straw) said, "Hallelujah, this is the Labour Government that is bringing human rights home."? The Government

were going to domesticate the European convention on human rights by enacting the Human Rights Bill. What a load of codswallop. What a load of trash. They do not know what they are doing. They have no understanding of the constitutional proprieties. This is a disgraceful and despotic Government. The rulers of the Soviet Union would tip their hat to this lot. The Bill should be given proper consideration by this House, and I hope that it will reject this revolting timetabling motion.

2.41 pm

**Dr. Evan Harris** (Oxford, West and Abingdon) (LD): I am aware that the Minister is keen to respond even in the limited time we have to discuss the limited time that we have to discuss the Bill on Report. I have a few brief points.

At the start it was not entirely satisfactory that the Bill was such a portmanteau business incorporating different sorts of legislation, but it is recognised that we have to do what we can in Committee. The Committee was disciplined. In my view there is no reason why a Committee cannot get through such a Bill if Members show restraint, as was shown on all sides, but on the basis that each part, which will inevitably be considered separately on Report, will be given adequate time for discussion. It is unfortunate that the programme motion does not provide for that.

In addition, the animal extremism measure is a dramatic piece of legislation. The construction of the five Government new clauses that make up the economic sabotage measure shows that careful discussion and scrutiny is necessary. I question whether there is enough time to do that. Today, I tabled an amendment, the measure having been published only in the last two days, and it is not clear whether there is enough time for consideration. Moreover, the Government could have introduced the new clauses before the conclusion of the Committee stage for us to discuss then, rather than waiting until a few days before a Report stage debate to do so.

Finally, there is the question of the section on religious incitement. Two new clauses, if selected, will need debate and may well lead to Divisions. New clause 3 substitutes a different approach from the Government's and it has three-party support. That means that we are dealing not just with the Government and one or two Front-Bench spokesmen, but with Government Back Benchers who will want their say as they have signed the new clause. It is unusual to have that sort of arrangement on Report on a Government Bill, particularly so close to an election. That should signal that there is plenty to debate.

In addition, there is a new clause dealing with the abolition of blasphemy. That has hardly ever been debated in the House and the last time was, I think, 15 years ago. It, too, has cross-party Back-Bench support and Members will want to give their view. I understand that Conservative Members will have a free vote, so no doubt there will be more than one view held among them. Certainly there will be more than one view on the Government Benches. I do not see how it will be possible to cover that discussion in an hour and a half.

I urge the Government, who so far have dealt with the business of the Bill in a spirit of co-operation despite the tight scheduling, to reconsider the programme motion to provide adequate time for all those matters. If the Government do not, they know that they will have difficulty in the House of Lords on the question of religious incitement. The failure to debate this properly in this House gives encouragement, rightly so, to the other place to stand firm in their previously expressed belief that this is not what they want to see. Fuller discussion in this House might persuade some of their lordships to drop their objections. The Government are making a rod for their own back by trying to rush that particular measure and this Bill through the House.

2.43 pm

**The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart):** The reason why I moved the programme motion formally rather than exercising all the arguments in favour of its construction was precisely to give Members on all sides an opportunity to state their concerns. This debate is limited. The Government deliberately tabled the debate for today to guarantee that it should not in any way eat into the opportunities for debate on the measures themselves. We guarantee that even if there is a statement, we will get the full amount of time set out in this programme motion.

**Mr. Andrew Mitchell:** The Minister said that the Government held the debate today so that they could listen to what was said. She has heard from across the House blanket condemnation of the motion. Will she now withdraw it?

**Fiona Mactaggart:** No, I will not. I am using the opportunity to clarify the reasons for what we have done and to ensure that all hon. Members are confident that there will be the full time for debate, as set out in the motion.

The hon. and learned Member for Harborough (Mr. Garnier) implied that debate in Committee had been restricted. The hon. Member for Sutton Coldfield (Mr. Mitchell) serves on the Committee and knows that no knives were used. Indeed, the Government offered additional evening sittings, so the Bill has been fully debated in Committee. Those who have participated in those sittings have acknowledged that in their contributions.

My hon. Friend the Member for Hayes and Harlington (John McDonnell), who moved the amendment, was not a member of the Committee. I accept that his genuine concerns were not dealt with in Committee, which considered such matters relatively briskly, but they could well be dealt with at a meeting with my ministerial colleagues. I hope that we can offer him that opportunity and that he will withdraw his amendment. It is easy to do that because, as hon. Members on all sides have said, during the Bill's consideration my colleagues and I have had extensive meetings with Members and others who have had concerns about aspects of the Bill. We have tried to listen to them. Changes have been made, which hon. Members have graciously acknowledged.

**Sir Robert Smith:** The Minister is making a point about trying to deal with some of the individual concerns, but the hon. Member for Hayes and

*[Sir Robert Smith]*

Harlington raised his concerns on the Floor of the House for the rest of the House to be aware that there was a problem in the Bill. She is now proposing to deal with those concerns at a private meeting. Will the response from that be put in the Library or before the House so that hon. Members can see it? It is important that there is a record in *Hansard* for the courts to see how Ministers have justified their legislation. *Hansard* provides the record of which arguments they used to justify their case.

**Fiona Mactaggart:** As I understand it, the concerns of my hon. Friend the Member for Hayes and Harlington are not necessarily with the proposal in the Bill, but with the impact of the proposal on people who are current employees. It is appropriate for such a matter to be dealt with in this way. I hope that my offer of a meeting will deal with his concerns.

I am struck that hon. Members, while raising concerns about the amount of time available for debate, have felt that the programme motion focuses on the right five key issues. After all, the right hon. Member for Haltemprice and Howden (David Davis) described the measure as a Bill of 220 pages with which he agreed with all but two. We therefore sought in the programme motion to focus on the provisions on animal rights extremists, the status of staff in the Serious Organised Crime Agency, protests in Parliament square, incitement and intercept as evidence.

Hon. Members have raised concerns about the use of intercept as evidence and the risk that the time taken for voting might mean a relatively short time for debating intercept. The matter was not included in the original Bill but introduced through Opposition amendments. During our proceedings, the Opposition specifically asked for a Home Office response, which has been provided and deals with many of the concerns that were raised.

**Mr. Garnier:** The Under-Secretary says that the Opposition raised intercept and that she believes that it has been tackled adequately. If the mathematics and anticipation of my hon. Friend the Member for Sutton Coldfield (Mr. Mitchell) are correct, we will have about half an hour to discuss it on the Floor of the House. That is where legislation should be debated. It may well be that the usual channels have held all sorts of interesting discussions and that Opposition Members or Government Back Benchers have proposed ideas but the Floor of the House, not private meetings or secret, back-door deals, is where public legislation should be dealt with publicly. Does not the Under-Secretary understand the purpose of the constitution and Parliament?

**Fiona Mactaggart:** Of course I do. I was highlighting the fact that the issue was raised during the Bill's development and that it did not initially form part of the measure. The Government are eager to respond to concerns that were raised during the process of considering the Bill.

**Sir Patrick Cormack:** The simple fact is that the Government have included the issue in the Bill. Many of us would say, "Good. Well done", but we want to discuss it. Half an hour for hon. Members of all parties—cannot the Under-Secretary understand that the timetable is far too restricted? Cannot she take away the motion and give us a second day?

**Fiona Mactaggart:** I do not believe that that is necessary, because the Committee that considered the Bill managed fully to debate all the issues without any guillotine or knives. The Committee went through all the business. The Government offered additional time in Committee, which was not necessary. We have fully debated the Bill in Committee.

The programme motion focuses on appropriate matters. It is clear from today's contributions that hon. Members are confident that the motion identifies the aspects that they wish to debate on the Floor of the House. Consequently, I am confident that the focus is appropriate. As has been said, the Bill has in large measure attracted support across the House. It has been vigorously debated and there will be a full five and a half hours debate on Report. I emphasise that the time allowed will not be reduced in the event of a statement.

**Sir Patrick Cormack:** Will the Under-Secretary at least introduce a motion so that the Divisions are not taken into account? We will not get five and a half hours of debate.

**Fiona Mactaggart:** I will not and I hope that hon. Members will do their best to ensure that they vote promptly—*[Interruption.]* By doing that, they can help to achieve—*[Interruption.]*

**Madam Deputy Speaker (Sylvia Heal):** Order. The House must come to order.

**Fiona Mactaggart:** I hope that hon. Members will vote swiftly to ensure that we get adequate time for the debate.

**Sir Robert Smith:** Our constituents often want to know which way we voted on controversial matters. The programme motion suggests that we should not vote on them because that means we cannot debate them.

**Fiona Mactaggart:** The hon. Gentleman is utterly mistaken if he believes that I implied that. I did not. I urged hon. Members not to linger in the Division Lobby. Some hon. Members who have contributed to today's debate know that they have been responsible for doing that on some occasions.

There is broad cross-party support for much of the Bill. As a result of the Government amendments that are tabled for Report, to which hon. Members have referred, I hope and expect that disagreement will continue to reduce. I am therefore confident that one day for Report is adequate.

I urge my hon. Friend the Member for Hayes and Harlington to withdraw the amendment. Carving out a dedicated slot for the matter that he wishes to debate on Report would mean competing with the important issues that other hon. Members have raised. I believe that his anxieties, which I know to be genuine, can be

properly tackled in a meeting with the Minister. I therefore hope that he will agree to withdraw the amendment.

**John McDonnell:** I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Main Question put:—*

*The House divided:* Ayes 255, Noes 124.

**Division No. 64]** **[2.56 pm**

**AYES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Beard, Nigel
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Connarty, Michael
Cooper, Yvette
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
Davies, Geraint *(Croydon C)*
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Elliman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hoey, Kate *(Vauxhall)*
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ilsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
McNamara, Kevin
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Mountford, Kali
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Southworth, Helen
Speller, rh John
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
White, Brian
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winnick, David

Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Ayes:**
**Margaret Moran and Mr. Tom Watson**

**NOES**

Amess, David
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burstow, Paul
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hermon, Lady
Hoban, Mark *(Fareham)*
Jack, rh Michael
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lamb, Norman
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Paice, James
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Ruffley, David
Shephard, rh Mrs Gillian
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Wilshire, David
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Noes:**
**Mr. John Randall and Andrew Selous**

*Question accordingly agreed to.*

*Resolved,*

That the Programme Order of 7th December 2004 relating to the Serious Organised Crime and Police Bill be varied as follows—

1. Paragraphs 4 and 5 of the Order shall be omitted.

2. Proceedings on consideration shall be taken in the order shown in the first column of the following Table.

3. The proceedings shown in the first column of the Table shall (so far as not previously concluded) be brought to a conclusion at the time specified in the second column.

TABLE

| *Proceedings* | *Time for conclusion of proceedings* |
|---|---|
| New Clauses, amendments and new Schedules relating to Clause 122 and Schedule 10; new Clauses, amendments and new Schedules relating to blasphemy. | One and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to the use of intercept evidence in legal proceedings. | Two and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to the protection of organisations from economic damage or other interference with their activities. | Three and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to the status and powers of staff of the Serious Organised Crime Agency. | Four and a half hours after the commencement of proceedings on consideration. |
| New Clauses, amendments and new Schedules relating to behaviour in vicinity of Parliament Square; remaining proceedings on consideration. | Five and a half hours after the commencement of proceedings on consideration. |

4. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion six and a half hours after the commencement of proceedings on consideration.

## Child Benefit Bill (Programme) (No. 2)

3.11 pm

**The Paymaster General (Dawn Primarolo):** I beg to move,

That the Order of 12th January 2005 (Child Benefit Bill (Programme)) be varied as follows:

*Consideration and Third Reading*

1. Paragraphs 4 and 5 of the order shall be omitted.

2. Proceedings on consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.

3. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

The original programme motion tabled by the Government had been discussed through the usual channels and had agreement, but the hon. Member for Rayleigh (Mr. Francois) raised concerns in Committee with regard to the length of the allocation for Third Reading. He was quite happy with the allocation for Committee and Report. Having listened carefully to the points that he raised in Committee, and in discussions through the usual channels, I agreed that we could provide for his specific requests. The motion responds to all his requests, and I hope that he is satisfied that I have acted positively and in good faith.

3.12 pm

**Mr. Mark Francois** (Rayleigh) (Con): The motion is for an inherently much less controversial Bill than the one that the House has just discussed and voted on, so I suspect that we will not require the full 45 minutes to discuss it. Nevertheless, I want to put on record a few brief points.

The original programme motion for this Bill, to which we were opposed, allocated only half an hour for Third Reading. The Paymaster General is right that we protested about that, both in the Programming Sub-Committee and through the usual channels, as the Opposition's view was that allowing half an hour for the Third Reading of a Bill, even for a relatively minor measure, set an unwelcome precedent, and we did not want to let that pass. Discussions therefore took place through the usual channels, and in fairness to her, the Order Paper was amended in such a way that if Report does not last until 5 o'clock, which may be the case, we will have an expanded amount of time to debate Third Reading. I acknowledge that.

First, however, it is important to remember that the Opposition are opposed in principle to the concept of programming. Secondly, given what has just transpired in the Chamber—the abominable way in which the Government treated the previous programme motion, for which I accept that the Paymaster General is not personally responsible—the Opposition feel that we have no choice but to oppose this one, too. We therefore intend to press the matter to a Division.

3.14 pm

**Mr. John Gummer** (Suffolk, Coastal) (Con): I will not delay the House unduly, but this is an opportunity to say something very important.

This Bill is largely uncontroversial. Given the civilised nature of our Parliament, it could properly be discussed in circumstances in which the mechanism could be used without party political division but to get the best Bill possible. I am much impressed by the way in which the Paymaster General has tried to respond to our concerns. Although she and I have had our arguments from time to time, she would accept that they have been on matters of principle and not in any way party political or personal. Will she therefore take these remarks in the same spirit?

We must recover the respect that the House of Commons has lost in the world outside. Part of the problem is the view that we can no longer manage our affairs to deal with such a Bill without a programme motion, and that we are not prepared to give the necessary time for matters that should properly be allowed serious argument. It happens that the previous programme motion relates to an area in which I have a real interest, which I want to declare. The issue for which that programme motion has left us a relatively small amount of time is of fundamental constitutional, social and religious importance, which I therefore feel strongly that it is important to discuss.

This matter, however, is wholly different. I hope that the Government will now begin to think about how the restitution of what I would call the historic concept of convention is a necessary part of modernisation. We have gone beyond modernisation being about laying down rules about trying to improve things one way and another. We ought to learn that for most Bills a perfectly reasonable procedure is for both sides of the House to come to a reasonable decision about how much time is needed for discussion. This is one of those Bills that ought to have had no programme motion. I know what Parliament in its various wisdom has said, but this is exactly the circumstance in which the Government could have trusted Parliament to make progress in a sensible way. Unless we recover that relationship, it will be very serious.

Of course we could have a party political discussion about who might win the next election, but I do not want that. I shall put it in obvious, impartial terms. At some stage, this Government will not be the Government of Britain. It may be after the Paymaster General's life, or next time—whenever it is, it will surely come. In those circumstances, if the Opposition have been driven to a position in which they feel that they have been unable to use the time of the House to have proper discussions about real issues, the difficulty will be that they will not revert to a sensible, civilised system.

I want the Paymaster General to become an advocate for a change—

**Madam Deputy Speaker (Sylvia Heal):** Order. Before we proceed, let me say that general discussion about programming is not appropriate. The debate is about programming for this particular Bill.

**Mr. Gummer:** Indeed, and I wish to keep to that.

This is an opportunity for the Paymaster General to say, "Look, the House can handle this without a programme motion. Let us give it the chance." There is no reason why she should not do it. There is a recommendation by the House, but it is not a rule. I am

*[Mr. Gummer]*

sorry that she has not done it up to now, I am sure that she cannot go back on her word, and her considerable generosity in ensuring that our needs are met is very helpful. I hope that she will recognise, however, that the Government could make a great contribution to parliamentary democracy in this area by recognising that programme motions are deeply offensive because they do not allow for proper, civilised relationships.

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): My right hon. Friend is making a powerful and cogent case, but does he not accept that when Government impose timetables unnecessarily—when the timetable is too tight or else should not be imposed at all, as in this case—it is this Parliament that is brought into contempt for passing bad laws, because it has not been able to consider them properly, and that when this Parliament is brought into contempt, we as Members of Parliament are brought down in the estimation of the public?

**Mr. Gummer:** I must be careful given your ruling, Madam Deputy Speaker, but my hon. Friend's point can be applied to the Bill. We could show the country that we are capable of having a sensible discussion about a Bill with most of which we all agree, but which the Opposition want to ensure is as good as it can be without wanting to be difficult or awkward. I think that we can do that much better without constraint. Indeed, I suspect we might finish much earlier if we were not constrained. The trouble with programme motions is that we tend to fill the amount of time available.

I merely say this to the Minister. I hope she will become increasingly an advocate of the concept that the House must recover control over its timetable for itself. That means not having programme motions but beginning to rebuild a convention in which the House does not improperly stand in the way of the rule of the majority, but neither does the majority improperly stand in the way of the expression of the minority view. Then, as was pointed out by my hon. Friend the Member for Cotswold (Mr. Clifton-Brown), we shall not have as much bad legislation as we have had, and I shall have fewer people coming into my surgery asking why on earth we passed clause 62, after which I look it up and discover that we never discussed clause 62.

The differences are not party political: they are differences that will only be brought out by discussion so we can see what the mistake is. I hope the Minister will accept that, in what could be considered a rather non-party political moment, I want to raise this matter seriously with her. To my own Front Benchers, I say that I look forward to a total commitment from the Conservative party that when returned to power it will remove this element. I want that commitment before an election, not afterwards, because I know what will happen otherwise: people will say "They did it to us, so we will do it to them." That is not a proper answer. I want that commitment now.

**Dawn Primarolo:** The right hon. Gentleman makes a fair point about the business of the House. Let me say two things to him.

First, I consider that to safeguard the functioning of parliamentary democracy is incumbent on us all. Sometimes we are in danger of undermining our own case by over-elaborating it, and taking longer than we might. The Committee stage did not take all its time, but the Opposition nevertheless asked for more time on the Floor of the House.

Secondly, I agree with the right hon. Gentleman's general point. The business of the House must run smoothly so that the business of Government runs smoothly, but all Members must agree to allow that to happen. If they do not, the orderly business of the House can be ensured only through programme motions.

I am sure that everyone has heard the considered observations from the right hon. Gentleman and the hon. Member for Rayleigh. I hope that, on that basis, we can now deal with the Child Benefit Bill rather than the programme motion.

*The House divided:* Ayes 236, Noes 121.

**Division No. 65]** **[3.24 pm**

**AYES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Beard, Nigel
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Coaker, Vernon
Cohen, Harry
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Davey, Valerie *(Bristol W)*
Davies, Geraint *(Croydon C)*
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Ellman, Mrs Louise
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hoey, Kate *(Vauxhall)*
Hood, Jimmy *(Clydesdale)*

Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Iranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Robert *(Wantage)*
Jamieson, David
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonnell, John
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
McNamara, Kevin
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Hara, Edward
Olner, Bill
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
Weir, Michael
White, Brian
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winnick, David
Woolas, Phil
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

**Tellers for the Ayes:**
**Mr. Tom Watson and Margaret Moran**

**NOES**

Amess, David
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Barker, Gregory
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Browning, Mrs Angela
Burnside, David
Burstow, Paul
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Conway, Derek
Cran, James *(Beverley)*
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hancock, Mike
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hermon, Lady
Hoban, Mark *(Fareham)*
Jack, rh Michael
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lamb, Norman
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Paice, James
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Shephard, rh Mrs Gillian
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Thurso, John
Tonge, Dr. Jenny
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilshire, David
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Noes:**
**Andrew Selous and Mr. Geoffrey Clifton-Brown**

*Question accordingly agreed to*

# Orders of the Day

## Child Benefit Bill

*As amended in the Standing Committee, considered.*

### New Clause 1

REGULATIONS MADE BY THE TREASURY: QUALIFYING COURSES

"(1) Regulations made by the Treasury under section 142(2) of the Social Security Contributions and Benefits Act 1992 and section 138(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 shall include provision that a person (who has not attained such age as is prescribed in the regulations) shall be a qualifying young person if he satisfies the condition that he is attending an unwaged training course of a description specified in a list published by the Treasury.

(2) The Treasury, working with other Government Departments as required, shall ensure that reasonable steps are taken to publicise this list, to assist people in understanding the courses a person may attend whilst continuing to be a person in respect of whom another person may be entitled to child benefit.'.—*[Mr. Francois.]*

*Brought up, and read the First time.*

3.39 pm

**Mr. Mark Francois** (Rayleigh) (Con): I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker (Sylvia Heal):** With this it will be convenient to discuss new clause 2—*Regulations made by the Treasury: qualifying training*—

"(1) Regulations made by the Treasury under section 142(2) of the Social Security Contributions and Benefits Act 1992 and section 138(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 shall include provision that a person (who has not attained such age as is prescribed in the regulations) shall be a qualifying young person if he satisfies the following conditions—

(a) that he is undertaking training of a description specified in the regulations that is not provided through a contract of employment, and

(b) that the person responsible for the organisation of the training certifies in the manner prescribed by the regulations that the training can be expected to result in increased skills being acquired by the trainee.".

**Mr. Francois:** In speaking to these new clauses, I should reiterate our view that this is a brief but none the less important Bill. We examined it in Committee and explored a number of issues, including why the proposed age limits have been set as they have. We gave notice that we would want to pursue two particular issues on Report, both of which I intend to touch on this afternoon. My hon. Friend the Member for Chichester (Mr. Tyrie) will then make some more general comments on Third Reading. Incidentally, when we reach that stage we hope to discuss an idea first suggested by the right hon. Member for Birkenhead (Mr. Field) on Second Reading. We hope to hear more from him in due course—if he manages to return in time from a conference on pensions that he is attending. We shall see whether he manages to join us and to make that contribution.

I turn to new clause 1. The Bill extends the payment of child benefit to the families of young people who are in unwaged training. In seeking to define the qualifying young people to whom the Bill will apply, the Government had two options. They could have included all unwaged trainees in the extended benefit qualification, or defined those who would qualify according to specific programmes of activity. They chose to use the second and narrower of the two approaches, even though it could exclude a number of people undertaking voluntary work or work experience. I shall say more about that in a few minutes' time when we reach new clause 2, but assuming for the moment that the Government remain committed to their present policy of defining entitlement by qualifying courses, it is important that as many people as possible understand exactly which courses will qualify for the extended payment of child benefit.

It is fair to say that there was near unanimity on Second Reading that the existing system of financial support for young people is already very complex. Indeed, the Government's own social exclusion unit, in a report from a few years ago entitled "Bridging the Gap" summarised the problem in these terms:

"A young person's entitlement to state financial support varies according to their personal status (for example whether they are a lone parent or disabled), what they are doing in education, training or work, whether they are unemployed, and whether or not they are living at home. Money is paid through at least eight different agencies, (with a ninth heavily involved) on behalf of two Government departments. The system is so complex that someone has written a book of around 130 pages about it for young people and their advisers."

That broad area remains a live issue up to today. In fact, as recently as yesterday, in the context of educational courses available to young people, the chief inspector of schools, David Bell, said:

"It is just conceivable that 4,000 educational qualifications are needed for 16–19 year olds. But for each young person the choice may appear so daunting that there is no rational way of making it."

We tabled new clause 1 with that in mind. It requires the Government of the day to publish a specific list of the courses that will qualify in future for the extended payment of child benefit. In addition, the new clause requires the Treasury, working with other Departments, among which the Department for Education and Skills and the Department for Work and Pensions spring readily to mind, to take reasonable steps to publicise the list to make it as obvious as possible which courses qualify.

I understand that the Government are already working on revised guidance notes for parents and advisers, in time for the scheduled roll-out in April 2006. In fairness, I welcome that, but given the relative confusion that currently exists in this area, we need something beyond it in order to get the message across more broadly. On that point, given that the overall advertising budget has expanded tremendously under the Government, could not just a little of it be diverted to the very practical purpose of helping to publicise the list of courses that will qualify under the Bill? That seems to me to be a more profitable way of spending some of the Government's advertising budget than having a 160-page supplement of public sector non-jobs in *The Guardian* once a week.

The new clause should not just assist young people who are considering whether to undertake periods of unwaged training and trying to work out the financial implications of their choice but should be of material benefit to the organisations that work with them, such as Connexions, Barnardo's, Centrepoint, the Prince's Trust and others to whom young people look for advice in seeking to make their choices. I put down a marker on the matter in Committee and asked whether the Paymaster General would say more about it on Report. If the Bill is to have the desired effect, it is important that its provisions are clearly understood in what already amounts to a complicated field. I look forward to hearing what she has to say, before deciding whether to press the new clause to a Division.

New clause 2 relates to volunteering and the types of training that would not qualify for the extended payment of benefit under the Bill and the present draft regulations, but that might qualify in future if the regulations were to be amended. The Committee also touched on that matter, but our purpose in tabling the new clause for debate this afternoon is to expand the discussion and ascertain whether the Government are minded to be flexible about the subject.

The issue of extending the provisions of the Bill to encompass voluntary work or work experience has been raised by the Prince's Trust, among others. I paid tribute in Committee to the work of that organisation, and I do not intend to repeat all of that now. Suffice it to say that it does very good work in this area, which I hope the whole House will commend.

3.45 pm

I remind the House of the point made by the Prince's Trust in connection with this element of the Bill. In a letter to my hon. Friend the Member for Chichester, it stated:

"In our consultation with young people, many of them specifically talked about voluntary work and work experience, that these should be eligible since these were a form of training that would improve their employability skills and help them move forward in their lives. These, as well as other more informal forms of training, often provide the first steps out of inactivity for more vulnerable young people.

If it is only approved 'Government supported schemes' that are eligible, then young people may not feel that they have the financial support to participate in these more informal activities. We would therefore like clarification of what is meant by 'Government supported schemes' and whether voluntary work, work experience and other more informal forms of training are going to be eligible for Child Benefit."

That seems to me to be a very reasonable and measured way to put a case.

In addition, Barnardo's raised the issue in its briefing note in connection with the Bill. It stated:

"If approved activities are to encompass a wide range of provision to meet the needs of these young people—and we would argue that they should—there is also the question of who will assess, approve and monitor the activities. Barnardo's would like to see a range of specified professionals empowered to do this, dependent on the circumstances of individual young people. Such specified people could be a Connexions adviser, a leaving care adviser, a social worker, a youth offending team worker, a CAMHS worker etc."

In Committee, we pressed the Government to provide some financial estimate, however broad, of the additional cost of extending measures to include those additional categories of young people. We appreciate that some definition issues are involved, and that there are also problems arising from paucity of data, and we acknowledge that this is not an easy question to answer. Nevertheless, I specifically asked the Paymaster General if she might be able to provide us with such an estimate on Report.

In addition, I presume that there must have been some outline costings when the two alternative policy options were being considered—not least because this is, after all, a Treasury Bill. So what was the higher estimate, and therefore the additional cost, of widening the scope of the Bill? The House needs to know that estimate if it is minded to accept it. It would be rather odd if a Treasury Minister, of all people, were not able to answer such a financial question, so I hope that the Paymaster General will be able to enlighten us on the matter in a few minutes.

Although I am requesting further financial information about the implications of such a change, fairness demands that I point out that the Paymaster General indicated a willingness to consider the matter further. She will recall that she told the Committee:

"The new clause specifically considers volunteering and informal skills; there is a big issue about how to monitor those. In my opening remarks, I tried to make it clear that, in principle, certain types of volunteering could be considered. I have sympathy with the points made but the question is when and how.

If the purpose of the new clause is to see whether our mind is closed on the question of volunteering, I have to say to the hon. Gentleman that it is not."—[*Official Report, Standing Committee F*, 18 January 2005; c. 36.]

This Bill is essentially an enabling measure whose details will be fleshed out in subsequent regulations that can be updated from time to time. It is not inconceivable that, at some future date, the Treasury of the day could change those regulations, away from the draft that exists already, to facilitate such an expansion. The Paymaster General has indicated already that her mind is not closed on this subject, so does she have anything further to add this afternoon? Have the Government considered the matter further between Standing Committee and Report?

We are unlikely to press new clause 2 to a Division, as it is largely intended to air the issue on behalf of certain voluntary groups that have made representations to us, but we seek to ascertain specific figures for the likely costs of any such change, if any Government of whatever colour considered making it in future. I would therefore be pleased to learn of anything further on the subject that the Paymaster General can add, bearing in mind her intimations in Committee only a couple of weeks ago.

**Dr. Vincent Cable** (Twickenham) (LD): I should like to say a few words in support of both new clauses. My hon. Friend the Member for Yeovil (Mr. Laws) sends his apologies as he is unable to attend. He was immersed in the detail of the Bill and supported its broad outlines. I will deal with the Bill's final stages but, as a newcomer, I lack his depth of understanding.

The new clauses deal with an issue that my hon. Friend raised on Second Reading in several interventions and in his speech. How do we define the boundary and the limits? Who should be included and who should be excluded? As the hon. Member for

*[Dr. Vincent Cable]*

Rayleigh (Mr. Francois) helpfully summarised, the Government had two broad choices. They could have opted for universal inclusion of everyone on unwaged training. The widest possible provision is very much in the spirit of Bill, but clearly there were problems with enforcement and cost, so the Government adopted a much narrower and specific definition based on Government-approved schemes. That enables the Government to give a precise figure—80,000—and, hopefully, to be reasonably precise about the cost of £105 million. I suppose that that is why they have chosen the narrower route.

The hon. Member for Rayleigh made the case for breadth or inclusion. I saw some of the submissions from the voluntary organisations, particularly Barnado's, which stressed that many young people on training schemes—presumably, the Bill is trying help them—are difficult to reach as they are not on approved schemes, so they will be excluded. We should therefore try to find ways of including them as much as possible. As the hon. Gentleman has made the basic arguments, I shall try to anticipate the Government's objections to the widening of the measure. The first, presumably, is cost. Having read the debates, although I did not attend them, I found it unsatisfactory that I could not gain any handle on the total number of people who are included or excluded. A rough approximation would help us to understand the parameters of the debate.

The Bill is bound to change behaviour so, in any event, there will be a migration from unapproved schemes to approved ones as people take advantage of the benefits that become available. The costs will probably be larger than the Government estimate, and some of the people whom the new clauses are designed to include will be paid for as a result of that migration. As for enforcement, I understand the Government's nervousness. After the problem with individual learning accounts, we know how easy it is for fraud to proliferate on the fringes of the training industry. I therefore understand why the Government do not want to get their fingers burned again by using loose definitions. The authors of the new clause have thought about the problem and have tried to devise sensible mechanisms that provide standards.

To be slightly mischievous, the hon. Member for Rayleigh rested his case rather heavily on the ability to promote the schemes through advertising. I do not know whether he has read the James report—it has kept me busy for many evenings—but the section on advertising is particularly enlightening, because most of that budget would disappear and the scope for the activities that he described would be circumscribed. Fundamentally, however, that mischievous point aside, his remarks were helpful. He could have pointed out that it would be useful for the Government to make more use of trade associations of electrical contractors, plumbers, builders and so on, as they are active and effective in many areas and could help to identify acceptable, quality training schemes that are not necessarily supported by the Government. In general, we should be moving in the direction of statutory self-regulation, rather like the medical profession, whereby professions and trades set their own training standards and identify acceptable schemes in their remit. Much could be done at that level without direct Government involvement. None the less, if the Government were proactive and talked to the trade associations, they could identify a wide range of schemes that, while not necessarily Government supported, were reputable.

On the point about volunteering raised under new clause 2, we all know as MPs that volunteering and work placements are an important entry route into employment for young people who are learning our trade. The practice is common outside this place and we hope that it is supported in much the same way. I acknowledge, however, that there is a problem, which has been pointed out to me by people in my constituency. There is an underground world in which some disreputable companies hire a growing number of volunteers, keep them on for one or two years, encouraging them to believe that there will be a job, but then lay them off and start again with a new round of volunteers. In effect, such employers are getting labour without paying for it. It is not at all clear how that practice could be policed or stopped, but exclusion from the current schemes means that such young people are doubly disadvantaged: not only do they have no job security and employment, they have no access to the child benefit provisions either. New clause 2 would be helpful in bringing those young people within the remit of the Bill.

The new clauses are constructive and well worth supporting. There are some practical difficulties with them, but if the Government were constructive they could help to find a way through those difficulties. I happily support the new clauses, especially if they are pushed to a vote.

**The Paymaster General (Dawn Primarolo):** We crossed this ground in Committee; we shall cross it again.

The Government consulted on a number of issues in the review on financial independence for 16 to 19-year-olds. Some were short-term, and some were for long-term solution and consultation, precisely for the reason given by the hon. Member for Twickenham (Dr. Cable). It is one thing to want to achieve an objective, but quite another to find the route that delivers it.

The first set of consultations, which deals with the proposals in new clause 1, was specifically with regard to defining the courses that would be covered and the training for unwaged trainees. To pick up the point made by the hon. Gentleman in his closing remarks, two real issues emerged from the consultation. The first was the complete lack of proper information about the number or type of so-called unwaged trainees who were outside the Government schemes. That has real dangers, on which he touched. Unwaged training should be properly accredited; that is, it should be training with a result—a skill.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): I am attracted by the apparent intent of both new clauses. Will my right hon. Friend address directly the point made by the hon. Member for Twickenham in relation to the parallels with the ILAs? That was a sad and sorry saga that I am sure we shall not repeat.

**Dawn Primarolo:** I was coming to that point; my hon. Friend anticipates me. If the Government are to sponsor

schemes and allocate entitlement on the basis of training, we have to be sure that the training is delivered to the standard required. Indeed, the consultation process made it clear that the Government could have approached unwaged, approved training in two ways. The first approach would involve trying to articulate in legislation the principles that must be followed. People would then measure their training to find out whether it met that standard. Of course, that would require regulation and enforcement, and all that goes with that.

4 pm

The second approach, which was favoured during the consultation, was that the Government should clearly define the approved training and education. In fact, regulation 2 includes a complete list at paragraphs (a), (b), (c) and (d) of those unwaged training courses that the Government consider fall within the meaning of "approved training" in the Bill, thus ensuing a quality-controlled outcome. On that basis, following the consultation I decided to define unwaged training in the regulations by reference to a list of named courses, precisely to satisfy the second point that the hon. Member for Twickenham raised in respect of transparency and clarity, to ensure that people do not have to make a judgment against principles; such things would be specified by their inclusion in the list.

Of course, a wider issue remains to be settled in relation to unwaged trainees who may be elsewhere in the labour market. They may be called unwaged trainees, but they may be young people who are being exploited for a number of reasons. They may not be receiving any recompense and certainly not any training, and a great deal of work still needs to be done on that.

**David Taylor:** I am most grateful to the Paymaster General for being so generous in giving way. Is she certain that the Bill, when implemented, will reduce to an absolute minimum the chance that the collusion and coercion of young people on low wages will decant them into unpaid work, so that the value of that work must be met directly by the taxpayer and the Inland Revenue? Can she reassure the House on that point?

**Dawn Primarolo:** I assure my hon. Friend that provision has been made to stop that happening, but I also assure him that the Under-Secretary of State for Education and Skills, my hon. Friend the Member for Bury, South (Mr. Lewis)—who will follow up a number of other issues that relate to 16 to 19 skills—and I intend to monitor the wider issues. This is the first step that the Government have taken in this area, but it needs to be monitored and that is a high priority. I am certainly satisfied that that is the best that we can do. Unfortunately, I cannot say that unscrupulous people will not seek ways to exploit the system, but we will do our best to combat that and to try to ensure that it does not happen, and monitoring is one way to do so.

The proposals in new clause 1 that relate to the list are dealt with in the regulations, which can be amended and developed as we become satisfied about the proposed schemes that may be added at a later stage.

On how to ensure that young people are properly informed, I will not be as mischievous as the hon. Member for Twickenham with regard to the Conservative party's future plans about publicity and how it would make cuts in that respect. A much more important point needs to be made about the March 2004 report, "Supporting young people to achieve". Again, as I pointed out to the hon. Member for Rayleigh (Mr. Francois), that report commits the Government to ensuring that information about the financial support available for post-16 choices is given at the same time as general advice about post-16 choices. The Department for Education and Skills and the Department for Work and Pensions are working on that and will ensure that such proper advice is available.

New clause 1 is, frankly, not necessary because it would duplicate work of the Government that is already under way. I hope that the hon. Member for Rayleigh will not press it to a Division.

New clause 2 relates to volunteering. I wondered whether I needed to speak about it, because the hon. Gentleman made my points for me by quoting my comments from the Committee. I fully support the principle that he is putting forward, as did many members of the Committee. In "Supporting young people to achieve", which was published last March, we recognised that volunteering and informal training could provide an effective means of re-engaging young people, especially those who are marginalised. Indeed, during my consultation with young people they flagged up not only the benefits of volunteering, but the problems involved in providing volunteering that is recognised as being relevant experience and part of a qualification while preventing young people from being exploited.

It was concluded that we should take the consultation a step further. As I explained to the hon. Gentleman in Committee, this will be the second stage of the consultation. We will report the results of our consultation on volunteering, and the question of whether it could be accredited through such bodies as the Prince's Trust, in the forthcoming Budget. The Government will respond to what has been said and explain how they can take things forward.

The Government, however, have done more than just that. They have set up the Russell commission. Additionally, a conference on volunteering was held in the Treasury on 31 January, which was announced as part of the pre-Budget report, to examine specifically with the sector how volunteering and mentoring could be taken forward to provide an additional avenue of experience for young people.

For the reasons identified by the hon. Members for Twickenham and for Rayleigh, it would be dangerous to introduce such a measure at this early stage. We would not be able to quantify it, or know whether it would work. We would not know the benefits that young people would receive, and we could inadvertently provide for their exploitation. The question of extending such financial support has thus been left to one side although, as I explained in Committee, the door has not closed. We are waiting for the Russell commission's report and want to conclude the consultation in which we are engaged. We will report back on the consultation and the next steps to be taken at the time of the Budget. The Home Secretary and the Chancellor led the conference in the Treasury on 31 January, so they are keen to take the process forward.

*[Dawn Primarolo]*

I hope that the hon. Member for Rayleigh will agree that he has pushed far enough to make it clear that volunteering will be addressed. After taking account of the responses that we receive, we will try to find a way of updating things. I am happy to ensure that he and other hon. Members are kept fully informed of developments. On that basis, I hope that he will not press new clause 2 to a Division. If he does, I shall reluctantly have to oppose it—not on principle, but because such a mechanism could not be introduced practically or sensibly at this stage.

**Mr. Francois:** I have listened carefully to the remarks offered by the Paymaster General. In responding, I shall take the new clauses in reverse order.

The right hon. Lady rightly points out that we must await the conclusions of the Russell commission, which has been looking into volunteering in the broader sense. The type of voluntary activity that we are discussing this afternoon clearly comes within the bailiwick of that commission and, like the Government, we await its report with interest. She intimated that more would be said about volunteering in the Budget. We await the specific detail of that, too.

At this stage, however, our aim in new clause 2 was first, to keep the subject alive for debate. I believe that we have succeeded in doing that and the Paymaster General responded in the right spirit. Secondly, our aim was to get at least an outline financial estimate of how much expanding the Bill's provisions to cover the larger categories would cost. She rightly points out that there are issues of definition to be dealt with; none the less, some outline figure should have been available when the policy decision was taken. I find it difficult to believe that, of all Departments, the Treasury had to choose between two policy options, only one of which was costed.

**Dawn Primarolo:** It is simply not possible to put a cost on such provision for volunteering. We need more information and the results of the consultation to do so. Similarly, costing the inclusion of unwaged trainees outside the identified schemes is not possible because the data do not exist in a form that would enable a secure and proper estimate to be made and given to the House.

I know that the hon. Gentleman is sometimes sceptical about some of the Government's estimates, even when I assert them forcefully from the Dispatch Box, but I assure him that if I had a figure, I would prefer to give it to him. I am not concealing anything. We are dealing with a difficult and uncharted area and part of the work that we have to do is to get information so that we can produce proper costings and answer the sort of questions that he is raising, and which I, too, want to be answered.

**Mr. Francois:** I thank the Paymaster General for that detailed intervention. I shall fully respect her right to be assertive—I suspect that she probably never needed to go on an assertiveness training course, but that God gave her that talent—as long as she respects my right to continue, on occasion, to be sceptical.

The right hon. Lady said that the Government will have more to say on the subject in the Budget—it would be helpful if she told us when that will be—and that they want to consider the conclusions of the Russell commission. It seems most sensible to wait for the Budget, so even though the right hon. Lady has been unable to provide a financial estimate—my hon. Friend the Member for Chichester (Mr. Tyrie) will have more to say on Third Reading about the absence from the Bill of financial information—we shall not press new clause 2 to a Division.

On new clause 1, however, we disagree. There is a lack of detail in the draft regulations. The Paymaster General intimated that the draft regulations lay out a list of all the courses; in fact, they do no such thing. Under the heading "Interpretation", regulation 2 starts "In these Regulations—" and then simply lays out headings for the multifarious courses that will be covered. It does not specify the courses themselves, only the types of course, and there is no appendix that lists specific courses. That is not the comprehensive list that we have been trying to elicit from the Government. We argue that there should be a concise list of precisely what courses are covered, which should be publicised so that people will know whether they are likely to qualify for an extended child benefit payment if they take a certain course. A list of headings does not meet that requirement.

4.15 pm

I shall deal with the point made from the Liberal Front Bench. I should mention as a matter of courtesy that the hon. Member for Yeovil (Mr. Laws) let me know that he could not be present this afternoon. I am sure he also informed the Minister's office of that. It is a pleasure to have the hon. Member for Twickenham (Dr. Cable) with us.

On publicity, the James review ascertained that a large amount of spending on advertising was wasteful. Having examined it in detail, we are convinced of that. However, there might be a practical purpose in using targeted Government money to advertise something specific. We are in no way arguing for an enlargement of the advertising budget—quite the opposite. We want to spend the money far more effectively, and one way of doing that would be to advertise the list that we advocate in new clause 1. That might not please the advertising department of *The Guardian*, but it might help a large number of young people who are deciding on their career futures. *[Interruption.]* My hon. Friend the Member for Tatton (Mr. Osborne) suggests from a sedentary position that we should put the Chancellor of the Duchy of Lancaster, the right hon. Member for Darlington (Mr. Milburn), in charge, but the right hon. Gentleman may have other things on his mind at present.

We propose publicising a specific list to assist people who might be in a position to take advantage of those courses, and those who advertise their ability to advise them on whether they could take advantage of the courses. We made that specific suggestion in Committee and gave the Government an opportunity to return to it on Report. Unfortunately, they have not listened to the point that we were trying to make, so we shall test the will of the House on the matter.

*Question put,* That the clause be read a Second time:—

*The House divided:* Ayes 110, Noes 229.

**Division No. 66]** **[4.16 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Browning, Mrs Angela
Burnside, David
Burstow, Paul
Cable, Dr. Vincent
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cran, James *(Beverley)*
Davey, Edward *(Kingston)*
Duncan, Alan *(Rutland)*
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hawkins, Nick
Hayes, John *(S Holland)*
Heathcoat-Amory, rh David
Hoban, Mark *(Fareham)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Paice, James
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Dr. Richard *(Wyre F)*
Thurso, John
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilshire, David
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. John Randall and Andrew Selous**

**NOES**

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Beard, Nigel
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Coaker, Vernon
Cohen, Harry
Corbyn, Jeremy
Cox, Tom *(Tooting)*
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Davey, Valerie *(Bristol W)*
Davies, Geraint *(Croydon C)*
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hoey, Kate *(Vauxhall)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Robert *(Wantage)*
Jamieson, David
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNamara, Kevin
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moran, Margaret

Mountford, Kali
Munn, Ms Meg
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Hara, Edward
Olner, Bill
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Southworth, Helen
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winnick, David
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Mr. Jim Murphy and James Purnell**

*Question accordingly negatived.*

*Order for Third Reading read.*

4.30 pm

**Dawn Primarolo:** I beg to move, That the Bill be now read the Third time.

As has been said repeatedly, the Child Benefit Bill is a small but significant piece of the jigsaw to give all young people the means and opportunity to participate in education and training beyond the age of 16. It builds on the success of our economic reforms to date, which have provided macro-economic stability, low unemployment and record employment. We are determined to transform the United Kingdom into a high-skill economy, where everyone, regardless of background, can benefit from the opportunities that global change offers.

As part of that overarching objective, we are committed to ensuring that all our young people reach the age of 19 equipped with the skills and qualifications that they need to make the most of their talents and aspirations. Our long-term ambition is that, by 2015, UK staying-on rates after 16 will move from one of the lowest in the Organisation for Economic Co-operation and Development to one of the highest.

Our strategy for achieving that target has three complementary elements: making the education and training curriculum more attractive for 14 to 19-year-olds, improving the provision of information and guidance on the opportunities available, and reforming the financial support system to make it more coherent and accessible to young people.

The Bill is an important step, but not the only step, in delivering the last strand. It will enable us to remove the distinction between education and unwaged training in the financial support system, thus supporting young people to choose the learning route that is most appropriate for them, rather than basing their decision on financial considerations. The new entitlement will apply to all 80,000 unwaged trainees on Government-arranged training.

The Bill will also enable us to extend financial support to 19-year-olds who are completing a course of education or training that they started before their 19th birthday, thus ending wasted investment for young people who, because of financial pressures, drop out at 19 before they have achieved their qualifications.

For the long term, we have been consulting about the activities outside formal education and training that should be entitled to financial support. As we have discussed again today, volunteering and informal skills courses provided by the voluntary sector clearly need to be considered. I repeat that the Government will respond to a consultation on that specific subject in the forthcoming Budget.

The Bill will provide us with the flexibility to extend entitlement to such activities in the future, once the necessary mechanisms are in place. It is clear from the Opposition amendments and the backing for the principle that I can look forward to their full support in taking forward the reforms.

I want to put on record my gratitude to all the young people, parents, voluntary sector organisations, business and learning providers who have again contributed their time and valuable experience to our consultation. Their experience, views and opinions have played an invaluable role in informing the development of our proposals.

Improving financial support for 16 to 19-year-olds in education and training is an investment in the future and aspirations of our young people as well as in the long-term strength and stability of the United Kingdom economy. I have been pleased to hear Members on both sides of the House reaffirm that view and offer their support, in principle, to many of the points in the Bill. That consensus provides us with the foundation to take forward our plans to remove the remaining financial barriers to education and training after 16. I commend the Bill to the House.

4.35 pm

**Mr. Andrew Tyrie** (Chichester) (Con): We have managed to discuss this Bill, as we did the Commissioners for Revenue and Customs Bill, with a reasonable amount of civility, and to avoid the brickbats that are often associated with the passing of legislation in this place. I would like to thank the Paymaster General for listening, on the whole, to the points that we made and for responding to many, if not all of them. In some cases, we still feel that we have not had an answer, as I have made clear. She has certainly tried, however, and she has done more than merely go through the ritual process that she could have fallen back on in this modern age of programmed legislation.

The Bill makes a number of simple changes to the eligibility rules for unwaged trainees and people aged 19. We have made it clear that we do not oppose those measures. However, we must bear in mind the fact that although this is a simple Bill, it forms part of a number of other proposals which, together, make it much more complicated. Whether the Bill turns out to be worth while will depend very much on the follow-up in the Budget and on the longer-term simplification proposals that have been set out—albeit only in very sketchy form, which worries me, as the Paymaster General knows—in "Supporting young people to achieve", the consultation document published a while ago.

In Committee, the Government accepted that the current system was horrendously complex—I will not list all the major changes that have taken place since 1997—and that it needed radical simplification. They also accepted that there was something curious about giving child benefit to adults—that is, to people who in every other respect are legally entitled to do all the things that adults can do in society, except one. I realised as I was writing my notes that they would not be eligible to be Members of Parliament. For that, they would have to wait until they were 21.

My second point is that even this simple measure will not come cheap. In Committee, we tried to find out whether it would provide value for money, and we were unable to get enough information to do so. I will not rehearse all the arguments that we had about the regulatory impact assessments, of which there have been two. Both of those rather curious documents were wholly inadequate, and neither amounted to very much at all.

We do have estimates of the cost of extending child benefit to unwaged trainees. That has been given as £105 million. We also have an estimate of the cost of extending it to students of 19. That cost is given as £65 million. However, when we look closer, we discover that those numbers do not mean very much, because the Government have made no estimate of the behavioural effects that the measures might have. The hon. Member for Twickenham (Dr. Cable) made that point earlier, as did the hon. Member for Yeovil (Mr. Laws) and I, at length, on Second Reading. With this type of support, it is the behavioural effects that we are looking for. The Government are using public money calculatedly and deliberately—and probably rightly—to change behaviour. It was therefore not unreasonable of the Opposition to ask them for their estimates of what those changes in behaviour would be.

I agree that it is not easy for the Government. I sympathise with the Economic Secretary's comments on Second Reading:

> "we all share the problem that there is a sparsity of information available about unwaged trainees—the group of people we are most concerned with in this context."—[*Official Report*, 12 January 2005; Vol. 429, c. 364.]

All the same, bearing in mind the fact that this is the central issue, I was surprised that Ministers have not been prepared, since we first raised the point, even to have a stab at making an estimate based on some simple assumptions. I think that we will return to this issue after the Budget—and in a few months' time, when we are running policy—and it is worth spelling out in a bit more detail the questions that ought to have been answered. They could even have been answered through sampling, for example, which would have given us some information.

First, what is the Government's overall estimate of the effect of extending child benefit to unwaged trainees—we now know that it is only those who have become eligible, because they are already on Government supported schemes—and on the overall number of unwaged trainees? We do not know the answer. There will be an Exchequer cost in terms of child benefit for young people who are encouraged to take up this form of training. Set against that, the Exchequer may save some money—a point made by the hon. Member for Yeovil (Mr. Laws) and me on Second Reading. That will come to the extent that people are drawn into unwaged training from formal education. We are therefore looking for a net number, and we have not had it.

**Mr. John Gummer** (Suffolk, Coastal) (Con): Does my hon. Friend agree that with such difficulty of assessment, an alternative or perhaps additional way would be to ensure, in the formulation of the Bill, a specific opportunity to look back and see what has happened? One of my worries is that the House is increasingly asked to make such decisions, perfectly reasonably, as we do not know enough about the position, but we are not yet good enough at allowing ourselves to insist on the kind of independent outside assessment that a business would undertake in such circumstances? A business would take the risk, but be prepared to have a really independent look at it a reasonable time later.

**Mr. Tyrie:** That is an extremely thoughtful intervention from a senior former Cabinet Minister. If he cares to look at the amendment paper, he will see that I tabled an amendment with that specific purpose in mind—perhaps he already knows that. Unfortunately—I am not sure how far I can stray down this path—it was not called for debate this afternoon. But it goes to the heart of the matter: when such measures are introduced we need to be clear how we will assess whether the money is being spent usefully. If we have that clear in our minds, we can work out later what yardsticks we will watch to find out whether adjustment is needed. We have not had that from the Government.

I am very surprised and disappointed that we have not had such estimates. Secondly, how many people will be encouraged by the extension of child benefit for 19-year-olds to stay in full-time non-advanced education? As far as I can tell, the behavioural effects will only work one way: there will be costs and no savings for the Exchequer—but I may be wrong, and I may have missed something. Again, I would have liked an estimate, and I have not had it.

The Government could have provided that through sampling, as I have mentioned, or some kind of survey. We all understand that we will not get an exact figure—I hope that we would be intelligent enough not to hold the Government to such a figure if it turned out to be something else. But we should have some indication that the Government have been thinking about the issue and trying to find the right yardstick by which to measure it. After all, we are talking about nearly £200 million in

*[Mr. Tyrie]*

expenditure, and it may be much more if the behavioural effects are considerable. We need to know what the deadweight cost is, but we do not know.

At the heart of all this is a very important group of people. The Government claim to have helped them through the new deal and other measures, but they have not really helped them as much as they say—although we heard the customary noisy bluff and bluster from the Chancellor during Treasury questions today.

Surely the group about whom we should be most worried consists of those who are not in employment, education or training. The latest figures show that far from diminishing, over the past seven years that group has grown larger. More than a million young people are now economically inactive and not in education. That is worrying, and it should be close to the heart of the Bill. Through various measures, the Government's support for this overall area runs into billions, but the policy does not seem to be delivering what we should expect of it.

I am by no means alone in being worried about the absence of proper cost estimates. I have taken soundings from a large number of people and groups, including the Prince's Trust, Cornwall and Devon Connexions, the Foyer Federation, Barnardo's and the Association of Colleges. Many of them allude to this issue in one way or another. They do not oppose the Government's intentions; they do not even oppose the principle behind the Government's approach. That is territory that we share. What worries them is that the Bill may not have the intended effects. The chief executive of the Association of Colleges says:

"the limited information on the costs of the reforms during the consultation period and on the publication of the Bill make it difficult to assess the impact . . . It is surprising that the same government that spent 3 years testing EMAs"

—education maintenance allowances—

"in more than 50 local authority areas is introducing a reform",

also costing a lot of money, without testing it, and with only one year's implementation.

That is very gently worded. The chief executive makes a number of other serious points about the risk of fraud and the need for good advice for young people, and the danger that the Bill could make obtaining such advice more difficult.

I have raised all those points not because I want to oppose the Bill, but because I want to encourage the Government to think more clearly about the questions that they are asking civil servants in order to justify it here. I am sorry we have not been told enough to be able to make an informed judgment on whether the money involved will be used effectively. There is much in the Bill that gives us pause for thought, and much that may cause concern among those on the ground. There is a lack of clarity about the Government's destination. A page in one of their consultation documents refers to "the long-term vision", and provides about 100 words on the subject and a rather curious diagram. That does not constitute a long-term vision worthy of the name, and again there is a lack of clarity about the Bill's likely effects.

Let me end with a point which, although highly controversial, needs to be made time and again. How on earth can a Treasury Minister be presenting a spending measure? It is extraordinary that the Treasury should be both gamekeeper and poacher, responsible for controlling public spending and at the same time arrogating to itself the power to write very large cheques.

It does not surprise me at all that the No. 10 policy unit, and, we are told, the Prime Minister and John Birt, are working together vigorously to create an effective public expenditure control system for implementation in the event of Labour winning the election and the present Chancellor being moved to another job. Perhaps part of the reason for our inability to obtain clear answers to the questions I have asked this afternoon is the fact that we have a Department that is not suited to such tasks. An Inland Revenue Department is trying to run part of the benefits system. That inevitably leads to the question whether the right people are doing the right things in the Government. All sorts of problems concerning not only the implementation of policy, but whether policy is being devised intelligently and sensibly, will occur down the line.

**Mr. Gummer:** Has my hon. Friend looked through the records to find the last time the Treasury produced a child benefit Bill? It would be more normal for another Department to perform that function—or have I been here too long and missed something?

**Mr. Tyrie:** That question contains an element of elegant disingenuousness. My right hon. Friend knows that the existence of such a Bill is most unlikely.

**Dawn Primarolo** *rose—*

**Mr. Tyrie:** Oh, wait a minute. Perhaps I am wrong, and have not been in the House for long enough.

**Dawn Primarolo:** The hon. Gentleman may have been here when child benefit was transferred to the Treasury, and I do not remember the Conservative party opposing that legislation.

**Mr. Tyrie:** I am certainly challenging that legislation now, and I have the strong support of the No. 10 policy unit, John Birt and probably the Prime Minister. The Paymaster General will be pleased to hear that I am coming to the end of my remarks, because we have moved on to a sensitive subject.

I wonder whether we have succeeded in getting to the bottom of the exact effects of spending the £200 million. I have my doubts whether we even know within a factor of about 50 per cent. how much the measure will cost, which should be a cause for concern. On this occasion, the concern is not sufficient to divide the House on Third Reading, but we will certainly keep a close eye on both costs and value for money.

4.51 pm

**Dr. Cable:** I reaffirm my hon. Friends' broad support for the Bill, which, as the Paymaster General said, is "small but useful". If my hon. Friend the Member for Yeovil (Mr. Laws) were here, I am sure that he would confirm what the hon. Member for Chichester (Mr. Tyrie) said about the civilised and thoughtful way in which the legislation has progressed.

Having read *Hansard*, it seems to me that there are two underlying reasons why the Bill was introduced, and merits support. The first reason concerns broad grounds of equity and fairness. A group of people who are not in formal education have been arbitrarily excluded from child benefit, and the Bill rectifies that unjust situation.

The second reason concerns the promotion of training. In her speeches on Second and Third Reading, the Paymaster General relied heavily on that argument. Broad support clearly exists for the idea that we, as a country, should do more training, but it is not clear whether the Bill will encourage training in general. Most of the people who will receive those benefits would be in training anyway. As the hon. Member for Chichester said, a dead-weight cost problem exists, and we do not know the extent to which the Bill will incentivise training. If the Bill incentivises training, however, that is a desirable and positive outcome.

I agree with much of what the hon. Member for Chichester said about the underlying weaknesses. We do not know the consequences of the proposed changes, and a great deal of uncertainty exists. The regulatory impact assessments were not massively helpful either on the facts or in analysing the economic consequences. We can probably isolate various behavioural changes that could take place, some of which are desirable and some of which are not. The desirable changes include the possibility that people will be encouraged to leave economic inactivity or unemployment and enter training or education as a result of the Bill, which would benefit everybody. As a result of removing the previous discrimination, people may be tempted to leave formal education and enter vocational training, which, given how the situation has been distorted in the past, is almost certainly desirable.

Another change, which is neither necessarily good nor necessarily bad, is that people will be encouraged to move out of unapproved schemes into Government-approved ones, simply because of the definition issue, which we discussed earlier. Another possible and probably less desirable change is that some people might be encouraged to move out of work and into training. That could be a good thing if they were investing in their long-term knowledge capital; equally, there could be a loss to the economy and to the Treasury. So there is a mixture of gains and losses, and as the hon. Member for Chichester emphasised, we do not really know what the net effect will be. We will doubtless have to return to this issue in the next Parliament.

Finally, as has already been pointed out, the immense complexity of the benefit system is extremely intimidating, particularly for those of us who have come to the Bill rather late. The Bill touches on but one tiny corner of that complexity. The argument about the proliferation of benefits and tax credits has been well rehearsed in many quarters. There are many unforeseen consequences of such proliferation, not all of which are desirable. On balance, this legislation probably helps, because child benefit is not means-tested and, unlike many selective measures, it does not have the perverse effect of providing disincentives.

In the next Parliament we will have to have a major look at the proliferation of tax credits and benefits, the unintended consequences of which are often severe and very negative. Ministers often plaintively ask why they do not get more credit for all the good things that they are doing in helping to tackle child poverty, for example. One reason is that many of our constituents simply cannot comprehend the complex system that they have to grapple with. They have to wander through a quagmire of complication, so the system will have to be simplified. The Bill deals with only one corner of that much bigger problem. That said, broadly speaking this is useful legislation. Unanswered questions remain, but I am happy to subscribe to the Bill and to support it.

*Question put and agreed to.*

*Bill accordingly read the Third time, and passed.*

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118 (6), (Standing Committees on Delegated Legislation).*

SECURITY INDUSTRY

That the draft Private Security Industry Act 2001 (Amendments to Schedule 2) Order 2005, which was laid before this House on 17th January, be approved.—*[Mr. Ainger.]*

*Question agreed to.*

## PETITION

## Dangerous Driving

4.56 pm

**Mr. Liam Byrne** (Birmingham, Hodge Hill) (Lab): Today, the Home Office published a landmark breakthrough in the campaign for sentences for drivers who kill. I rise to present a petition calling on the House to pass new laws as fast as possible.

The petition states:

To the House of Commons

The Petition of the residents of Hodge Hill and the surrounding areas declares their concern

That current road safety laws do not sufficiently punish the offence of causing death or injury by dangerous driving.

The Petitioners therefore request that the House of Commons pass legislation to update the current road safety laws to include tougher sentences for dangerous drivers.

And your Petitioners remain, etc.

*To lie upon the Table.*

## Pyser-SGI Ltd. (Export Licence)

*Motion made, and Question put*, That this House do now adjourn.—*[Mr. Ainger.]*

4.57 pm

**Sir John Stanley** (Tonbridge and Malling) (Con): The company Pyser-SGI Ltd., which is in my constituency, is a truly remarkable success story. Although it employs fewer than 100 people in Edenbridge and Tonbridge, it is not only the last remaining UK manufacturer of night vision equipment for police forces, but a world beater. It sold its night vision monocular not only to UK police forces but to forces around the world, including, most conspicuously, the Athens police force for their protection of last year's Olympic games. That was a very significant export achievement for a small British company.

Not surprisingly, and commendably, Pyser-SGI, following its sales success during the Athens Olympics, wisely decided to see whether it could make its way into the market in China, in advance of the Beijing Olympics in 2008. In order to do so, the company decided to exhibit its night vision equipment in the China police exhibition that was held in Beijing in June last year. For that purpose, it needed an export licence; it applied to the Department of Trade and Industry and received one.

At the exhibition in Beijing last year, the company received a number of orders, including one from the Shanghai police, who wanted to trial the night vision equipment with a view to placing a much larger follow-on order. That trial and order also required an export licence from the DTI for exactly the same piece of equipment that had been exhibited in the Beijing police exhibition in June last year. The company applied for an export licence, but was astounded to find that it was refused.

The grounds for the refusal were that the night vision monocular fell within the EU arms embargo on China and that it might—I stress the word "might"—be used for internal repression. I shall come on later to whether the grounds for refusal were indeed valid. For the moment, I want to make two important, wider points that relate to the particular case.

First, the company was meted out pretty poor treatment by the DTI when it granted export licences for equipment to be shown at an exhibition, without at the same time disclosing to the company that, if orders were obtained from buyers in the country where the exhibition was held, there was no possibility of a subsequent export licence being granted. That puts a British company in a false trading position. Pyser-SGI clearly feels—I think reasonably—that it was led up the garden path by the DTI. It expended a substantial sum by exhibiting at the Beijing police exhibition last year and now that it has secured orders in China for the very equipment that it exhibited, it has found that the export licence has been refused. At no previous point was that possibility disclosed by the DTI.

**The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths)** *rose—*

**Sir John Stanley:** I will give way to the Minister in a moment. I believe that the DTI should seriously reconsider its policy because the present procedure is neither reasonable nor fair to British companies, particularly the smaller ones such as Pyser-SGI.

**Nigel Griffiths:** This particular company was not misled. In common with many other companies, it is perfectly well aware that the export of products in their safe hands for demonstration purposes and their return to Britain does not guarantee that those products can be released subsequently elsewhere. That has been made perfectly clear to the industry. In my time as Minister, I have received no representations from the Defence Manufacturers Association about this particular issue, so there has been no doubt about the policy.

**Sir John Stanley:** I am well aware of those points. I wholly accept that the DTI protects itself by saying that, just because it provides a licence for an exhibition, it does not mean that a further export licence will automatically follow. However, my point—I hope that the Minister will, on reflection, consider it—is that when the particular piece of equipment exhibited is equipment that his officials know perfectly well is unlikely to receive an export licence if orders are obtained, the Department has some responsibility at least to issue a warning of that likelihood to the company concerned. I hope that the Minister will reflect further on that important point.

Secondly, I hope that the EU will not enter into arms embargoes that are defined as seriously inadequately as is the present embargo on China. I appreciate entirely that the present Government did not enter into that embargo. The previous Conservative Government did, along with EU member states, in the immediate aftermath of Tiananmen square. The embargo was declared at the Madrid European Council meeting of June 1989, and its wording is as follows:

"In present circumstances, the European Council thinks it necessary to adopt the following measures".

Six measures are listed, of which the relevant one states:

"Interruption by the member states of the Community of military cooperation and an embargo on trade in arms with China".

That is all that the embargo says. It contains no definition of what constitutes "arms". That interpretation was left entirely up to individual member states. Not surprisingly, that created a very unsatisfactory—I would call it extremely unfair—situation in the EU.

Individual EU Governments apply wholly different interpretations of what constitutes arms in terms of the EU's arms embargo on China. At one end of the scale, the French Government—predictably—interpret the embargo in a way that is extremely generous to French arms exporting companies. At the other end of the scale, the British Government interpret the embargo in a way that is extremely restrictive for our arms exporting companies. The result, of course, is that British firms lose out. As a general point, I hope that, in the future, the EU will not declare an arms embargo in terms that are so deeply unsatisfactory and highly generalised, and therefore open to widely varying national interpretations.

I turn now to the particular case of the Pyser-SGI monocular equipment, export approval for which was refused on the grounds that it might be used for internal

repression. I want to make clear where I stand on human rights and China. I regard that country as a highly repressive state, and a serious violator of human rights. It still persecutes people who offer political criticism or any form or political opposition, and those who are fighting to establish free trade unions there. It also persecutes people who have non-political beliefs, such as members of the Falun Gong.

Both in this and the previous Parliament, I have strongly criticised this Government's policy, which I consider to be far too soft, in respect of China's human rights record. That remains my position, but in this case we are dealing not with that general issue but with the very specific question of whether it is sensible and reasonable to think that the Pyser-SGI night vision monocular equipment might be used by the Shanghai police as a major instrument of internal repression. I shall turn my attention to that in the next section of my speech.

To provide some perspective on the refusal decision, if we use some sadistic imagination, it is not, I am afraid, impossible to think of a huge number of items manufactured in the UK that could conceivably be used as instruments of internal repression. I could go round my constituency—I am sure the Minister could do the same in his constituency—and visit Homebase, B&Q and builders' merchants in Tonbridge to buy nails, screws, hacksaws, power drills, chains and other goods that, in the wrong hands, could be used for internal repression. Such items are not covered by any form of export licensing procedure. Turning to the night vision monocular itself, I have brought one with me, and if the Minister is interested, I will give him a brief demonstration after our debate. He can see that it is an inoffensive piece of optical equipment. There are four key questions that the Government should ask before making a final decision about whether to grant an export licence to Pyser-SGI so that it can export it to China.

First, is the piece of equipment meant for military use, and is it constructed to a military specification? The answer is no, it is not a military piece of equipment, and is not on the common military list of the European Union, which lists all the equipment covered by the European code of conduct on arms exports. The monocular is deemed to be of dual use, which is why it is caught up in the export licensing system. I stress, however, that it is not a military list item.

Secondly, the Government should ask whether the end user certificate provided by the Shanghai police on the purposes for which the night vision monocular is to be used is satisfactory. I have brought with me a copy of the end user certificate, signed by the chief inspector of the Shanghai police and the chief of the equipment department. The certificate asks:

"Please set out the specific purposes for which the goods are to be used".

The chief inspector replied:

"The goods are used in criminal investigation department of Shanghai public security bureau. They are in charge of drug enforcement and anti-terrorist operation. They are member of Interpol. They provide security support for Shanghai World Expo 2010."

We in Britain, including, I am sure, the British Government, are as much in favour of drug enforcement, for which the equipment is to be used, as the Shanghai police. We in Britain conduct our own anti-terrorist operations, and have taken the most far-reaching powers for centuries to deal with terrorists, including imprisonment without trial and now, under the Government's proposals, a new system of house arrest.

The police of this country, like the Shanghai police, are members of Interpol. We in this country, again like the Shanghai police, are very much in favour of there being proper security at Shanghai World Expo in 2010. I put it to the Minister that the purposes for which the equipment is to be used seem fully in line with Government policy.

My third question is: should the licence be refused simply because the piece of equipment is going to a Chinese police force? If the British Government's position was that Chinese police forces, wherever located in China, were, in human rights terms, wholly unacceptable organisations—if they were some sort of latter-day Gestapo—it would be perfectly reasonable to refuse them an export licence for any equipment. However, that is not the British Government's position. Indeed, their position is quite the reverse.

I have been advised by Pyser-SGI that the Metropolitan police are engaged in training, in Britain, police officers from China in drug enforcement. That training obviously has the approval of the British Government, including Foreign Office approval. It is funded by British taxpayers, and as I have already made clear, drug enforcement is one of the very purposes for which Pyser-SGI is seeking an export licence for equipment for the Shanghai police. It seems extraordinarily perverse that, here in the UK, the Metropolitan police are training Chinese police in drug enforcement while the British Government are refusing a British company an export licence for equipment that would assist the Shanghai police in China in dealing with drug enforcement. Even more ironic is the fact that the Metropolitan police certainly include in their training some form of night training for the Chinese police in dealing with drug traffickers, and that will involve the use of night vision equipment—possibly the very equipment for which the DTI is refusing Pyser-SGI an export licence for the Shanghai police. There are no grounds to say that the export licence should be refused simply because the equipment is going to the Chinese police.

My fourth and final question is the clincher. Is the UK, in refusing the export licence, following the same policy as other European Union member states on that item of equipment? If the British Government were following the same refusal policy as other EU member countries, I would have no difficulty in accepting that that was EU policy and that Britain should go along with it—but that is not the case. In fact, the position is the reverse. If the UK was following the same policy on the equipment as that of other EU member states, the British Government should have given Pyser-SGI an export licence on the nod, because companies in other EU member states have no difficulty whatever in obtaining approval for export licences for such equipment from their respective Governments.

I now want to come to the detail of that key point. Three EU member states manufacture such night vision equipment for police forces: Britain, the Netherlands and France. Let me turn, then, to what is the practice in

*[Sir John Stanley]*

the Netherlands and France. The Dutch company involved is called Delft Electronic Products, and the key piece of equipment is called the image intensifier, which is fitted in the middle of the night vision monocular and is the key engine that drives the equipment. Delft Electronic Products has had no problem at all in getting export licences from the Dutch Government to export that item to China. Indeed, the Dutch company has gone even further than making simple, direct exports to China: it has entered into the joint licensed production of the image intensifier with a Chinese company—North Night Vision Technology Co. Ltd. in Beijing. That company is now manufacturing under licence from the Dutch the image intensifiers for which the British Government are refusing to grant an export licence to Pyser-SGI.

The situation is even more extraordinary in France, where Pyser-SGI has two competitor companies, the first of which is called Photonis. Like Delft Electronic Products in the Netherlands, Photonis had no difficulty in getting export licences for its image intensifiers from the French Government. Even more extraordinary is the position of the second French company, Thales Angenieux. Again, with the approval of the French Government, that company has entered into another licensed production agreement with North Night Vision Technology Co. Ltd. in Beijing that involves an even more sophisticated piece of equipment—a night vision goggle, called LUCIE—than that for which Pyser-SGI has been seeking export licence approval from the DTI.

Most significantly, that French item, which is now under joint production with the Chinese in Beijing, is specifically stated to be for not only civilian but military use. Indeed, I have with me a copy of the sales particulars issued by North Night Vision Technology Co. Ltd.—they are partly in Chinese, but happily for me, partly in English as well—and the relevant couple of sentences read:

"This new concept of multi-purposes night vision goggles LUCIE-NVT has been developed by THALES ANGENIEUX, assembled and exclusively sales in China by North Night Vision Technology Co. Ltd (NVT) . . . LUCIE-NVT offers, at the lowest price, 3 magnifications (1x, 4x and 6x) and is fully in accordance with military & civilian specifications."

I stress to the Minister that our EU partners are following a totally different interpretation of the EU arms embargo on China and are selling competitive products with the full approval of their respective Governments.

May I say to the Minister that although I am sure that he has on his knee a nice speech that has been dutifully drafted by his officials to justify the refusal decision that has been taken, I hope, having listened to my remarks, that he will on reflection put his prepared speech on hold, consider the points that I have made and perhaps discuss the matter with his colleagues in the Foreign and Commonwealth Office?

The facts are these. First, if the decision stands, the UK's only manufacturer of night vision monoculars for police forces will be put out of business in the major export market of China, and perhaps other markets as well. Secondly, I must put it to the Minister that it will make not one jot or tittle of difference to internal repression in China if the Pyser-SGI monocular is sold, because if it is not sold by Pyser-SGI, the Shanghai police will have no difficulty whatever buying it elsewhere. The third inescapable commercial reality is that if the British Government continue their present policy, Pyser-SGI's Dutch and French competitors will simply be laughing all the way to the bank at the expense of a British company.

This export licence decision is political correctness gone absolutely mad. It defies common sense and practicality on the ground, and it is directly contrary to British economic and employment interests. I am in no doubt that the refusal decision should be reversed, and I trust that the Minister will consider the case that I have made for that reversal and achieve just that.

5.26 pm

**The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths):** I congratulate the right hon. Member for Tonbridge and Malling (Sir John Stanley) on securing the debate on my refusal to grant a licence for Pyser-SGI to export a night vision monocular and a night intensification module to China. I have a reputation for putting prepared speeches on hold, so let me thank him for giving me the opportunity to explain to the House the steps that I have taken to ensure that we have one of the most robust export licence regimes anywhere in the world.

Our export licensing commitments are clear. We assess each export licence application on a case-by-case basis against the consolidated EU export licensing criteria and our own national arms export licensing criteria. We take fully into consideration the circumstances prevailing at the time. In addition, we reserve the right to impose our own stricter criteria in line with Government policy. If it is judged that an export is inconsistent with any of the criteria, the application is refused.

We take the criteria very seriously. The case was refused under criterion 1, which covers international embargos and, on appeal, also under criterion 2, which refers to the possibility of internal repression. There is an EU embargo on arms to China, which we in the UK interpret as including the export of any goods that might be used for internal repression.

The manufacturer made the following statement in its letter of 13 September:

"we . . . are wholly and totally unable to fathom how it might be in any way conceivable, practical or technically possible to make use of either of these items of equipment for 'internal repression' purposes".

Let me explain why that is, in fact, possible. The night vision monocular can be strapped to a helmet to free hands for other tasks, and the night intensification module can be fitted to a camera to provide night vision capabilities. Of course, as the right hon. Member said, the items can be used legitimately, but they can also be used to enhance significantly the capabilities of internal security forces to conduct repressive night raids on civilians. It is frankly disingenuous for anyone in the business to claim otherwise.

I am pleased that the world-class reputation of our police services ensures that they are training other police forces and achieving improvements in other countries. However, providing night vision equipment along with that is not the same as providing shirts, uniforms and

boots. Let me be clear: although the case was refused initially only under criterion 1, had the embargo not been in place the clear risk that the goods would be used for internal repression would have led me to refuse the export under criterion 2 of the consolidated criteria, which also relates to internal repression.

I shall set out why the goods were refused an export licence, even though an export licence was given for the temporary export of a limited sample of the goods to accompany the exporter to an exhibition in China for demonstration purposes. The terms of a temporary export licence are strict: they usually require the goods to remain in the possession of the exporter at all times, and usually seek guarantees of their return to the UK For those reasons, temporary licences do not raise the same issues as permanent ones—and exporters know that. We make it clear at all stages to all exporters, including the right hon. Member's constituents, that the granting of an export licence so that they can demonstrate their goods never guarantees that a permanent export licence will be granted. The exhibition in question was open to non-Chinese customers, so there was no reason to deny a licence to exhibit.

Last year, the DTI's export control organisation held 14 regional workshops and four seminars to raise exporters' awareness of our controls. With permanent exports, as the goods will remain in the destination country unsupervised, the end use and end user of the goods must be carefully considered, together with the nature and capability of the goods and other relevant factors. Our foremost commitment is to ensure that exports are managed responsibly and in line with the UK's national and international commitments. I know that the right hon. Member shares that commitment and does not wish to advocate that trade interests should override matters of human rights and proliferation. The Government's serious concerns about the human rights situation in China have been made clear. When my right hon. Friend the Foreign Secretary briefed Parliament's Quadripartite Committee on 12 January, he stated that although the human rights situation in China has certainly eased, we are in no way satisfied that it is now fully acceptable.

To assist exporters in assessing whether they should devote resources to securing overseas contracts, the Government openly provide as much information as possible to help them to undertake risk assessment on where to target their resources. The FCO website contains extensive detail on current policy restrictions and country-specific concerns, including the fact that the goods in question are contained on the EU list of dual-use equipment, which might be used for internal repression. The right hon. Member's constituents can have been in no doubt about the matter. I have ensured that the export control organisation's website now contains breakdowns of refusal rates and processing times by destination.

The right hon. Member has raised the case directly with my right hon. Friends the Secretary of State for Trade and Industry and the Foreign Secretary. He asks the valid question whether our regime is more strict than that of other countries. Let me tell the House that every EU member state is committed to considering export licence applications against the binding EU code of conduct on arms exports or against any EU or UN embargoes. To ensure that no country grants a licence without realising that such a licence might have been refused by another member state, we have an EU-wide denial notification system, which ensures that refusal in one state is noted in every state. If the right hon. Member has further evidence about specific identical equipment having been supplied to the end user in China—I understand that he might have more details—that can be investigated.

**Sir John Stanley:** During my speech, I quoted from the sales literature that referred directly to sales of LUCIE-NVT night vision binoculars carried out with the approval of the French Government. I quoted the documentary evidence.

**Nigel Griffiths:** The right hon. Member is right. He quoted the evidence. I asked whether we can have it, and I am sure he will supply it to us.

**Sir John Stanley:** The evidence from which I quoted has already been supplied to the Minister's Department and was in the appeal documentation submitted to his Department by Pyser-SGI.

**Nigel Griffiths:** I am grateful to the right hon. Member for mentioning that. The evidence was therefore taken fully into consideration. His letter to my right hon. Friend the Foreign Secretary of 11 January has helped to inform this debate. I have, however, made it clear where we stand. Our refusal must be noted by other states. If they have chosen to take a different course of action, they must answer for that, as I must answer to the House for our actions to date.

Since 1997, we have refused 58 standard individual export licences to China. That figure does not include many more export requests that never reached the licensing stage because the advice would have been given that they would certainly be refused. The case raised by the right hon. Member is an important example that highlights the effectiveness of the UK's export licensing system. We are working with our EU partners to make the system even more effective because we see the code of conduct as a key element in controlling defence exports.

The right hon. Member told my right hon. Friend the Foreign Secretary in the letter that I mentioned a moment ago:

"I have been critical in the House of both the British Government and the EU generally on not being sufficiently robust towards the Chinese on human rights".

The Government do not entirely accept that judgment, and I make no apology for taking appropriate measures to prevent the supply of equipment which we judge may be used for human rights abuses. I hope that the right hon. Member shares my view.

*Question put and agreed to.*

*Adjourned accordingly at twenty-four minutes to Six o'clock.*

# House of Commons

*Friday 4 February 2005*

*The House met at half-past Nine o'clock*

PRAYERS

*The First Deputy Chairman of Ways and Means took the Chair as Deputy Speaker, pursuant to the Standing Order.*

[SYLVIA HEAL *in the Chair*]

# Orders of the Day

## Criminal Law (Amendment) (Householder Protection) Bill

*Order for Second Reading read.*

9.34 am

**Patrick Mercer** (Newark) (Con): I beg to move, That the Bill be now read a Second time.

I am grateful for this opportunity to bring to the House a Bill in which I passionately believe. I start by quoting the case of Brett Osborn from Romford. In 2003, he stabbed a drug-crazed intruder who was threatening a pregnant woman in the house in which he found himself. It turned out that the stabs that Brett Osborn had inflicted killed that intruder, and he is now serving five years for manslaughter because, apparently, he failed to warn the intruder that he was armed and that he intended to strike. Was that reasonable force? I do not know.

The second case, perhaps less dramatic, is of Charlie Mayall, a 59-year-old ex-soldier living in my constituency, who in August 2004 was struck on the patio in his garden by an intruder with a piece of wood. Charlie retaliated, and in trying to defend himself he broke the intruder's jaw. He was arrested, and over the last six months he has appeared in court three times; he has been involved in countless police interviews; and he has suffered all the trauma, stress and lack of earnings that due process involves. Very recently, the case was dropped by the Crown Prosecution Service owing to lack of evidence.

What is fascinating is the other side of the coin, because not only is Charlie Mayall thoroughly confused by what is going on, and thoroughly put upon; the police believed the CPS advice that there was a good chance of the prosecution proceeding. Indeed, when guidelines were issued to the police just before Christmas they were reinforced in their belief. Then suddenly the case was dropped. Where does the definition of reasonable force lie? Clearly it is vague. The law is difficult to enforce. Charlie Mayall came away delighted. The police came away bemused by this law that simply does not make sense and in which the public have lost confidence. I suggest that a law in which there is no confidence must be changed.

My Bill consists of two simple amendments. The first would replace "reasonable force" with the idea of force that is not "grossly disproportionate". Those words are not mine—they already exist in civil law. They were designed by the Government to make sure that civil law started to work, and were enshrined in 2003. Currently, as my right hon. and learned Friend the Leader of the Opposition said the other day, we have two wholly different tests in the same area of law. The first is "grossly disproportionate" in civil law and the other is "reasonable force" in criminal law. Civil law was not working, so it was changed. Now, I suggest, criminal law needs to be brought into line with civil law so that the two tests make eminent sense and can be compared easily and comprehensibly.

**Mr. Andrew Dismore** (Hendon) (Lab): Does the hon. Gentleman accept that there is a difference between criminal and civil law, in that the standard of proof in civil law is the balance of probabilities, whereas in criminal law it is beyond all reasonable doubt? In looking at enforcing the law, one has to bear in mind the standard of proof that has to be applied. If one has a definition, like that in the hon. Gentleman's Bill, which is not referred to or inscribed in law in any way, that can create significant problems in trying to enforce the law.

**Patrick Mercer:** I am grateful to the hon. Gentleman for his intervention.

The fact remains that this is a question of public confidence. Public confidence in civil law clearly failed, so the law was changed. Public confidence in criminal law is failing, and the law needs changing. To my mind, that is extremely simple.

**Miss Julie Kirkbride** (Bromsgrove) (Con): The hon. Member for Hendon (Mr. Dismore) said that the criminal law uses a standard of proof beyond reasonable doubt, yet courts are being asked to assess whether some action is reasonable. It seems to me that the action must be clearly proved to have gone well beyond reasonable force if the test that he described is to apply.

**Patrick Mercer:** I am grateful to my hon. Friend for her clear and helpful intervention. Later in my speech I shall answer her point much more clearly than I can now.

I believe that use of the phrase "grossly disproportionate" raises the threshold and makes the matter clear to householders, shop owners, burglars, intruders and, indeed, juries who have to try to interpret the law. Let us be clear: the 12 good men and true of a jury need simple guidelines, but the present guidelines, revolving as they do around "reasonable force", are vague.

**Donald Anderson** (Swansea, East) (Lab): The hon. Gentleman talks about simple guidelines, but is it not a fact that, whichever formula is chosen, uncertainty at the edges is inevitable? He has done his homework, so he will know that very few cases have proceeded to trial. Can he give one example of a case that did proceed to trial that would not have done under his test?

**Patrick Mercer:** Brett Osborn's.

*[Patrick Mercer]*

The definition of reasonable force has had to be clarified—that is clear from the issuing of a leaflet this week. If the law is a good law, if it is working, why is an A4 leaflet necessary to clarify it? Why do the Government need to indulge themselves in trying to explain that wholly obscure phrase? I wrote to the Crown Prosecution Service to discover its definition of reasonable force; I have yet to receive a coherent answer. We contacted the Home Office and several police stations to test them on what the phrase means. We asked whether keeping a baseball bat by the bed was reasonable. The reply from Home Office was,

"I am not qualified to interpret the law",

and we were asked to refer our question to the Department for Constitutional Affairs—but that Department referred us back to the Home Office. A police constable in the Home Secretary's Norwich constituency thought that the baseball bat was reasonable, but another officer in Durham thought that it was

"an offensive weapon—you've obviously got a bit of premeditation about using it."

Clearly, if a leaflet is necessary, there is huge confusion through which we must try to force some beam of light, some kind of common sense.

**Dr. Julian Lewis** (New Forest, East) (Con): I, too, noted the issuing of the leaflet. One of the things it said that struck me was that one must not lay a trap for anyone. Let us suppose that a person has been consistently targeted by burglars. Does the rule mean that as long as that person goes to sleep, wakes up in time—before he is attacked—and then uses reasonable force on a burglar, it is all right, but if, because he has previously been targeted, he stays up at night and then uses reasonable force on a burglar, he can be convicted because he laid a trap?

**Patrick Mercer:** I simply do not know. The law does not make it clear. Despite the fact that a scrap of A4 paper has been issued—albeit only 100,000 copies—I cannot give a clear answer to my hon. Friend's question. Interestingly—

**Mr. Dismore:** Will the hon. Gentleman give way?

**Mike Gapes** (Ilford, South) (Lab/Co-op): Will the hon. Gentleman give way?

**Madam Deputy Speaker:** Order. The hon. Gentleman is not willing to give way at this moment.

**Patrick Mercer:** Thank you, Madam Deputy Speaker.

On Tuesday this week, Sir Ian Blair, the new Commissioner of Police of the Metropolis, appeared on the "Today" programme. Apparently, hard though it is to believe, he had not yet seen the famous leaflet when he said,

"I'm not sure that the wording does go far enough. I mean I'll, I'll wait and see. I haven't actually seen the leaflet yet but I did say on your programme"

—the "Today" programme—

"that I thought reasonableness was quite a difficult concept at four o'clock . . . in the morning in your kitchen. Whereas something as stark as gross disproportionality"—

I repeat—

"gross disproportionality did seem to me to be clearer."

At 12.30—presumably, in the intervening hours, he had a couple of phone calls or perhaps an interview at No. 10—Sir Ian said:

"The guidance I have seen uses the words very excessive and gratuitous, that's pretty strong".

At 4.10, Scotland Yard made this statement:

"Sir Ian has seen the guidance and is happy it makes clear that only when very excessive or gratuitous force is used will someone be prosecuted".

The new Metropolitan Police Commissioner did not use the phrase "reasonable force" in any of those statements: either he talks about "gross disproportionality", or he uses the phrase that is used in the scrap of paper, "very excessive or gratuitous".

**Mr. Stephen Pound** (Ealing, North) (Lab): I am grateful to the hon. and gallant Gentleman for allowing me to intervene. He is far too decent a human being to try to mislead the House and I do not suggest that he would ever do so, but is he unaware that Sir Ian Blair made the first statement at about twenty past 8 in the morning, whereas the leaflet was not issued until 11 o'clock that morning? Would it not, therefore—*[Interruption.]*

**Madam Deputy Speaker:** Order.

**Mr. Pound:** Would it not be more appropriate to recognise that the new commissioner was observing the proprieties?

**Patrick Mercer:** As always, I am grateful to the hon. Gentleman. His intervention is courteous, proper and, I am sure, designed to be helpful. The fact remains that I find it almost impossible to believe that the new Metropolitan Police Commissioner had not seen a leaflet of such importance on his first day in the job. Furthermore, whether or not he had seen it, the fact remains that he used the words "gross disproportionality". Given that the phrase "grossly disproportionate" is enshrined in civil law, the case seems clear to me.

**Mr. Keith Simpson** (Mid-Norfolk) (Con): My hon. Friend is advancing a forceful case. Anyone listening to his argument would think that if the current law is not correct, it must be amended. Can my hon. Friend think of any other equally important piece of legislation for which a leaflet has been issued that does not clarify the law?

**Patrick Mercer:** No, I cannot. However, the Government have an interesting habit of issuing explanatory leaflets: for example, in summer they issued a leaflet to explain the threat of terrorism—although 1.5 million households have yet to receive it. I suggest that the issuing of a leaflet indicates that something is seriously wrong.

**Mr. Peter Luff** (Mid-Worcestershire) (Con): Does my hon. Friend agree that although the hon. Member for Ealing, North (Mr. Pound) might have been wrong-footed by the "Today" programme, the Metropolitan Police Commissioner never would have been?

**Patrick Mercer:** I was not going to refer to the hon. Gentleman's personal grief—[HON. MEMBERS: "Oh, go on!"]—but if my hon. Friend is patient, he may find that the subject crops up later in my speech.

Interestingly, *The Times* newspaper also tried to explain what was going on. It published a little series of cartoons along the lines of Cluedo. Even my hon. Friend the Member for Woking (Mr. Malins)—an eminent recorder—could not agree with at least one of those cases. There is utter chaos, utter confusion and an utter inability to understand the law as it stands. The need for a leaflet is clearly wrong, and I suggest that a bad law must be changed.

**Mr. Steve Webb** (Northavon) (LD): The hon. Gentleman raises an important issue in the Bill. May I take him back to the first case that he cited? The jury—12 good men, as he puts it—will have heard all the circumstances of that case and formed a judgment about what was reasonable. Is he saying that they got it wrong?

**Patrick Mercer:** I have no doubt that, when the appeal comes to court, we will see who was right and who was wrong.

A number of Labour Members have already referred to the paucity of cases that have been brought. One of the figures that has been talked about is that only 11 cases have been quoted in 15 years. *The Sunday Telegraph* carried out some research into that very figure. The hon. Member for Rhondda (Chris Bryant) is rolling his eyes, but the fact remains that this is true. In one hour's research, seven further cases came to light that ought to have been on that list. I have had correspondence—a number of emails and texts—about cases that I believe also ought to be on that list. I do not think that there are 11 cases; dozens, if not hundreds, more ought to be on that list.

**Mrs. Gillian Shephard** (South-West Norfolk) (Con): Of course, it is true that there is some dispute, certainly on the part of the Government, about the number of cases, but the point is that law is meant to boost the public's confidence, which is what has been lost by the muddle that the Government have made. That is what my hon. Friend's Bill is designed to put right.

**Patrick Mercer:** My right hon. Friend is clear, as always. I add that the Bill is designed not just to rebuild the public's confidence, but to erode the confidence of burglars, who get away with far too much.

As a result of those spurious numbers, I have written to the Crown Prosecution Service to try to explain the position. *The Sunday Telegraph* also followed up that very list of 11 cases in 15 years with the CPS, which described the list as "an informal trawl". When the new cases were disclosed to the CPS, it said:

"It is not a particularly accurate list and we never said it was. It is quite possible that there are other cases."

How can anybody base an argument on such faulty research? Just because the Home Secretary, the Prime Minister, the CPS and the Director of Public Prosecutions continue to quote those figures does not mean that they are true. That is inaccurate, unhelpful and thoroughly misleading.

**Mr. Nick Hawkins** (Surrey Heath) (Con): Does my hon. Friend agree that all our constituents are concerned about not simply the cases that come to formal prosecution, but the fact that, whenever a burglary takes place and a householder tries to defend their person, property and family, the police may start to interview them after the incident and suggest that they might be in the wrong, when all they were doing was defending their own property, person and family. That is wrong in itself. There should be a presumption in favour of the law-abiding householder, and we should get back to the concept that an Englishman's home is his castle.

**Patrick Mercer:** My hon. Friend encapsulates perfectly, and probably much better than I can, the second amendment to the Bill, which I shall move on to in a moment.

**Chris Grayling** (Epsom and Ewell) (Con): Further to the point made by my hon. Friend the Member for Surrey Heath (Mr. Hawkins) a moment ago, does my hon. Friend also accept that there are cases where householders are offered the choice between accepting a caution or having the due process take place, so many householders who have been affected by such circumstances have chosen a lesser exit route for fear of what might happen further down the road?

**Patrick Mercer:** I am grateful to my hon. Friend for that intervention and for his support as a sponsor of my Bill. He is absolutely right: many people will be daunted by the due process of the law and will seek exactly the course that he describes. Despite that fact, unnecessary pressure is still put on honest, ordinary people, and I resent that and believe that it is wrong.

**Several hon. Members** *rose*—

**Patrick Mercer:** I shall move on if I may.

The crux of the Bill is the public's lack of confidence, but before I move on to that, I shall give way to the hon. Member for Hendon (Mr. Dismore).

**Mr. Dismore:** The hon. Gentleman almost took me by surprise by giving way just then. I simply wish to put to him a point that arises from the last but one intervention. Is he seriously saying that, if someone ends up dead, there should be no police investigation?

**Patrick Mercer:** I will be happy to give way to the hon. Gentleman in future if he stays alert. I believe that, under the new law, whatever happens must be tested against the test of gross disproportionality, not against that of reasonable force. That will give much greater latitude to the police, the CPS and to a jury, all of which will be helpful.

*[Patrick Mercer]*

Above and beyond everything else, this is a question of public support. That is why in all the opinion polls—every one that I have seen anyway, and I acknowledge that polls are not always reliable—the percentage of people who constantly support what the Bill is saying is in the high 80s or low 90s. It is also clear, as the hon. Member for Ealing, North (Mr. Pound) knows, that the Bill came top in the "Today" programme poll. As a former employee of the "Today" programme, I am free to criticise, of course. We may criticise or we may have our thoughts about who listens to the "Today" programme, but the fact remains that, even among its listeners, this is a very popular issue, and I suggest that, as democratically elected individuals, we cannot afford to ignore that.

**Chris Bryant** (Rhondda) (Lab): Every hon. Member would agree that there has been public concern about this issue over the past few years—we hope that we will manage to rectify that with this political debate—but may I clarify something with the hon. Gentleman? We all accept that the CPS says that there were 11 cases over the past 15 years, on top of which there are seven cases to which *The Sunday Telegraph* has referred. He says that there might be dozens of cases, but in our evaluation of whether this is a good Bill to pass, we need to assess how many of those cases would not come to prosecution if his Bill was passed. How many cases does he think would not come to prosecution?

**Patrick Mercer:** The hon. Gentleman asks about a proportion of an unknown number. I do not know what that number is, and I will not pretend to do so, any more than the CPS could furnish a comprehensive list at short notice. I do not intend to go down that path because it is not helpful. The fact remains that confidence was lost in civil law—the law was changed. Confidence has now been lost in the criminal law, and it has yet to be changed.

**Angela Watkinson** (Upminster) (Con): Does my hon. Friend agree that the vast majority of ordinary, law-abiding people have not the faintest idea how they will react if they find an intruder in their homes, particularly in the middle of the night and if they were asleep. That is a moment of panic, and they will react out of fear, anger, instinct or a mixture of those things. It is not a moment to start calculating the reasonableness of how they are reacting. The law needs to be clarified, and the presumption must be in favour of the householder, not the burglar.

**Patrick Mercer:** I thank my hon. Friend for her extremely clear and common-sense intervention. She is, of course, only echoing the words of the new Metropolitan Police Commissioner—a professional police officer, in whom we must all have huge confidence. I have had support for the Bill from the police up and down the country. First and foremost, Sir John Stevens supports it. I think that Sir Ian Blair supports it—certainly, as we have heard, he supported it a couple of days ago. I have also had texts from Nottinghamshire police—my constituency is in Nottinghamshire—not only telling me that they support the Bill, but making the point that if the householder and the shop owner are more confident about the law, the converse will be true: the burglar, the intruder, the lout and the thug will be that much less confident. As a result, there will be fewer burglaries and therefore fewer opportunities for bloody confrontation in the household.

The name Brendon Fearon might be known to the House. He was the boy who was shot and wounded by Tony Martin in Norfolk. Brendon Fearon is a constituent of mine. As a result of an outstanding piece of journalism by the *Newark Advertiser*, he was interviewed and clearly said that he supported my Bill. He believed the Bill would deter the sort of activity in which he had been involved in the past.

I have professional police officers supporting me. I have convicted criminals supporting me. At one stage I thought I had the Prime Minister supporting me. I find that extraordinarily compelling, and I believe it means that the law must be changed.

My second amendment is simple and will not detain the House for long.

**Mr. Julian Brazier** (Canterbury) (Con): With reference to the confidence of burglars, my constituent, Robin Baker-White, whose house was broken into by two large thugs, fired a shot over their heads as they ran away, in clear contravention of the current guideline leaflet. It was widely reported in the papers that his shotgun had been confiscated by the police. The thugs came back a couple of weeks later and viciously beat him up. Under the existing law they had the confidence to do that.

**Patrick Mercer:** And that is the confidence that the Bill will erode.

**Harry Cohen** (Leyton and Wanstead) (Lab): I am enjoying the entertaining way in which the hon. Member for Newark (Patrick Mercer) is putting across his valid point of view. He was critical of the current provision relating to reasonable force. Why does he favour unreasonable force?

**Patrick Mercer:** I favour any force short of grossly disproportionate force. It is a simple test. It has been established by eminent lawyers who know much more about the matter than I do—*[Interruption.]*

**Madam Deputy Speaker:** Order. The House is far too noisy.

**Patrick Mercer:** The second amendment is simple. Far too many people are arrested, charged and tried as a result of violence against an intruder in the home or in a shop. Far too many people go in front of a jury and a judge and are told, "You are as innocent as the day you were born. You have not contravened the law. Get out of my court. You're wasting my time." That sounds like justice. It sounds like someone being accused and found innocent. The fact remains that that length of time—in Charlie Mayall's case, six months—is a period of enormous stress, trauma, loss of earnings, break-up of families and all sorts of other pressures on individuals. That must be wrong.

In the second amendment to the Bill, we would make the judgment about those who come in front of a court the business purely and simply of the Attorney-General. Only on his say-so would someone come up in court. This is a powerful point. Too many people suffer needlessly at the hands of the Crown Prosecution Service.

The Bill is not designed to be party political. A cursory glance at the names of its supporters will reveal that Members of all parties have signed up to it. The hon. Member for Wyre Forest (Dr. Taylor), a respected general practitioner, wrote to me yesterday:

"This is not merely a Tory political Bill. It is a genuine cry from confused people represented by MPs of all parties who want some clear answers."

The hon. Gentleman has no axe to grind. He does not support any of the major parties in the House, yet his voice is clear and I find his view compelling.

Sadly, others have chosen to confuse the issue. On 8 December in the Chamber, the Prime Minister seemed to be supporting the Bill. On Wednesday, however, he had done a complete U-turn. He told us—as a result of pressure, no doubt, from his new Home Secretary—that the law was clear. He reminds me of a character from "Little Britain"—the Vicky Pollard of Westminster: "Yeah but no but yeah but no". Where is the Prime Minister coming from? Is he, like the Home Secretary, flying in the face of public opinion? Is he responsible, with the Home Secretary, for the shameless buffeting of the new Metropolitan Police Commissioner? If this were a Labour private Member's Bill, I have no doubt that it would go through without opposition, on the nod, for the common sense that it is. The Bill stands above party politics—*[Interruption.]*

**Madam Deputy Speaker:** Order. The hon. Gentleman is entitled to be heard.

**Patrick Mercer:** The Bill stands above party politics and attacks the nonsense of political correctness. It will restore people's confidence in the law while destroying the confidence of burglars. It will empower ordinary people—our constituents—against criminals and thugs. I commend it to the House.

10.7 am

**Mr. Frank Field** (Birkenhead) (Lab): I congratulate the hon. Member for Newark (Patrick Mercer) on his success in being No. 1 in the ballot. I am pleased to say that I support the Bill. I shall briefly explain why.

Most of my constituents think the balance of the law is wrong, and that it needs to be changed radically in their favour and against those who break the law. If I have any criticism of the hon. Gentleman's Bill, it is that it does not go far enough. As most of my constituents know, when we have been burgled none of us is in a totally rational state. As the hon. Member for Upminster (Angela Watkinson) said, none of us knows how we will behave in those circumstances. However, a climate has built up in this country leading most people to feel that whatever they do in those circumstances, the law is more likely to doubt their word than the word of those who are breaking the law.

I was therefore disappointed when the Lord Chancellor weighed in on the debate to remind us, as he thought, that burglars, too, have rights. Those were his words. I was surprised that, given his closeness to the Prime Minister, he was not more on message, for the Prime Minister is right always to have stressed that duties come before rights. Most of us in this country believe that we should be allowed to go about our business peacefully and without being interrupted violently or otherwise by other citizens, but that if we should decide to break into somebody else's property, the rights that have to be respected are negated. It is with regard to that balance that I support the change that hon. Gentleman is trying to achieve in the Bill.

Of course, the hon. Gentleman is very lucky to have come high in the ballot at this time of the parliamentary calendar, because it is at this stage, in the last few weeks of a Parliament, when voters become more powerful than they usually are and when, if there is such a thing as sovereignty in this place, it leaves here and goes back to voters. I therefore have no doubt whatever that my party will clarify its position on immigration before we face the electorate again. I am quite sure that, as a result of the Bill, whether it is passed or not, the debate has now been changed for the better and the law will be clarified in a way that is advantageous to our constituents.

I view the opportunity that we have today thanks to the choice of this Bill as a chance to have a slightly wider debate on how our constituents regard the criminal justice system. I therefore regard the Bill as almost the barium meal of an X-ray. I represent constituents who feel that the police force that they pay for has largely lost confidence in enforcing the law and is broken backed. They feel that the police themselves believe that, if they try to enforce the law as they believe it should be enforced, the weight of authority will again be against them.

It is deeply disturbing to look at the numbers involved, not of people who commit crime, but of those who are brought to justice. All the interventions from both sides of the House have assumed that the police force in this country works as we would like it to work and that the police keep turning up and taking evidence or are at least on hand. That is not my experience. The figures for London show that each police officer successfully helps to prosecute an average of three people a year. In Merseyside, the figure is six.

**Donald Anderson:** Traffic police.

**Mr. Field:** Including those figures as well, this is an alarming state of affairs.

While we are discussing a very narrow but immensely important issue today, I do not want to conclude my comments without setting them in a wider context. I know that the Government are much concerned about the issue and that it is not an easy one to deal with. We are dealing with a much wider issue, as the community itself is ceasing to control and govern itself. In those circumstances, the law and the police have a part to play, but only a small one. It is in that wider context that the Home Office has tried to be pioneering in dealing with the collapse of decent behaviour in our community, which goes way beyond the Home Office brief and which we need to bear in mind in discussing the very narrow but important topic that we are discussing to today.

**Derek Conway** (Old Bexley and Sidcup) (Con): The right hon. Gentleman is speaking to the House with the

*[Derek Conway]*

measured and thoughtful method of argument that has given him the commanding presence that he has in our Chamber. Hon. Members in all parts of the House would recognise that. Given the logic that he has applied to the Bill, which I hope most people would support, why are those on his own Front Bench being so obstructive in these matters? I cannot think of anybody, Tory, Labour or Liberal, who would disagree with a word that he has said, apart from those on the Labour Front Bench.

**Mr. Field:** The hon. Gentleman knows perfectly well why those on the Front Bench are behaving as they are. As I said, before the election, we will clarify our position. Naturally, as we are the governing party, we want the credit for it.

**Chris Bryant:** I am grateful to my right hon. Friend for giving way, although perhaps not just after that sentence. He was making an important point about the respect and confidence that people do or do not have in the police force and the criminal justice system generally. There is significant work that we need to do in that regard. He was making a less nuanced point, however, about the rights and responsibilities of the trespasser entering somebody else's property. He seemed to be suggesting that, at the moment when somebody trespassed, they surrendered the right to life. I am sure that that is not what he meant, but that seemed to be where he was going. That is why I disagree with him about the Bill, because I think that that is where the Bill leaves us.

**Mr. Field:** My hon. Friend exaggerates slightly. The Bill does not surrender the right to life, but it does surrender the privileges that the rest of us naturally expect if we are law-abiding citizens. It is that difference that one wants to emphasise.

**Several hon. Members** *rose—*

**Mr. Field:** A lot of people want to get in, but I want to make just one final point. Although we are dealing with this narrow but very important topic today, I also wish to make another plea on behalf of my constituents, as some of them have asked me to make it. As somebody who has been burgled, I know what they mean and I am happy to do so. Sometimes, it is natural that we present these debates in a very technical manner. Perhaps that is inevitable, but there are huge human consequences in respect of the actions in question.

Some of my constituents who have suffered burglaries, sometimes with violence, but sometimes without it, still feel affronted by what has happened to them. They believe that the burglars have stolen something about their lives that they possessed before and which they could not put into words, and that their position as citizens has been changed. While we may have technical and clever points to make against the Bill, I hope that Labour Members will not vote against it, and that we will also look forward to my hon. Friend the Minister, who is sitting patiently on the Front Bench, stepping forward at some date soon to clarify our position, and likewise to claim the credit.

10.17 am

**Mr. David Heath** (Somerton and Frome) (LD): I, too, congratulate the hon. Member for Newark (Patrick Mercer), although I find it odd that we need to congratulate an hon. Member on winning the ballot rather than on using the winning of the ballot wisely. I think that he has introduced a very important measure that raises many issues that need to be addressed.

My difficulty with the hon. Gentleman—I say this from the off—is that I do not believe that he has acknowledged the fact that he has won the argument. By clarifying the law as they have, the Government have accepted the fact that there was a lack of clarity not so much in what the law says—this is my opinion, and I shall go on to develop it a little further—but in the way in which it has been implemented by the investigatory and prosecuting authorities. If that is improved as a result of the clarification, which he has consistently described as a scrap of paper, although I think that it is rather more important and that he should recognise what he has achieved, he will have achieved his purpose and some of the inevitable difficulties in his alternative proposition on the formulation of the law, which I shall go on to describe, will become less important.

**David Davis** (Haltemprice and Howden) (Con): I apologise to the hon. Gentleman for intervening so early in his speech. He is making a very good point in saying that much of the argument has already been won. I think, however, that he is resting too much on a leaflet that has no force in law and which may change over time, as the law in question has done over many decades. Also, he does not take account of the fact that, in explaining the leaflet, the Government used terms such as "grossly excessive force", which were almost the same as those used by my hon. Friend the Member for Newark in the Bill.

**Mr. Heath:** I understand what the right hon. Gentleman is saying, but I think that he will run into the same difficulties as the Government. Whatever formulation one uses, one has to define what is a disproportionate, excessive or unreasonable degree of force. That is incapable of clear legal definition because it will ultimately be a judgment for a jury.

We need to be clear about the guidance that is given to the investigating and prosecuting authorities as regards what they are prepared to put before a court. That is the critical element.

**Mike Gapes:** I tried to make this intervention on the promoter of the Bill. Does the hon. Gentleman believe that it is grossly disproportionate to capture someone, beat them up, throw them in a pit, and then set fire to them?

**Mr. Heath:** I think that that would be grossly disproportionate and I suspect that any court would find it so, but I am not sure that the hon. Gentleman takes the argument much further by that intervention.

**Mr. Richard Bacon** (South Norfolk) (Con): I agree that the hon. Gentleman's intervention did not take things much further. Is not the key point that many cases that make it to court should not, because the

presumption about the rights of the householder is wrong? Why should many householders have to go through the trial of being placed before a jury given that they were merely acting in defence of their own home?

**Mr. Heath:** I agree with the hon. Gentleman to a certain extent, but I would dispute whether a great many offences that fall into that category reach court. The far more pernicious mischief that we need to address is that far too many offences are investigated to the point of the police appearing to be about to bring charges. That can have a devastating effect on the householder, who has already gone through a traumatic experience.

**Sir Brian Mawhinney** (North-West Cambridgeshire) (Con): Of course the hon. Gentleman is right that whatever the guidance, a court of law will make a judgment according to the law of the land, but that is to miss the point of the Bill. As I understand it, the Bill shifts the fulcrum and applies a qualitatively different test. It is not trying to redefine words, but to shift the point at which the balance of probability interacts with everyday life. There will obviously be some ambiguity that will be decided in a court of law, but it is a qualitative shift, not a matter of definition. Does the hon. Gentleman agree?

**Mr. Heath:** I think that that is the intention of the Bill, but I am not sure that it would be the outcome were it to be passed. That is my difficulty. I am not sure that we have a term here that is incapable of being construed in precisely the same way as "unreasonable force". That repays greater debate and our careful consideration. The Law Commission has a role to play in its further work on partial defences to murder, which we await and would do well to understand.

The hon. Member for Newark has been honest enough to admit that his Bill would not provide a defence for Tony Martin. I have heard him say that when flatly asked that question in radio interviews. He is right to do so, because it would not. Nor would it in the great majority of instances where such a case has been prosecuted and where the person has been found guilty.

**Mr. David Cameron** (Witney) (Con) *rose—*

**Tom Levitt** (High Peak) (Lab) *rose—*

**Mr. Mike Hancock** (Portsmouth, South) (LD) *rose—*

**Mr. Heath:** I give way to my hon. Friend the Member for Portsmouth, South, then I shall not do so for a little while.

**Mr. Hancock:** My hon. Friend says that the Bill would not have made a difference in the Tony Martin case. Does he agree that it would make an awful lot of difference to those people who have been arrested and subsequently charged, and then had the case dropped but nevertheless had their lives destroyed by police action? The Bill would prevent that from happening.

**Mr. Heath:** My hon. Friend is right. That mischief needs to be addressed, but I am not convinced that the Bill would change the situation. Far more important is the guidance that is given to police officers in the execution of their duties and to prosecution authorities in cases that are brought forward.

**Mr. Cameron:** Will the hon. Gentleman give way?

**Mr. Heath:** I am still on the first section of my speech, and I should make progress.

The Government's guidance is more important than it has been given credit for, and I hope that we will have the opportunity to debate it further.

The difficulty with the law as it stands is that there is clearly a misunderstanding as to what is reasonable force. That misunderstanding lies not solely with the householder but with jurors, police and prosecution authorities. The latter two are the most problematic.

There is also the problem of what constitutes reasonable force in the circumstances—the test of the reasonable man. The Law Commission drew attention to that in its report of July 2003 on partial defences to murder, stating:

> "We acknowledge that such a person, though genuinely acting in fear, might not always act 'reasonably' so as to attract the full defence of self-defence."

That acknowledges the fact that the householder whose home has been intruded upon and is in genuine fear for their own safety or that of their family may not act as a reasonable person who is devising a statute in this House or construing it in a court of law, because they are afraid and angry; they have a mixture of emotions that may cause them to act in a way that might appear unreasonable in the cold light of day but is entirely reasonable in the context of the circumstances in which they find themselves.

There is a further difficulty that applies in many of our constituencies. I represent a very rural area. In many parts of my constituency, someone who disturbs an intruder in their house will not, with the best will in the world, get a police response for some time. They are very frightened about that. My constituents often say to me, "If they come to me, sir, I will have a shotgun ready." I reply, "I should be very careful about the way you use that shotgun, but I understand your fear." People fear that they no longer have the protection of a police force. That applies particularly in rural areas, but also, I am sure, in many urban areas. It is perfectly reasonable for someone to be unreasonable in those circumstances because they are genuinely in fear of what will happen to them, and particularly to their loved ones. People in such circumstances sometimes act with a greater degree of force in protecting their loved ones than in protecting themselves; that is understandable.

**Tom Levitt:** The hon. Gentleman is making a very sensible speech and drawing attention to some of the Bill's practical difficulties. One that concerns me is that it applies only to trespassers. What about a situation, for example, in which a woman is defending herself against a rape by another member of her household? Under the Bill, she would be covered only by "reasonable force"—

*[Tom Levitt]*

she would not be allowed the same latitude in deciding how to respond to the attack as someone defending themselves against a burglar.

**Mr. Heath:** I am not a lawyer, so I will not go into that. My recollection of common law on defence is that it would cover that. Trespass of the person, which includes assault and sexual offences of that kind, gives latitude for defensive measures. However, the hon. Gentleman is right to make the point, which we debated in the context of the Domestic Violence, Crime and Victims Act 2004. We have to be very clear about what constitutes reasonable force in those areas as well. However, the hon. Gentleman is wrong to expect a private Member's Bill, which deals with a different subject, necessarily to apply in all circumstances.

The key point is the correlation between disproportionate and reasonable force, and whether "grossly disproportionate" has an effectively different meaning in law from what a court would hold to be unreasonable in the circumstances.

**Mr. Cameron:** Will the hon. Gentleman give way?

**Mr. Heath:** The hon. Gentleman has been persistent and he deserves to get in.

**Mr. Cameron:** Let me help the hon. Gentleman. He is arguing that "grossly disproportionate" will not really affect the way in which the courts and the police work. However, is he aware that one of the standard directions from judges to juries in the circumstances that we are considering under reasonable force is that the householder should use force

"no more than reasonably necessary to defend himself."?

Does not the hon. Gentleman understand that "grossly disproportionate" would mean that the guidance would have to be rewritten? That would be a real change.

**Mr. Heath:** I am not sure—I am willing to be persuaded—whether it would have any greater effect than the guidelines to the prosecuting authorities that we have already heard. We had a short debate earlier when we considered whether a baseball bat under the bed was disproportionate or reasonable. The answer is the context in which it was used. If it was used on a 10-year-old scrumping in the orchard, that would be an unreasonable use of a baseball bat. If it was used to defend oneself against an attacker with a knife in one's bedroom, that would constitute reasonable use. I do not believe that we can make easy constructions. All the definitions carry a great deal of difficulty.

**David Davis:** The hon. Gentleman is making a good speech that goes to the core of the issue: whether someone should be dragged before the courts and often end up being exonerated by the jury in an hour. I can cite examples of that if he wishes. We are considering whether gross disproportionality moves the margin in favour of the victim in the unique case where his home has been invaded while he is present. That is the change, which the right hon. Member for Birkenhead (Mr. Field) raised earlier. We are considering changing the behaviour of the Crown Prosecution Service. It is precisely analogous to the Government's action in trying to prevent unnecessary law suits. They used the same word, with the intervention of the Attorney-General, if necessary, to prevent law suits. The Bill would prevent people from suffering the misery of going to court when they do not deserve to do so.

**Mr. Heath:** I agree with the intention that the right hon. Gentleman expressed in his last sentence. I am pleased that he mentioned the analogy with the Criminal Justice Act 2003. I was involved in considering the measure and we made it clear that we believed that it was extraordinary that a trespasser or burglar could bring a civil court action for damages, apart from in exceptional circumstances where somebody had acted disproportionately. People were rightly upset about the prospect of that. It was outrageous.

**Tom Levitt:** Will the hon. Gentleman give way?

**Mr. Heath:** No, I shall not give away again.

Earlier, the hon. Member for Hendon (Mr. Dismore) made a serious point, although it was slightly mocked at the time, about the fact that the Criminal Justice Act 2003 deals with civil actions. There is a difference because of the standard of proof that is required and because we are dealing with a prosecution that is brought by one individual against another rather than the state—that is where the lock of the Attorney-General comes in. It is not unreasonable—indeed, I strongly supported the view—that when a civil court action is brought, it should be clear that it is an exceptional circumstance, not anything that could fall within the sphere of reasonable behaviour. The phrase "grossly disproportionate" is relevant in that case.

If the right hon. Member for Haltemprice and Howden (David Davis) looks at the Criminal Justice Act 2003 again, it contains a further qualification that does not appear in the Bill. It provides that the defendant

"believed that the act was necessary to ... defend himself or another person ... protect or recover property ... prevent the commission or continuation of an offence, or ... apprehend, or secure the conviction, of the claimant after he had committed an offence".

There is a second lock that does not exist in the Bill, and it would be helpful if it included a tighter definition.

Although I understand the objective of the hon. Member for Newark, I am concerned about interpretation. I do not like legislation that is intended to send messages—I find it abhorrent because it normally sends perverse messages rather than what is intended. Law exists to provide for criminal convictions in the case of wrongdoing. We might be on safer ground if the hon. Gentleman further qualified the definition to make it clear that the Bill does not give a licence to shoot anybody who trespasses on one's property because that would be unreasonable and grossly disproportionate and that it does not encourage people to tangle with the burglar on their property in ways that might be to their huge disadvantage, given the disparity in the resources available to them.

I am not sure whether proposed new section (1B), which would require the intervention of the Attorney-General, is appropriate. The Director of Public Prosecutions is there

precisely for that purpose. It would be perfectly proper to provide that a prosecution should not be brought without the express agreement of the DPP, but I do not believe that it is a matter for the Attorney-General because we are considering the criminal prosecution authorities rather than an individual who may have been misguided in the advice that he received.

**Mr. Dismore** *rose—*

**Mr. Heath:** I shall allow a last intervention because I mentioned the hon. Gentleman.

**Mr. Dismore:** There are other reasons for viewing criminal law and civil law differently. First, civil cases are tried separately by a judge alone rather than a jury. More complex legal questions are more easily tackled in those circumstances. Secondly, the purpose of civil law is to allow an individual to bring a claim, on advice from private lawyers, who, through a conditional fee arrangement, may have an interest in the case. That might act as a deterrent to taking on the case. Criminal proceedings are brought by the state prosecution authorities—a very different set of circumstances.

**Mr. Heath:** I agree with the hon. Gentleman. Indeed, I was attempting to make the latter point before giving way to him.

We need to be clear in the guidance that we give the police and the prosecuting authorities. I agree with the hon. Member for Newark that it is abhorrent when someone who has acted in good faith and properly to protect themselves, their loved ones and their property is subsequently harassed by police investigation and potential prosecution. That applies far more widely than to the few cases that come to court. I am not yet convinced that that is a difficulty with the formulation of current law. I believe that it is a difficulty with the interpretation of the law by the investigating authorities.

I would not be happy if a person lay dead on somebody's property and the police did not conduct a proper investigation of the circumstances. I do not believe that anyone would argue that that should happen. I am not convinced whether the definition in the Bill is more robust in providing a framework than existing law. To some extent, the Law Commission shares that view. I suggest that the hon. Member for Newark and I might learn from the Law Commission's comments on that.

The hon. Gentleman has raised an important issue and the Government have reacted to it appropriately. The guidelines will require closer examination, and might still be deficient in some areas. However, the most important message that we must give is that people whose homes are broken into have a right to protect themselves and their property. They have a real fear that the police are not providing the support that they need, which is a concern for all of us. We must redouble our efforts to provide that protection. Whatever happens, the law must be as clear as possible. At the end of the day, it will be for the jury to determine what is reasonable and proportionate. That will be a matter for the courts to determine, whichever definition we use.

10.40 am

**Harry Cohen** (Leyton and Wanstead) (Lab): I congratulate the hon. Member for Newark (Patrick Mercer) on his powerful and entertaining speech. I particularly liked his reference to the Prime Minister being like the character in "Little Britain" who says, "Yeah but no but yeah but no." Actually, that reminded me of the Conservatives' position on the war. Yes, they voted for the war. No, they did not like the consequences. Yes, they would still have voted for it despite the consequences. No, they do not want to be tarnished by it.

**Mr. Dismore:** I wanted to make this point to the hon. Member for Newark (Patrick Mercer) earlier. The Leader of the Opposition, when he was Home Secretary, said that

"the individual should always be able to defend himself, his family and his property, as long as he only uses force that is both reasonable and necessary."—[*Official Report*, 14 December 1993, Vol. 234, c. 533W.]

Is this not an example of Tory opportunism, and the same kind of flip-flopping backwards and forwards that my hon. Friend has just described?

**Harry Cohen:** My hon. Friend makes a good point, but I should not have given way so early. I had not even finished congratulating the hon. Member for Newark on coming first in the ballot. I have never even got into the top 20 in 21 years of entering the ballot, so that is an achievement in its own right. His Bill has had a response from his party, which has adopted it as party policy. Indeed, many Conservative Members are here today to cheer him on.

The hon. Gentleman has also had a response from the Government, in that there has been a thorough review and clarification of the law. A succinct leaflet has been issued, and clear statements have been made by the Crown Prosecution Service and the police. The leaflet offers guidance to householders, and the statements from the police have made it clear that people are unlikely to be prosecuted provided that they have acted "honestly and instinctively". They may use a weapon, if one comes to hand, but they may not use

"very excessive and gratuitous force".

The police and the CPS have both said that they are determined to deal with these cases as swiftly and sympathetically as possible.

Provisions relating to reasonable force already apply, as the leaflet shows, and I do not think that there is any need to change the law. It is already on the side of the householder. Anthony Scrivener, who was Tony Martin's barrister, said in the *Eastern Daily Press* on 14 December last year:

"The law is simple and weighted overwhelmingly in favour of the householder".

**Mr. Roger Gale** (North Thanet) (Con): The hon. Gentleman has just said that the leaflet refers to reasonable force. No. The law refers to reasonable force. The leaflet refers to "excessive and gratuitous" force. That is not enshrined in law.

**Harry Cohen:** Excessive or gratuitous force would be unreasonable force. That is the distinction, so I think that the law on reasonable force still applies.

**Patrick Mercer:** If the phrase "reasonable force" is adequate, why is it not in the leaflet? Why is another phrase used, which seems to me to set the threshold higher? Why was that phrase used, and why did the Commissioner of the Metropolitan Police continue to refer to it?

**Harry Cohen:** The hon. Gentleman is making more of this issue than it deserves. "Gratuitous" force is unreasonable force, so it is precisely the opposite of reasonable force.

**Mike Gapes:** Perhaps I can help my hon. Friend. There is a heading in the leaflet that asks, "What is reasonable force?" It goes on:

"Anyone can use reasonable force to protect themselves or others".

So the hon. Member for North Thanet (Mr. Gale) is completely wrong.

**Harry Cohen:** For clarity, let me quote from the leaflet and the CPS statement. The leaflet states:

"As a general rule, the more extreme the circumstances and the fear felt, the more force you can lawfully use in self-defence."

That is pretty self-explanatory. A CPS spokeswoman has said:

"The leaflet gives some guidance on what might be regarded as reasonable force."

The guidance in the leaflet, which appears in a question and answer form, tells readers:

"You are not expected to make fine judgments over the level of force you use in the heat of the moment. So long as you only do what you honestly and instinctively believe is necessary in the heat of the moment, that would be the strongest evidence of you acting lawfully and in self-defence. This is still the case if you use something to hand as a weapon."

The leaflet also asks:

"What if the intruder dies?"

The answer is:

"If you have acted in reasonable self-defence, as described above, and the intruder dies, you will still have acted lawfully. Indeed, there are several such cases where the householder has not been prosecuted. However, if, for example . . . having knocked someone unconscious, you then decided to further hurt or kill them to punish them; or . . . you knew of an intended intruder and set a trap to hurt or kill them rather than involve the police . . . you would be acting with very excessive and gratuitous force and could be prosecuted."

That is very clear. Indeed, it answers the point made earlier about setting a trap, rather than going to the police when there is a distinct possibility. Those statements are crystal clear.

**Chris Grayling:** Perhaps the hon. Gentleman could enlighten the House. When a court takes a decision on a particular case, should it use the exact words of the law as the basis on which to make its judgment, or should it use the guidance leaflet?

**Harry Cohen:** Obviously, the exact words of the law will be used initially, but we know that guidance notes are used by counsel on both sides, and it is now pretty well established that judges also use them in their interpretation of a case. I think that the hon. Gentleman made far too much of that point.

**Mr. Hancock:** Is it not the crux of the argument put forward by the hon. Member for Newark that a decision whether to prosecute someone should depend on whether the law, and the law alone, provides a compelling case for a prosecution, and not on someone's interpretation of a leaflet? That is why the hon. Gentleman's case is so powerful. He wants the law to be changed so that it is unambiguous.

**Harry Cohen:** I think that the law is pretty unambiguous. I agree that prosecutions are brought on the basis of the law, but the police and the CPS interpret the law in the first place. They will use this leaflet for guidance when interpreting the law.

**Mr. Peter Lilley** (Hitchin and Harpenden) (Con): The hon. Gentleman says that the leaflet clarifies matters. To me, it does not. It says that it would be reasonable to

"use something to hand as a weapon."

What if someone had put a weapon to hand? Would they then be free to use it? The leaflet talks about what happens

"in the heat of the moment",

but what would happen if someone who had been disturbed one night put a weapon to hand ready for the next occasion? Would that be reasonable, or would it be deemed unreasonable, because it was done with forethought rather than in the heat of the moment?

**Harry Cohen:** That is an interesting question that would have to be interpreted according to the circumstances of each individual case. I think that the law would allow someone who had already been assaulted or who was genuinely fearful to have a weapon to hand—but perhaps the Minister will be able to clarify that.

**Mr. Dismore:** Perhaps I can help my hon. Friend. The leaflet is quite clear in saying:

"the more extreme the circumstances and the fear felt, the more force you can lawfully use in self-defence."

**Harry Cohen:** I am grateful to my hon. Friend for dealing with that. I shall take one more intervention. Then I had better get on.

**Mike Gapes:** To take the point slightly further, is it not true that people who have shot, stabbed or hit burglars over the head have not been prosecuted under the existing law because they were using reasonable force to defend themselves in a circumstance that was threatening to them?

**Harry Cohen:** Yes, I agree with my hon. Friend. I made the point in quoting the CPS spokesman that some people have not been prosecuted even for killing a burglar.

I had better make progress. The Bill has been introduced during a pre-election period when election fever is already building up, and it is certainly an aspect of that. I do not think that this is a proper climate in which to make good law, especially in such a complex and important area. If we are talking electorally, let me

quote what Mark Steel wrote in *The Independent* yesterday:

"For the Tories, their strategy represents the usual attempt to scare people into thinking we're submerging under an epidemic of violent crime, unlike the respectful days of old. Because it's only since Labour got in that we've had the Krays and the Richardsons and the Great Train Robbery and razor gangs and highwaymen and Jack the Ripper. Whether crime goes up or down makes no difference to the Tories' strategy. If someone says that by every accepted figure it's dropped by half, they just say: 'Tell that to the old age pensioner who's been dangled from the top of a lighthouse until her pension book fell out of her pocket, and left there for three months being pecked by seagulls.'

They want a country addled with anxiety over crime."

I think that this Bill is feeding into that electoral aspect, which is a shame.

**David Davis:** The hon. Gentleman should not steal lines from my speech. If he really thinks it such a terrible thing to raise a matter of law and order at this point, can he explain the entire Queen's Speech, most of which was about law and order, raising fears in people's minds, and which contained far too many Home Office Bills to get through the House before 5 May?

**Madam Deputy Speaker:** Order. We had better confine our remarks to the Bill before the House.

**Harry Cohen:** I shall do that, Madam Deputy Speaker, but I should first say, "Touché!" That is a fair point in some ways. I do not want this climate of fear over crime to be built up.

I have concerns about the Bill, but also about the policy that has been clearly enunciated by the Government, the CPS and the police. For a start, although this would be exceptional, some unscrupulous or cunningly dangerous individuals may think that the interpretation of such a law would facilitate their getting away with murder. They might think that they could lure the victim to their home, or maybe even take the body there after they had killed someone, and set it up as though that person were a burglar. They might say that they thought that person was a burglar, that a dreadful accident had happened or that they had overreacted through fear. Judging by the statements that have been made, they would hope that the police and the CPS would not investigate for long unless they had clear cause to do so. In that respect, the Bill could stretch existing law so that it became a charter for getting away with murder.

The police would have difficulty in saying that they would not investigate, because if a victim's family demanded an investigation the police would have to look at the matter properly.

**Chris Grayling:** I am listening carefully to the hon. Gentleman. May I invite him, after he loses his seat on 5 May, to allow me to introduce him to a friend of mine who is a good literary agent and who will be glad to take responsibility for promoting his creative skills?

**Harry Cohen:** First, I am not going to lose my seat on 5 May. With most of my colleagues—in fact, like all my colleagues—*[Interruption.]* I said "most of my colleagues" because some of them are not standing again. All those who are standing again will win their seats. I thought that the hon. Gentleman might make such an allusion, but what I described is a possibility—all right, I said it would be exceptional—and the police would have to investigate all cases where there might be such a suspicion.

**Mr. Dismore:** Nothing in the Bill would amend the Coroners Act 1988. Whether there would otherwise have been a criminal prosecution or not, if someone dies in suspicious or even unexpected circumstances there has to be an coroner's inquiry if there is no criminal prosecution. Enabling the coroner to investigate requires a police investigation to collect the evidence for that purpose at least.

**Harry Cohen:** Again, that is a point well made.

I return to the point made in an intervention by my constituency neighbour, my hon. Friend the Member for Ilford, South (Mike Gapes), which was also rubbished as though it was not relevant. I think it is relevant. There was a case in which an intruder was tied up, thrown into a pit, set alight and done to death. That involved unreasonable force. The danger of the Bill is that it risks making such unreasonable force legal. That is why it should go no further in that way.

**Patrick Mercer:** I am most grateful to the hon. Gentleman for his generosity in giving way. How would he reply to the comments of Mr. Brendan Fearon?

**Harry Cohen:** Brendan Fearon was found guilty of involvement in burglary. He rightly suffered under the law. He supports the hon. Gentleman's Bill, but he is not a good character witness.

I had better make progress. Again, some hon. Members might think this obscure, but the next point—stereotyping—is genuine to me. I do not want this to be misinterpreted. I know that the hon. Member for Newark and his supporters would not say that white householders should be treated differently from black, or that white burglars should be treated any differently from black, but I am a little concerned that racial stereotyping could influence this process under the law.

There was an element of racial stereotyping in how the press treated the Tony Martin case. He was the farmer who killed a young burglar, and the court said he used excessive force. He was considered a martyr by a lot of the press and the Tory Opposition. Indeed, the Bill is a follow-on from that.

I have in mind an interesting comparison, although it is not quite exact, because this happened on the street rather than in the home. Soon after the Tony Martin issue was making the headlines and being campaigned on, there was a case involving two Asian boys in London who were suddenly attacked by two white boys. Something was stolen from them and they chased after the two white boys, one of whom got away. They captured the other and beat him up. That white boy died. The *Evening Standard* ran the headline, "Asian youths kill white boy," which was quite inflammatory. I am sure that those Asian youths used excessive force, as they killed the boy, and I am sure that justice will have taken its course in that case.

Interestingly, the *Evening Standard* and the rest of the press subsequently dropped that case completely, because it did not suit their Tony Martin agenda. If

*[Harry Cohen]*

Tony Martin could use the defence of, "I am about to be robbed so I can use excessive force," so could those two Asian lads. They had been robbed, so they could have used excessive force—but that did not fit the stereotype. I am therefore concerned that the press could run campaigns that could influence the police and the Crown Prosecution Service, and perhaps get differential justice. That could be even more the case were the Bill to end up on the statute book.

That leads me to the issue of self-defence. I presented to the House a long while ago my Homicide (Defence of Provocation) Bill, of which I am proud, in relation to battered women, or women who had suffered domestic violence, who reacted in self-defence and killed their violent partner. Such women received a life sentence, and that is the problem—we have an automatic life sentence. As part of that campaign, a number of such women were eventually freed, and I was delighted with the success of that. The automatic life sentence still remains a problem, however, and my view is that it should go. Self-defence should be a mitigating factor, and the defence of "reasonable force" should apply in those cases as well as in cases of burglary—and it should apply in the street as well as in the home. It should also apply in cases of assault on the person, so that there is not undue emphasis, or discriminatory emphasis, on property. It should apply across the board.

My fourth point is that there is a risk that the Bill will lead to the United States situation in which householders routinely arm themselves out of fear of burglars, whether mythical or real. The danger is that such weapons could be used in non-burglary situations, so arms would be used more regularly. Alternatively, we could see situations in which a burglary takes place, the weapon comes out, and the burglar captures the weapon and uses it against the householder, which has happened in a significant number of cases in the United States. Even worse, that could result in burglars increasingly coming armed to commit robbery. At the moment, the official figures show that aggravated burglary, in which the burglar comes armed, happens in less than 1 per cent. of domestic burglary cases. It would be a retrograde step if, as a reaction to the Bill, burglars increasingly armed themselves.

I agree with every Member of the House that burglary is horrid for the victim. I have some better suggestions for tackling it than those in this Bill, however. For example, enforcement must be improved. I have had occasion in the last month to write to a couple of courts that operate in my area. In one case, a burglar who had committed 20-odd burglaries got bail after he had already been on bail for another 20-odd burglaries. I want the justice of the peace concerned to explain himself, as I think that that was wrong. In another case of aggravated burglary, a gang of burglars made the victim lick their boots and humiliated him in all sorts of ways, and they got bail and community service. Again, I have asked the local justice of the peace to explain the policy in such cases.

There must be harsher penalties, but that does not mean that the law has to be changed. Such penalties are already available in these cases, and the court should implement them. Perhaps there is a case for the Minister to speak to his legal counterparts and ask them to exert greater pressure for effective enforcement of the existing law when burglars have clearly been caught by the police.

My second suggestion, which I admit is really innovative, relates to the fact that many burglars are "industrial" burglars who have been involved in 20 cases or more. Often, the police are infuriated because such burglars are ruining their crime figures—when they are getting crime down, just a few burglars can destroy that record. My innovative idea is that proven burglars should be referred to the Inland Revenue for tough, rigorous tax assessment of their affairs. In those circumstances, we should say that burglars better have a receipt for everything that they have in their homes, or they could be liable for tax on the income with which we would assume that they had bought it. If the Inland Revenue and the tax system put paid to Al Capone, it could be an effective tool against burglars. That idea is better than what is in the Bill.

Burglary has come right down—it has fallen by 42 per cent. since 1997 and is at its lowest for around 20 years.

**Mr. Pound:** I know that my hon. Friend is an extremely modest man, but does he accept that the Government have listened to his innovative suggestion, because the Proceeds of Crime Act 2002 does precisely that? At this stage, however, tax exemption for tools of the trade does not normally cover jemmies and crowbars.

**Harry Cohen:** I take that point. The Proceeds of Crime Act mainly deals with drugs—

**Mr. Pound:** Not just that.

**Harry Cohen:** I take my hon. Friend's point.

Crime has come down. We have record police numbers, which will be increased again next year, with 4.8 per cent. extra for police nationally next year, and 5.8 per cent. extra funds for police in London. We will have safer neighbourhood teams, with eight in each London borough and six dedicated officers in each team—one sergeant, two PCs and three community support officers. I am delighted that in the wards of Wanstead, Snaresbrook, Cann Hall, Cathall, Leyton and Leytonstone in my constituency there will be safer neighbourhood teams, which will have an impact on burglary as well as other sorts of crime.

One aspect of this Bill is that the Tories fear that they are losing on crime—which they are—and they hope that it will revive their fortunes. It is a red herring. It might influence a few, but it will not succeed electorally, because the facts are there—crime is down 30 per cent. since 1997, we have record police numbers, and the popular antisocial behaviour orders, safer neighbourhood teams and community support officers. It is a success story, and the Tories' only response is to try to spread anxiety and fear of crime.

The existing law is clear: it allows the use of reasonable force. In response to my intervention, the hon. Member for Newark seemed to make a distinction between unreasonable force and grossly disproportionate force. That was a false distinction. The distinction is clear and simple: force is either reasonable or unreasonable, and unreasonable force should not be accepted.

11.8 am

**Mr. Henry Bellingham** (North-West Norfolk) (Con): I congratulate my hon. Friend the Member for Newark (Patrick Mercer) on his Bill and on the succinct and extremely impressive way in which he presented it. He has significant public support in the country, as this is a very big issue.

I became involved in this whole debate as Tony Martin's local MP. I believe that had it not been for all the debate about and interest in that case, it is highly unlikely that we would be here today. My hon. Friend said that his Bill would not have represented a defence to Tony Martin. I do not want to get distracted by going into the details of the Tony Martin case, but what happened was that we had a wide-ranging debate about householders' rights and exactly what a householder could and could not do and, as Tony Martin's local MP, I was able to play a small part in that debate. It is ironic that, as my hon. Friend said, his constituent, Brendan Fearon, who was one of the burglars who broke into Tony Martin's home and was shot by Tony Martin, supports the Bill. Tony Martin also supports the Bill.

I have had a chance to look at the details of numerous other cases, and of all the conclusions that have flowed from the Tony Martin case and the in-depth discussion of those many other cases, the conclusion that most people have drawn is that the law is currently weighted against the householder. Most people take the view that there is a presumption of guilt against the householder who takes any action at all, and there is some evidence for that in the way in which householders whose homes have been burgled have been treated.

My hon. Friend drew attention to the paucity of the cases that have actually reached court, and he is absolutely right, but what about all those householders who have been arrested and questioned, and suffered trauma, stress, loss of earnings and, in some cases, the break-up of marriage, even though their case never came to court? I wrote to ask the Minister how many cases there had been in the last eight years of householders being arrested for taking action against intruders, and I was told that there are no statistics or facts on that. What about all those other cases where the householder who has suffered a burglary or an intrusion on to their property has decided that they cannot take any action against the burglar or intruder?

What about the attitude of various police forces? How often have we heard statements from police forces, grudgingly announcing that no action will be taken against the householder, after the householder has been through hours of questioning and may have spent a good number of days in a police cell?

We have had a significant and lengthy debate about the reasonable man test. This was one of the areas that I looked at very carefully in the wake of the Tony Martin case and the subsequent debate and discussions. I took a detailed look at the reasonable man test and at how it applied in other parts of the law and in other countries. We are talking about someone who takes action at four in the morning, perhaps completely petrified and standing at the top of the stairs. His judgment may have been warped by fear, by being woken up and by loss of sleep. That person is not judged subjectively in terms of what he felt was an appropriate response, but is judged many weeks later by the police and the prosecuting authorities, according to what a reasonable person would have done.

The test is completely inappropriate, because one is applying different values, at a different time, to a situation where that individual was probably petrified, in the dark, at the top of the stairs, and confronted by something that was unbelievably terrifying. Only people who have had a break-in at their home—I guess that many people present or their family members have had a break-in—know the sense of violation.

Apart from the excellent speech by my hon. Friend the Member for Newark proposing his Bill, one of the best speeches that we have heard was that by the very wise right hon. Member for Birkenhead (Mr. Field), who talked a great deal of sense. He said that when people are broken into there is a sense of violation, not just of their property but of their space, their person, their family and their possessions, which leads to emotions and reactions that may not be totally rational. Therefore, applying the reasonable man test many months later is in no way appropriate. It is a situation that cannot be allowed to continue. It certainly has not given confidence to the public.

How often we hear people argue that the jury should decide whether a person was reasonable and used reasonable force! My whole point is that these cases should not be going to court. Indeed, the Lib Dem spokesman walked right into that trap; he said that it was up to the jury to decide whether or not the force used was reasonable. We do not want these cases to be prosecuted. Those people should be arrested only in extreme circumstances, when the force used was grossly disproportionate. That is why I thought that the argument used by my hon. Friend the Member for Newark was spot-on.

**Derek Conway:** My hon. Friend is very generous in giving way. He is setting out to the House how victims of burglary feel, and I am sure that his constituents would absolutely support his measured contribution. Does he agree that his constituents in Norfolk would be equally perplexed by the statement of the Lord Chancellor, who said that burglars have rights as well? Does he think that his aggrieved and robbed constituents think burglars are entitled to rights?

**Mr. Bellingham:** I am grateful for that intervention. I take the view that, 99.9 per cent. of the time, people who break into property or houses, who know that they are committing a criminal offence, should leave those rights outside that door. The Lord Chancellor completely misjudged the mood of the country, as did the Home Secretary—who, after all, is a Norfolk MP and ought to know how strongly people in East Anglia feel about the lack of policing. People who live in rural areas feel incredibly vulnerable, so when people such as the Lord Chancellor say that burglars should have rights, it is incredibly surprising. In the most extreme cases—

**Patrick Mercer:** Was my hon. Friend therefore enormously encouraged when the Under-Secretary, the hon. Member for Wythenshawe and Sale, East (Paul Goggins), who is not in his place at the moment, said on television the other day that burglars have no rights?

**Mr. Bellingham:** I was extremely encouraged by that. On the other hand, one does not know what happened later that morning at the ministerial team meeting, after the Minister returned to the Home Office. I suspect that words were said, because we are getting badly confused signals from the Government. One Minister says one thing; another says something completely different.

**Tom Levitt:** Will the hon. Gentleman give way?

**Mr. Bellingham:** I am drawing my remarks to a conclusion.

Then there is the new Metropolitan Police Commissioner. It is not as though he has just arrived from Northern Ireland or from a secondment in the Bahamas; he has been the No. 2 man in the Metropolitan police. It beggars belief for him to say on the "Today" programme that he does not know the contents of a very important Home Office leaflet. Let us face it: that was a political leaflet. That was the leaflet that was put together at the last moment, to try to take some of the sting out of the Bill, after the Government changed their mind. Originally, the Government had said that they would support the Bill. They then decided to give in to their politically correct friends in the Home Office and elsewhere, and the liberal intelligentsia, and said that they would not support it after all, but would bring out a leaflet. The idea that the new Metropolitan Police Commissioner did not know that that leaflet was going out, and had not read it, beggars all possible belief.

**Chris Bryant:** So are you calling him a liar?

**Mr. Bellingham:** No, I am not saying that he is a liar. I am just saying that the guy has been got at. He was put in a very tricky position. He spoke his mind; he spoke common sense. He got a telephone call from No. 10, probably, and was told that he must sort himself out and toe the Government line. I hope that I have not overstepped the mark, Madam Deputy Speaker.

I congratulate my hon. Friend the Member for Newark because if one talks to any member of the public—I talking not about the liberal intelligentsia, the beltway media or Home Office civil servants, but about normal, ordinary people, and there are millions of them out there—one finds that they feel very strongly indeed that the current law is unclear, their rights are uncertain and something should be done about it.

I have looked carefully at my hon. Friend's Bill. He has put a lot of time and effort into it and, although it may be short, it has two key arms. He has put forward an incredibly convincing, very strong case. He deserves to get his Bill through Parliament and I hope that all hon. Members will support it.

11.19 am

**Mrs. Helen Clark** (Peterborough) (Lab): I am glad to have the opportunity to add my voice to this debate. The Bill has been the focus of some impassioned language in national newspapers, broadcast media and the House, so it is vital that we look at the facts as they stand and not at the welter of hysterical material that has attached itself to the Bill.

First, I wish to address the issue of the clarity of the law. I think that the law is clear to Sir Ian Blair, the new Metropolitan Police Commissioner, Tom Lloyd, the chief constable of Cambridgeshire police, and every national newspaper, even those that do not always support the Labour Government. There have been bad headlines on certain front pages, but the body of the coverage in the inside pages makes it clear that those papers have no difficulty understanding the law. Because of the intense publicity surrounding the case of Tony Martin, a bad myth has sprung up suggesting that anyone who defends themselves against unwanted and unwarranted intrusion will swiftly find themselves behind bars. Nothing could be further from the truth.

The *Daily Mail* has provided three useful case studies showing how the law operates in practice. The first case study deals with farmer Ffederick Hemstock, who endured a three-day trial after shooting and injuring a man he found trespassing on his land. Mr. and Mrs. Hemstock had already been the victims of three break-ins and an arson attack in the previous four years. When Mrs. Hemstock's 999 call to the police was unsuccessful, Mr. Hemstock left the house carrying his shotgun. He found 40-year-old Gary Smith at the wheel of a jeep on his land. Mr. Hemstock opened fire and the pellets hit Smith in the stomach. The jury, however, dismissed the charge of unlawful wounding against Mr. Hemstock in the short space of just one hour.

The second case study details the story of former railway fireman John Lambert, who killed a burglar high on drink and drugs who threatened to kill his wife Carol with a 12-inch knife. Mr. Lambert swiftly grabbed a bread knife and fought Taylor—the burglar—in the garden of his home. He said:

"He made this noise—then the fight stopped."

Mr. Lambert's lawyer later said:

"He was given no choice but to act as he did."

An inquest verdict declared the killing lawful, and Mr. Lambert was not even prosecuted.

The final case study concerns village postmaster Richard Watkins, who stabbed a masked gunman to death with a knife that he used for opening bundles of newspapers. The robber, 28-year-old heroin addict Scott Griffiths, was armed with a sawn-off shotgun. Police called 50-year-old Mr. Watkins "a victim", and no charges were brought. The assumption that underpins the Bill—namely, that defending yourself results in a criminal sentence—is simply not true. Of course, some people are convicted after attacking intruders. For example, we have heard several times about a Cheshire man who lay in wait for a burglar on commercial industrial premises before beating him up, throwing him into a pit and setting him on fire. The case of that individual, who was rightly convicted, is light years away from the situations in which Mr. Watkins, Mr. Hemstock and Mr. Lambert were unfortunate enough to find themselves.

We do not need a change to the law, but we must ensure that all citizens, wherever they live, understand that they have the right to act in self-defence against an intruder on their property. There is a very clear distinction between reasonable force, as described in the excellent case studies in the *Daily Mail*, and the unreasonable force demonstrated in my final example. The law as it stands does not expect the householder to

make fine judgments about the level of force that they use. As long as the householder acts honestly and instinctively in the heat of the moment the they will have a strong case of lawful self-defence.To illustrate that point, an individual suddenly woken from sleep at 3 am by an intruder climbing the stairs, may push the intruder down the stairs, causing them to break their neck. The householder would surely be regarded by all concerned as acting in self-defence.

**Mr. Pound:** I pay credit to the amount of research that my hon. Friend has done. The Wolverley case involving Richard Watkins concerned events that took place in a post office. Does she think that anything in the Bill introduced by the hon. Member for Newark (Patrick Mercer) would aid, assist or even cast light on such cases? The Bill applies to householders, but Mr. Watkins was in his place of work, so would it assist him?

**Mrs. Clark:** I do not think that it would help in any way, so my hon. Friend's point is well made.

Critics of the Bill have said that there is a strong scent of opportunism, and the measure tries to play on people's fears, as my hon. Friend the Member for Leyton and Wanstead (Harry Cohen) said. It does not, unlike the Labour Government, appeal to people's common sense. Most of our constituents, in fact, have much more common sense than many politicians give them credit for. I am certain that my Peterborough constituents would have no trouble understanding the Government's new guidelines or going to a library to research them. As far as I know, they have never worried about the issue in any case. If there had been serious concerns, I am sure that they would have popped up either in my surgery or in my postbag by now. Seven and a half years down the line, I am still waiting.

My constituents know that when the circumstances are taken into account, the distinction between reasonable and unreasonable force is clear and easy to demonstrate. The amendment to the law that we are discussing would not make any difference in practice. We have more important things to do in the House than quibble over semantics. Finally, people who propose amendments to the law should ensure that their amendments actually amend.

11.26 pm

**Derek Conway** (Old Bexley and Sidcup) (Con): It is a pleasure to follow the hon. Member for Peterborough (Mrs. Clark). While I do not agree with many of her conclusions, to her credit, she expressed her point of view forcefully.

I was a little puzzled about the reason why my hon. Friend the Member for Newark (Patrick Mercer) chose to introduce the Bill. I share the despair of the hon. Member for Leyton and Wanstead (Harry Cohen), because I have put my name into the ballot for private Members' Bills since 1983, without any success whatsoever. I am not scoring terribly well on the national lottery either, so I am not very good at ballots. My hon. Friend the Member for Newark, however, who entered the House at the last general election, has already come top of the ballot. He has been rightly congratulated on that unusual distinction. As hon. Members, but perhaps not many people who are casually acquainted with our activities, will know, it is tempting for the half dozen Members who come top of the ballot to introduce a nice tidy Bill already drafted by a Government Department. The machinery of the state will back the hon. Member—this happens with Members on both sides of the House, not just Government Members—so they can introduce a ready-made Bill that the Government will support. The power of the Whips Offices will fall in behind them, and they will have the joy of seeing their Bill on the statute book.

That is the temptation facing many hon. Members in their political vanity. My hon. Friend, however, resisted it, and I hope that his constituents will take note. He could have put his name to an easy, simple and straightforward, uncontroversial piece of Government-handout legislation, and he would have joined the list of people who can claim to have changed the law. I fear that his Bill, which I support, will probably not reach the statute book, because the flip-flop Prime Minister has made sure that his Whips will block it. My hon. Friend knows what he is up against, but the fact remains that there is growing frustration outside the House, and his excellent speech will have a resonance not only among his constituents in Newark but across the country.

I thought that our debate would be a lawyer fest, as often happens on these occasions. I expected many of my right hon. and hon. Friends and Members on both sides of House with a legal background to explain why my hon. Friend, who is not a lawyer, had got it completely wrong. It is tempting in the House to become hidebound by legal niceties. I am glad, however, that that has not happened, and we have heard about the strength of feeling and, sadly, of confusion in the country.

Although some hon. Members have tried with courage to defend their Government's position, the fact is that even the Government must feel that there is doubt; otherwise they would not have put out this curious leaflet to try to clarify the matter. I read it and, being a fairly simple Geordie, it did not really make a lot of sense to me. I am not sure that I was not more confused when I finished reading the leaflet than I was when I started it.

The purpose of the leaflet was to set out to people how to judge their reasonable actions. However, as we have heard from my hon. Friend and those who have contributed to this brief debate, the actions that people take are not in reasonable circumstances. If I, as a burglar, were to invade the constituency home of a man called Colonel Mercer, I would probably expect a good hiding. By nature of his extensive military background, he, as a young man and throughout his professional career, was trained—and, I hope, reasonably well paid—to kill. Some 30 years ago, in my own small way, I was also trained to kill by a very patient arms instructor. However, that was not terribly successful and the real training to kill did not happen until I became a Government Whip, under the tutelage of my right hon. Friend the Member for Haltemprice and Howden (David Davis).

Those who have had experience of military training or the police force will also have had training in controlling their emotions while they exercise what, I hope, would be reasonable force. However, we cannot expect most

*[Derek Conway]*

people to feel that and, in fact, most of our constituents think that they should be allowed to use quite unreasonable force if they have the wherewithal.

**Mr. Mark Hendrick** (Preston) (Lab/Co-op): The hon. Gentleman used the phrase "quite unreasonable force" when the Bill talks about "grossly disproportionate" force. Does he, like me, object to the use of the word "grossly"? Most people would accept that some disproportionate use of force may be acceptable, but grossly disproportionate force seems excessive.

**Derek Conway:** I cannot lawyer-quibble with the hon. Gentleman, and it is difficult to know in the heat of the moment what would be the response. However, I feel that if I had the opportunity to meet, even in a cool moment, the two young men who burgled my 80-year-old mother, I am not sure that I could exercise the control that the law requires of me, except to say that I would wish to help them not to father more children to pursue their lives of crime.

Part of the danger with this place is that we try to be reasonable and that leads to frustration building among our constituents. They do not think things are reasonable at the moment.

**Mr. Pound:** I am very grateful to the simple Geordie from Kent for allowing me to intervene. He mentioned the physical skill and military prowess of the hon. and gallant Member for Newark (Patrick Mercer), and both sides of the House would concur with that description. Is not the point that if one is young, fit and trained to kill, these sanctions are available? However, if one is elderly, frail and incapable of lifting a baseball bat, let alone taking the top of somebody's head off with it, the Bill would not be of any help at all.

**Derek Conway:** The hon. Gentleman is actually supporting what I am saying, so I am grateful for his intervention. Given his history in these matters, perhaps I should stay out of the Chamber. I am sure that the "Today" programme will carry a full report of our deliberations, and the hon. Gentleman will feature in that because of his outstanding achievements last year.

The point that the hon. Gentleman tempts me into making slightly earlier than I wanted to is precisely about the messages that the Bill sends. Of course, a fit man with military training and a baseball bat will have a serious go, but the hon. Gentleman would not expect an elderly widow to have a go. Therefore, how do we prevent people from coming into such circumstances? We do that by making sure that the burglar understands that the balance has swapped from the perpetrator to the victim. The frustration that people in Old Bexley and Sidcup and many others—including even readers of the *Daily Mail*—elsewhere in the country feel is that the balance is wrong. That is why my hon. Friend's Bill is before the House today, and that is why confusion still reigns.

**Tom Levitt:** Does the hon. Gentleman agree that although it would not be unreasonable for a baseball player to have a baseball bat in their house and even to keep it under their bed, it may be seen as unreasonable if someone who is not a baseball player keeps a bat under their bed as a defensive weapon? Does that not suggest that the higher level of force provided for under the Bill might mean that more people will keep articles for use as weapons, and that that might mean that there is a greater use of violence in burglaries? At the moment, only a tiny proportion—I think that it is about 1 per cent.—of all burglaries include violence. I am very worried that, under the Bill, there could be more violence in burglaries.

**Derek Conway:** If there were more violence towards burglars, that would not make me an unhappy man. If anything, my hon. Friend the Member for Newark should amend the law to make it a requirement to assault a burglar when they come into a house. Most of us are trying to rein in our more unreasonable instincts on these matters. The hon. Gentleman is a very reasonable man and makes a very reasonable point, but he is making a very reasonable point about circumstances that are in themselves inherently unreasonable.

**Mike Gapes:** I know that the hon. Gentleman made a flippant remark, but is it wise for Members of the House to encourage a climate of vigilantism that could lead to increases in crime and death and destruction? Should we not give more support to the police who are doing a very good job in many areas in solving crimes and reducing the numbers of burglaries?

**Derek Conway:** The hon. Gentleman probably makes a very good point, but it is not for this debate. It does not apply to my hon. Friend's Bill, because he is not saying that people can run out of their homes with a proverbial baseball bat and chase burglars down the street and assault them. Nobody is arguing for that. The hon. Gentleman makes a strong point about vigilantes, but he is wrong.

**Mr. Cameron:** Does my hon. Friend find it as confusing as I do that Labour Members keep suggesting that the Bill says that everyone must confront a burglar? This Bill says that if one confronts a burglar, there should be the highest standard of evidence before one is even charged. That is the point that we are talking about.

**Derek Conway:** My hon. Friend makes an excellent point, and it is the one that the Government are absolutely missing. On this issue, they have completely lost the mood of the country.

**Chris Bryant:** I thought that I just heard the hon. Gentleman say that he wanted every householder to attack every burglar who came into their home. If he is seriously advocating that, the problem is that it is sometimes difficult to know whether someone is innocently in a property or is a burglar. On the whole, it is best for the courts to decide that rather than others. Have-a-go heroism is probably one of the most dangerous things to be encouraged for householders.

**Derek Conway:** If I found the hon. Gentleman uninvited in my house in the middle of the night, I promise him that I would not consider him innocent. I do not think that those who enter properties uninvited can consider themselves innocent.

**Chris Grayling:** Does my hon. Friend agree that the natural extension of the comments of the hon. Member for High Peak (Tom Levitt) is that someone who was not a member of a baseball team and who had previously been burgled, who was terrified out of their wits and who then took the decision to put a baseball under the bed, would be acting in a criminal fashion? Therefore the response to fear would be to criminalise them.

**Derek Conway:** My hon. Friend makes a very good point.

I now wish to move on to the issue of confusion. We talked earlier about the statement by the Lord Chancellor, who said that burglars have rights. Of course, as Lord Chancellor, he would have to say that, having put the Human Rights Act 1998 on the statute book. However, in an interview, the Minister said that, in his opinion, burglars did not have rights. I do not know what the Government's position is, and I am sure that the Minister will helpfully clarify matters.

**The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins):** The point that I was making in the interview is that it is the burglar who is in the wrong and it is the householder in their own home who is in the right.

**Derek Conway:** I am grateful for the Minister's intervention, but I am not sure that it makes matters any clearer. If he had stuck with the original line in his interview, I would have applauded and supported him. I understand that he has probably had a good talking to from the Lord Chancellor. The Government must try to get their act together, and the trouble is that their act is completely confused. If the Government, Law Officers and Ministers are confused, why is it unreasonable for us to think that the electorate, our constituents and the wider world are utterly confused about what is going on?

**Tom Levitt** *rose—*

**Derek Conway:** If the hon. Gentleman is still keen enough, I am happy to let him have a go.

**Tom Levitt:** I am grateful to the hon. Gentleman for giving way again. There is one sense in which burglars have rights. Under civil law, if they are the victims of grossly disproportionate violence, they are able to claim damages from a perpetrator such as a householder. By giving the same measure of what is allowable under the criminal law as in the civil law, the Bill will mean that anyone who is convicted under its provisions will automatically be liable for damages to a burglar who makes a claim. Is the hon. Gentleman happy about that?

**Derek Conway:** I am not; I do not believe that burglars should have any rights whatever. In this matter, I go along with the Minister and a lot further down his route. Once burglars have perpetrated and been found guilty of a crime, any opportunity they have for restitution should have gone long out of the window with the jury's verdict. The hon. Gentleman makes a reasonable point, but this is not a matter for reasonable thoughts.

**Chris Bryant:** The hon. Gentleman has just said that he believes that burglars should have no rights at all. Does that mean that they should not have the right to life?

**Derek Conway:** I have always voted in the House for the restoration of capital punishment. For those who commit premeditated murder, I have always advocated and still advocate capital punishment—

**Chris Bryant** *rose—*

**Derek Conway:** If the hon. Gentleman would calm down for a moment, he could listen to my response. Of course I am not advocating, nor is anyone on the Conservative Benches, the reintroduction of capital punishment for burglars—although many of the hon. Gentleman's constituents might be tempted. If he still wants to have a go, I am happy to let him.

**Chris Bryant:** The hon. Gentleman is mistaken. I am not on the have-a-go side—I think he is. He seems to be advocating not only capital punishment and that burglars should have no rights, including the right to life, but furthermore that the person who decides whether they lose that right is the householder, not a court.

**Derek Conway:** The hon. Gentleman is clearly trying to put words into my mouth. Earlier on, one of his hon. Friends made the point that someone who kills a burglar may not be charged under existing legislation. Burglars risk their lives if they burgle someone's home, and they should understand that. What we are talking about, in the Bill, is the level of probability of their facing trial, and going through all the horror of that, when they take the action they take.

The time has come for the House to recognise that people outside this Chamber are quite fed up. They are fed up with the sort of semantics that the hon. Member for Rhondda (Chris Bryant) has been dancing around this morning. They are fed up with politicians in our fairly safe environment thinking that what happens to us does not need to happen to people outside, when we know that it is going on all the time.

This matter is utterly confused in the mind of the Government. It is certainly confused in my mind, in the mind of the courts and even in the mind of our new Metropolitan Police Commissioner, who will be targeting smart dinner parties rather than the more serious crime that concerns my constituents. There is a degree of confusion on the issue. My hon. Friend the Member for Newark has rightly and honourably set out a way forward to take care of it. If the Government had thought of it first, they would have tried to do so too but they were slow off the mark. Because of the impending election, they will kill my hon. Friend's Bill. That is shameful, because the public are fed up with the victim having fewer rights and fewer opportunities than the

*[Derek Conway]*

perpetrators of crime. My hon. Friend seeks to send a clear message to the perpetrators of crime that their time is well and truly up.

11.42 am

**Mr. Stephen Pound** (Ealing, North) (Lab) *rose—*

**Mr. Dismore:** Given my hon. Friend's frequent appearances on the "Today" programme at unearthly hours of the morning, does he think that the listeners subjected him to either grossly disproportionate or reasonable force to prevent him from intruding in their homes early in the morning in the way that they voted for the listeners' Bill that he promised to promote?

**Mr. Pound:** Vinnie Jones once received a red card within three seconds of coming on to the pitch. Once, in the Hammersmith Catholic primary schools league, I was sent off before I had even come on to the pitch, but I do not think that anyone has ever had an intervention, not just halfway through their first sentence but halfway through their first word. Let us record this moment of parliamentary history.

In response to the slightly premature ejaculation of my hon. Friend, those who subjected me to what was, I think, a rather gross form of violence were in fact not the honest listeners of Radio 4—as far as I can gather, they were all on the slopes at Chamonix at the time—but a group of website gun fanatics, headed by an organisation called Cybershooters, who orchestrated a campaign against me.

Having responded to that intervention, I shall try to remember precisely what I was going to say when I stood up. First, like other Members, I congratulate the hon. and gallant Member for Newark (Patrick Mercer) not on the turn of the dice, the piece of good fortune that gave him No. 1 in the ballot, which anyone of us could have achieved—although few of us did and few of us will—but on raising an issue that clearly resonates with the public far beyond this place. He has his finger on the pulse and he is right to raise the issue. Where I diverge from him is to say that his response, I fear, is wrong. Macaulay famously said that evil was the root but bitter was the fruit, and in this case I think that the evil root has, unfortunately, corrupted the hon. Gentleman's argument.

Nobody on either side of the House would attempt to make the case that everything is sweetness and light in the streets of suburbia or in the farmlands of Norfolk. People are afraid. There is no question about that. There are two responses that we can make to address that fear and concern. The first, which would be intellectual treason, would be to try to ramp up that fear, to engender a climate of even greater fear, knowing full well in our hearts and minds that the responses proposed—the baseball bat solution, the pit, the petrol-covering, the ignition solutions—will not solve the problem, but will make it worse. The second response would be to ask what is the nature of the fear and what can we best do to address it, calmly and less dramatically. That genuinely is the issue we face.

We have heard from my hon. Friend the Member for Peterborough (Mrs. Clark) of a case where a postmaster killed someone breaking into his post office and was not charged. Members may be familiar with the case of Nick Baungartner who was a householder in a fight with a 6 ft 2 in intruder, Robert Ingham, who was 22-years-old. That happened in Ockbrook in Derbyshire in December 1995. Mr. Baungartner claimed that Mr. Ingham, armed with a shovel, had ambushed him like a madman. A fight ensued and the heroic—I use the word judiciously—Mr. Baungartner defended himself, breaking the bones in both his hands as he did so. Ultimately, Mr. Ingham, a redundant apprentice joiner from Derby, died from a neck injury. Mr. Baungartner suffered considerable psychological damage, but he was not prosecuted. Quite rightly. He was a householder in his own home, a 60-year-old man who was attacked by a 22-year-old thug with a shovel. He was not prosecuted. However, the Bill proposed by the hon. Member for Newark would go further than that. He says that Mr. Baungartner should not even have had his case investigated. The presumption should have been so overwhelmingly on the side of the householder that there should not even have been an investigation.

My hon. Friend the Member for Hendon (Mr. Dismore) rightly pointed out that that would mean the abolition of the Coroners Act 1988, because at present there is a statutory duty. The hon. Member for Canterbury (Mr. Brazier) raised the case of a former high sheriff of Kent and two incidents with a shotgun. In neither case was the gentleman charged, but the cases were investigated. Before we turn to other aspects of the Bill and the apparent simplicity—

**Mr. Gale** *rose—*

**Mr. Pound:** May I finish my sentence first? I have already suffered enough from interventions.

The apparent simplicity of the Bill's proposals, which, sadly and tragically, appear to imply some protection, in fact unravel quickly as soon as we cast any light on them. The reality is that those proposals would not make a difference.

**Mr. Gale:** To clarify the position, Robin Baker-White may not have been prosecuted, but the police did take away his firearms, and every burglar in Kent now knows that that house is wide open.

**Mr. Pound:** I have been in correspondence with Robin Baker-White. He is a very moderate, intelligent gentleman who has felt considerable pain during these events, and I entirely understand how he feels. The point that I made in my last letter to him was that if a person discharges a shotgun in this realm, surely there has to be an investigation, even a basic one. Are we really talking about a situation in which a citizen can fire a shotgun at another citizen, and the police simply stand back, without analysing or investigating, making notes or undertaking any forensic examination?

**Tom Levitt:** Will my hon. Friend give way?

**Mr. Pound:** In a moment.

I cannot believe that that situation is what we want. That is a Kenneth Noye law, not a Robin Baker-White law. I give way to my hon. Friend the Member for somewhere in Derbyshire.

**Tom Levitt:** It is the other end of Derbyshire from that to which my hon. Friend referred to earlier.

My hon. Friend is making an important point. The hon. Member for Newark (Patrick Mercer) would have a police constable attending the scene of an incident in which a death or serious injury had occurred, and deciding whether the action had been grossly disproportionate. That is wholly wrong. In those circumstances, the police constable's first duty must be to secure evidence, making sure that none is removed, and ensure that anyone who may be a witness is alerted to that fact, so that if an investigation is needed later, it can take place. It is then for the CPS to decide whether there is sufficient evidence of grossly disproportionate force being used to proceed with a prosecution.

**Mr. Pound:** My hon. Friend the Member for High Peak (Tom Levitt), which I believe is usually known as the most beautiful constituency in the United Kingdom, particularly when my hon. Friend is speaking, makes an extremely good point.

I admit, with some pride, that I am not a lawyer. Although another profession claims to be the oldest, I rather suspect that on the very first day in Pleistocene times, when human beings tried to order their affairs, somebody came up with an example of why a particular law would not work. If we are talking about individual cases, I must point out that for every Kenneth Noye, there is a Robin Baker-White. My hon. Friend's point is absolutely right. Let us not forget that the pump-action shotgun that Tony Martin used to kill 16-year-old Fred Barras was an illegally held weapon. Robin Baker-White's shotguns were entirely legitimately held. But how do we know that? We know that because the police investigated; the CPS did not prosecute; Robin Baker-White was exonerated. Tony Martin was prosecuted.

**Mr. Hendrick:** I concur with the point that my hon. Friend just made, but will he answer a question? If the Bill made it into statute, and if householders were given carte blanche to let any burglar have both barrels or give him a good hiding with a baseball bat, would not more burglars and intruders be armed, as we see in some states in the United States? That would result in high levels of violence and more deaths than the relatively small number mentioned by the hon. Member for Newark (Patrick Mercer).

**Mr. Pound:** I am grateful for that intervention, but I was made a little nervous by the apparent relish with which my hon. Friend seemed to regard the prospect of good hidings with baseball bats. He has put his finger on one of the crucial points in the whole discussion.

The United States performs many useful functions and services. One of the best of those is to provide us with examples and case law. Among its different states there is different legislation. If a Dodge City, Tombstone, vigilante-type law applied in one state but not in another, and in the first state there were no burglars—certainly no live ones—and in state B burglary was rampant, we could say, with some justice, "Make my day, punk. I've got a Magnum under the pillow," or perhaps, in the Preston parlance, a baseball bat. In reality that is not the case. In some states, such as Alabama and Georgia, where one can carry a concealed weapon about one's person, they have just as much, if not more, assault and burglary as in states such as New York, where one cannot carry a concealed weapon.

The hon. and gallant Member for Newark spoke of his discussions with police officers in Nottinghamshire. Every police officer to whom I have spoken said that absolutely the last thing they want is an arms race in Acacia avenue. They do not want more and more weapons being matched by bigger and bigger weapons. They do not want Granny Smith to have a shotgun and the scrote to have a Kalashnikov. My hon. Friend the Member for Preston (Mr. Hendrick) makes a very good point.

**Mr. Hancock** *rose—*

**Mr. William Cash** (Stone) (Con) *rose—*

**Mr. Pound:** I will give way to the hon. Gentleman, as I would out of respect to any Stonyhurst graduate, in a moment, but I see that my old shipmate from Portsmouth is on his feet.

**Mr. Hancock:** In a typically entertaining speech, the hon. Gentleman is trying to cloud the issue, divert the argument and bring up a number of red herrings. He implies that someone today has suggested, although the hon. Member for Newark (Patrick Mercer) did not, nor has anyone else within my hearing, that any of the laws relating to a person's death in any circumstances—if a person is killed as a result of someone defending their home—will be changed by the Bill. If the hon. Gentleman has heard or read something that states otherwise, will he explain it to the House? If he has not, will he stop using that red herring?

**Mr. Pound:** I have always respected the hon. Gentleman, whichever political party he is in at the time, but I have to say that he is being a little audacious. The hon. Member for Newark is proposing precisely that

"Do what thou wilt shall be the whole of the law"—

if it is done by a householder. I shall point out some of the glaring inconsistencies and anomalies in that, but first I give way to the hon. Member for Stone (Mr. Cash).

**Mr. Cash:** In his interesting dissertation on the American position, the hon. Gentleman—deliberately or otherwise—moved the argument to the type of gun rather than to what is going on in the room when the burglar enters. Is he aware of the Oklahoma test? In a nutshell, it states that if a person has any reason to be concerned that they will be assaulted, they may take such action as they think fit—in other words, they can use all necessary force. Does he support that position? On balance, I have a lot of sympathy with it, even though I totally support my hon. Friend the Member for Newark.

**Mr. Pound:** The hon. Gentleman brings his fine forensic brain and his wide knowledge to bear on the subject. I believe that the Oklahoma test was struck down by the state legislature, although it was reintroduced in slightly different form, so the general point is relevant.

*[Mr. Pound]*

I do not see the difference between the Oklahoma test and what Kenneth Macdonald, director of the CPS, meant when he spoke of the presumption being on the side of the victim. Who, in the peace and calm of Lincoln's Inn, can look at a piece of law and say, "This should apply," or, "That should not apply," in the case of an attack at 4 o'clock in the morning? The Oklahoma test arose from specific circumstances in a moment of extremis. We recognise that, which is why the Government, the CPS and ACPO all say that the law is on the side of the victim, not on the side of the burglar. Beyond that, however, we cannot say what a person should do if he is awoken by an intruder at 4 o'clock in the morning. Rationality often disappears with consciousness—that is, when one falls asleep. How can a person be rational when he is awoken at 4 o'clock in the morning?

**Mr. Cash:** I have a lot of respect for the hon. Gentleman's comments on many subjects and I accept what he said on the "Today" programme in respect of the Bill, but the question is whether the Government seriously suppose that their guidelines could somehow be handed to the burglar, or that what they contain could be in the mind of either of the people who were facing each another at that moment. The real problem is not what is going on in Lincoln's Inn that matters, but what is going on in that room. That is why the Bill is so important and why it will, no doubt, be discussed further in Committee.

**Mr. Pound:** I say with some reluctance that the hon. Gentleman makes an excellent point and I agree with most of it. The question is whether a burglar who is likely to commit a serious assault or attack is acting rationally. Do burglars stop outside the house that they intend to burgle and say to themselves, "I shall consult the law to see exactly where I stand—oh good heavens, section 27B of the 1967 Act prohibits me from doing this. I'd better find some other country that will." The hon. Gentleman is right: they do not behave in that way. That is why we use words such as "gross" and "reasonable"—we have to legislate for the broad spectrum of human activity and human response. People do not act robotically—often, they do not act rationally or logically—so the hon. Member for Stone is absolutely right, but does that make a difference?

Before I come to point made by my hon. Friend the Member for High Peak, the real point was touched on by the hon. Member for Newark when he talked about signals. Although this proposition may be attractive to many of the lawyers and soi-disant lawyers in the House, a lot of the debate is not about nit-picking at the minutiae of the law, but about how the law, how legislation and how Parliament appear to the people of this country.

One thing that, surely to God, we can all agree on is that we want not just the householder, but the innocent citizen to feel not just safe, but that the law is on their side. The inevitable corollary of that is that we want the person in the balaclava mask or carrying the shotgun, as we heard in an earlier case, to feel that not just the householder, the shopkeeper and the local community, but the full weight and majesty of the law is against them. That is what we want. We all agree on that.

We have two propositions before us, one of which is that we use the existing law, stick with it, work with the police, make it stronger, enforce it harder and perhaps follow the confiscatory suggestions of my hon. Friend the Member for Leyton and Wanstead (Harry Cohen). The other proposition is that we somehow think that we can solve the problem with a two-clause Bill.

**Tom Levitt:** My hon. Friend, who represents the most beautiful seat in the whole of Ealing, continues to make a powerful speech and he will be pleased to know that my mother-in-law has lived in his constituency for some 60 years crime free, but I should like to put to him a point that I made in an earlier intervention: if the Bill were to become law, a householder, lying in his bed and woken up by a noise, who goes into another room in his house to intercept a burglar who does not have any violent intention and attacks him could get greater protection under the law than a woman who is woken up in her bed in the middle of the night by a rapist and is in fear of her life. She would not receive the same protection under existing legislation as the householder who attacks the burglar in the other room would have under the Bill. What message does that send to women?

**Mr. Pound:** Perhaps unknowingly, my hon. Friend makes a point that resonates very strongly with me. Yesterday morning, as some hon. Members will be aware from reading the papers today, a young single mother was brutally attacked in Northolt in my constituency. Hon. Members will understand why I will not go into further details, as the incident took place 24 hours ago. In that case, the man who knocked at the door pretended that he was coming to read the gas meter. What he then did he did in front of that woman's two young children, and I cannot even begin to imagine the trauma and consequences of that awful act. However, she could not look to Newark for aid because she is not a householder; she is a tenant. That is one of the problems and anomalies that we face with the Bill.

**Mr. Dismore:** I may be able to help my hon. Friend. Under the Newark Bill, the issue is whether the person who attacks is a trespasser or has been invited into the property. The problem with the Bill is that it only protects people from trespassers, so following the point made by my hon. Friend the Member for High Peak (Tom Levitt), what happens if the assailant is known to the person, is invited in and is not a trespasser? That is the key to the case.

**Mr. Pound:** My hon. Friend makes a good point. I am reluctant to be thought too oppositional, so for the record of the House, I wish to say that the hon. and gallant Member for Newark has acted out of the best possible motives. Some people—thankfully, not in the House—would build a political platform and use the bones of a 16-year-old boy as part of the foundations. The hon. Gentleman is not one of those people; he is responding to widespread public concern. However, my hon. Friend the Member for Hendon is absolutely right, and the point that he makes leads us to

the anomalies that we are talking about. What about tenants? What about squatters? What about someone who invites a person in?

**Patrick Mercer** *rose—*

**Mr. Pound:** Before I give way, may I give an example? Four years ago, at 1 am, somebody was hammering at my front door. I naturally assumed it was the bailiff. I went down and, with a chain on the door, looked out and found on the doorstep a person in a considerable state of agitation and extremely worried. Fortunately I had a cricket bat to hand, which happened to be propped up in the hall. I do not claim to be as good a cricketer as many Opposition Members, particularly the right hon. Member for Wokingham (Mr. Redwood), but I happened to have a cricket bat handy.

I rang the police and when they came round, they found that the man was suffering from severe mental illness who was in Milton road, Hanwell, when he should have been in Milton road, Acton. Should I have let that confused but angry and threatening man into my house, should I have dealt him a swift blow on the back of the head with my Duncan Fearnley, or should I have done as I did, and as I would counsel most people to do—assess and ring the police? I appreciate that in moments of panic, calm assessment is not always an option, but could I have lived with myself if I had killed that man?

**Patrick Mercer:** I am grateful to the hon. Gentleman for his generous words. In the case that he cites, he was able to make a judgment, stand back and take himself out of the heat of the moment. I do not know whether he has been involved in bloody affray in the middle of the night. I have. It is very difficult in those circumstances to know exactly what to do. I believe a tenant is a householder, and if I am incorrect, I am sure that the hon. Gentleman and I can joust over the matter in Committee in due course.

**Mr. Pound:** I do not disagree with what the hon. Gentleman says. In some ways, although we debate these issues in the daylight of a Friday morning, in our minds all of us are in the darkness of 4 am. That is when such events will happen, and that is when the life and death decision will have to be taken. It may be difficult for us to make that leap, but we must put ourselves in that position.

If one thing emerges from the debate, it must be that clarion call—that one emblazoned sentence: the law is on the side of the householder, the law is on the side of the victim, the law is against the aggressor, the law is against the burglar. Be it at 4 am or at 10 am, that is the loudest message that must be blazoned out and that is the clarion call that must come from this place today.

**Mr. Dismore:** I think I have the answer to my hon. Friend's predicament. If he had whacked the intruder with his cricket bat, the law would still have been on his side. "Archbold: Criminal Pleading", which is the bible of criminal lawyers, states clearly:

> "The reasonableness or otherwise of the mistake is a factor to be taken into account when determining whether the mistake was or may have been a genuine one. Thus where a defendant is neither under threat nor actual attack but honestly believed he was",

that is a factor that would chime in his defence.

**Mr. Pound:** I am grateful to my hon. Friend. I did not have a copy of "Archbold: Criminal Pleading" in the hall at the time, but had it been to hand, I rather suspect I could have done more damage with it than with my well wrapped cricket bat, which has more Elastoplast than red circles on it.

The hon. and gallant Member for Newark has identified—it is not the hardest thing in the world—a real area of concern, but by proposing the Bill in its present form, I respectfully suggest to him that he does not move us forward. He does not solve the problem. There are probably three people in the world watching us live on television. There were 6,500 before I stood up to speak, but the numbers went down a little. They are no doubt wondering why we are talking about iotas of legislation, when everybody knows what the problem is. I understand that, and I understand the emotion that drives the hon. Gentleman.

Nevertheless, we in this House have a wider and deeper responsibility, and a greater duty. It is not our job to write tabloid headlines; it is our job to attempt to legislate, or scrutinise legislation, and to ensure that in whatever we do in this place, even if we do not do a great deal of good, at least we do not make matters worse. What desperately worries me is that the hon. Gentleman's Bill will make matters worse.

I have mentioned squatters. What about security guards in commercial premises? What about someone trying to defend a young woman from being raped in a park? They will have no defence under the Bill. The idea that only the householder and the householder alone has the right worries me greatly. Let us suppose that the Bill becomes law—stranger things have happened; high hedges are now on the statute book, although they are still sprouting slowly in the Department—and people think that they have the right to intervene in the course of a crime and assault the person committing it, to the point, ultimately, of death. Somebody who is driving down the road and sees somebody attacking somebody else may decide to drive their car at that person, because that is their immediate reaction—but they will not be covered by the Bill. If someone sees a child being attacked in the street and attacks the attacker, they will not be covered. They would think, however, because the tabloid headlines would tell them so, that "Mercer's made life better for us, and now we're all safe." That is the problem, because that is how people would perceive the Bill.

**Mr. Dismore** *rose—*

**Mr. Pound:** I feel Hendon coming up on the port side again, and I will certainly give way.

**Mr. Dismore:** Let me give my hon. Friend another more concrete example. Let us suppose that the great train robbery took place after the Bill had been enacted. If the people in the mail train—although unfortunately, we do not have mail trains any more—tried to defend themselves, they would not be protected by the Bill, because a train is not a building. The two conflicting and different tests might make those people think that they had full protection, although they would only have the protection of the lesser test already set out in the Criminal Law Act 1967.

**Mr. Pound:** My hon. Friend makes as good a point as many that he made when he was charging several

*[Mr. Pound]*

hundred guineas for appearing at the inner London sessions while also being a respected councillor in the City of Westminster. He said that he would raise a concrete example, and as he has already mentioned cricket bats and Archbold, I was afraid that he was about to move on to some other means of self-preservation to be retained in the hallway. It is difficult to talk about the great train robbery, because in the 42 years since it happened, its perpetrators have almost become an example of lovable rogues, and we forget that the train driver was brutally beaten and subsequently died of his injuries. There was nothing roguish or forgivable about that crime.

I say that I am a lawyer not with shame, but with some pride. Having read the Bill and discussed it with those who ply their trade in that profession, I think not only that the anomalies are so vast that they would overwhelm and subvert the good instincts in the Bill, but that in an increasingly litigious society, the weight of those anomalies would be such that the Bill would become not only unworkable, but completely unenforceable—and, worst of all, utterly and desperately confusing.

That is not the only problem, however, and neither is the fact that the Bill does not provide a solution by proposing a nostrum, much as we would like to see a silver bullet, if that is not an unfortunate simile, to resolve the problem. The hon. Member for Old Bexley and Sidcup (Derek Conway) referred with some admiration—and I trust without too great a knowledge—to the physical prowess of the hon. Member for Newark. The point has been made quite a few times, but it bears repeating: who is going to defend the defenceless? Who will protect the weak? If we create a system whereby young, fit former officers of Her Majesty's service armed with whatever—baseball bats, cricket bats or whatever else; it could be Archbold on criminal law, for all I care—are allowed to do as they will, carte blanche, that is a wonderful situation for a small percentage of the population.

If we are to allow the high sheriff of Kent to have a shotgun to defend himself, will we allow every person in every street, on every estate and in every tower block, to have one to defend themselves? If we abdicate from law and order and denigrate the police as being incapable of performing their basic function, we must substitute a different form of protection. The logic of the hon. Gentleman's argument is, instead of a chicken in every pot, a shotgun in every house, and unfortunately, that logic leads us to lunacy.

**Mr. Hendrick:** My hon. Friend has embellished my earlier intervention. If gross disproportionality becomes the norm, we will see gross disproportionality from burglars and intruders, with an escalation of the arms race in Acacia avenue, as my hon. Friend put it, and an escalation of the amount of force used by the police. Perhaps in future all police will carry arms. That is not the case today, and is certainly not what I want in my constituency.

**Mr. Pound:** I do not know whether I am unique in the House—I suspect not—but I have had several conversations with convicted criminals. There are no no-go areas for new Labour. I have visited a number of prisons, including Wormwood Scrubs, which is close to my constituency. I have asked burglars the obvious question: "Why do you do it?" They say that they want to grab as many electrical goods, credit cards, cash, cameras and so on as possible, and get out.

The agony at the heart of our discussion is epitomised by the Monckton case. Can there be a more horrific, foul, murderous or sadistic case than that in which a decent, honourable man is slaughtered in his own home during a burglary? Yet for every such case, there are 99 in which the burglar just wants to get in and get out. If burglars think that when they get in they may be killed before they get out, they will inevitably start to consider the situation in terms of mutual antagonism. If the householder is to have a gun, as sure as eggs is eggs, the burglar will want a gun. If the householder has a bigger gun—guess what?—the burglar will have an even bigger gun.

**Tom Levitt** *rose—*

**Mr. Pound:** I give way to one of the biggest guns in Parliament.

**Tom Levitt:** Bang, bang.

My hon. Friend will be aware that burglary is down by 42 per cent. since 1997, and I am certain that that trend will continue. A high proportion of the burglaries that take place these days involve people trying to acquire the wherewithal to purchase drugs. Clearly, there must be continued vigilance in drug treatment and therapy to ensure that that demand does not exist. There is also evidence, certainly in my region, that burglars are burgling household sheds rather than homes. That is because the law has fewer and lower penalties for such crimes. Those trends and that anecdotal evidence suggest that disincentives to burglary are getting better, which is why burglary will go down.

**Mr. Pound:** I am grateful to my hon. Friend for making that point. Is not it strange that although we in this House can refer to a reduction in burglary of 41 per cent. and a reduction in most household crimes of 31 per cent., people outside do not believe us, because everyone has their own perception of crime? The more we talk about the reduction in crime on a statistical basis, the less we are believed. One of the problems with the hon. and gallant Gentleman's Bill is that he feeds that fear.

I would never imply that there is no cause for concern. However, let us balance legitimate fear with the reality of the reduction in burglaries and street robberies. That reduction has not happened in a glamorous Clint Eastwood world, but through good, old-fashioned, hard-working, honest coppering by police officers, of whom we have more, and who are better paid, than at other any time in this country's history. I would like to support police officers, rather than try to replace them with a shotgun or a baseball bat.

**Mike Gapes:** Are not putting proper locks on windows and chains on doors, and taking advice from the local police about how to make property more secure, far more effective ways of dealing with burglary?

Many burglars act on impulse because they see an open window or an unsecured area. To continue the reduction in burglaries that the Government have achieved, we need to give far more advice about such matters.

**Mr. Pound:** I am grateful to my hon. Friend for rightly making the point that we all have some responsibility for ourselves. Just as we do not walk around with bank notes pinned to the outside of our jackets but put them in wallets in our pockets, we should also be aware of the threats to our homes. I hope that no hon. Member would be so puerile as to imply that we are saying that burglary is the householder's fault. I cannot believe that anyone would suggest such a thing, and my hon. Friend is right. Working with the police is far better than trying to replace them.

My hon. Friend mentioned additional locks and security methods. Let me make a case for Battersea dogs' home. For many years I had a wonderful mixed-breed dog called Trotsky. *[Interruption.]* Indeed, he was permanently revolting! He was extremely useful. A guard dog is one of the best possible aids. However, we are straying into peripheral areas. Let us revert to the Bill.

We must not forget that we are considering life and death. It is that important.

**Mr. Dismore** *rose—*

**Mr. Andrew Stunell** (Hazel Grove) (LD) *rose—*

**Mr. Pound:** Before I give way to my hon. Friend, I shall give way to the hon. Member for North Cornwall.

**Mr. Stunell:** No, Hazel Grove. The hon. Gentleman is straying into discussing the Bill that I promoted and which was passed last year. It deals to some extent with the security of the home. In his eulogies for the police, will he bear in mind the fact that some of us will have fewer police on the streets this year, due to the reduction in police grant for the Greater Manchester police authority?

**Madam Deputy Speaker:** Order. Let me bring all hon. Members back to the Bill that is currently before the House.

**Mr. Pound:** Obviously, I accept your ruling, Madam Deputy Speaker. I apologise profusely for confusing one Liberal Democrat with odd socks with another who shares his sartorial sense—although today the hon. Member for Hazel Grove (Mr. Stunell) is rather restrained. I sincerely apologise. Were I a Minister, I would say that I would write to the hon. Gentleman afterwards. Sadly, I am not, and am never likely to be, but I will send him a note about the extra police officers whose presence we are enjoying in west London.

**Mr. Dismore:** I wanted to comment on my hon. Friend's earlier points about the Lord Lieutenant being able to defend himself. Of course an Englishman's home is his castle, and I am pleased that my hon. Friend keeps a cricket bat, in good English tradition, rather than a baseball bat for self-defence. However, there is gross disproportionality in someone's ability to defend themselves. I suspect that the Lord Lieutenant may find it easier to get a shotgun or an ordinary firearms licence than someone who lives on the Burnt Oak estate in my constituency. Is that not disproportionate?

**Mr. Pound:** It is certainly inegalitarian. In fact, I now have a hurling stick at home—my son plays the game—which is probably even more lethal.

The hon. Member for Hazel Grove introduced an extremely well argued Bill on this subject, which commanded a lot of support and respect—

**Mr. Stunell:** And it was passed.

**Mr. Pound:** Indeed it was. It touched on exactly this point: how do we prevent these situations from arising in the first place? Yes, it is absolutely right to have an element of security in the home, but surely the best way to prevent that from happening is not to create an artificial situation in which a burglar is not going to break into a house. We could be talking about some crack-fuelled lunatic who is certainly not going to be thinking about Archbold's studies on criminal law. It is not the fear of death that stops such people but the certainty of arrest and imprisonment. I give credit to my hon. Friend the Member for Leyton and Wanstead for the point that he made earlier about that.

We cannot realistically countenance a situation in which the strong are safer than the weak, or in which physical strength brings the corollary of domestic security. We have to look to the weak. A frail elderly grandmother in my constituency is not going to react warmly and positively to being told that she can use a baseball bat or a shotgun. That simply is not an option, and such people need better from us. They need better than tabloid headlines and they deserve better than having these situations ramped up to create even greater fear. We do not need to exaggerate the fear; we do not need to over-egg that pudding. The fear is real, and it is the response to that fear that we have to address today. It is regrettable that the hon. Member for Newark is unconsciously contributing to the expansion of that fear while not providing any easement of it through legislation that would work.

**Mr. Hendrick:** Is my hon. Friend suggesting that the Bill would benefit those who least need it?

**Mr. Pound:** My hon. Friend makes a good point. The person who would have benefited most from this Bill is Kenneth Noye. He was a convicted gangster who killed a police officer who happened to be on Mr. Noye's property without Mr. Noye's permission. Mr. Noye said in court that he had a reasonable suspicion that this figure coming through the shrubbery in his garden was going to do him harm, so he killed him. Kenneth Noye could be prayed in aid in support of this Bill just as much as Brendan Fearon could. Brendan Fearon was mentioned earlier, as was Fred Barras, the 16-year-old boy killed by Tony Martin.

Every politician says that hard cases make bad law, and I understand that the case of Tony Martin is the most extreme case in many ways. However, we cannot avoid the fact that many people out there will see this

*[Mr. Pound]*

Bill not as the Kenneth Noye law but as the Tony Martin law. We have a responsibility to place on record that Tony Martin killed a 16-year-old boy with an illegally held pump-action shotgun. I said earlier that we were talking not about legal niceties and trivialities but about life and death. Fred Barras will never have the opportunity to mend his ways or to become a worthwhile contributing citizen of this country. He will never have the opportunity of redemption, because he died at the age of 16. I hold no brief for those who break into other people's homes, but I cannot, with anything other than great sadness, look at a situation in which a 16-year-old boy in bad company is shot once and then again, in the back, as he flees the home of Tony Martin.

I think that we have to look in our hearts and ask, "Was that 16-year-old boy so incapable of redemption that he deserved death?" I suggest that he did not deserve death, and that any implication in the Bill that anybody who breaks into someone's home deserves death would be a step too far—one that leads us into very dangerous waters.

**Mr. Dismore:** My hon. Friend has referred to this as the Tony Martin Bill, but I understand from what the hon. Member for Newark (Patrick Mercer) has said that the Tony Martin case would have been decided in exactly the same way under this test as under the existing test. One of the problems we have here is that people are being given a false impression of what the Conservative party is up to with the Bill, rather than the real and accurate position. In practice, that use of force by Tony Martin would be grossly disproportionate, because he was not trying to defend himself at all. He was seeking revenge, which is not permitted under either the existing law or the Bill.

**Mr. Pound:** As ever, my hon. Friend makes a rather good and telling point. Much as I have enjoyed jousts in the television studios with the hon. and gallant Member for Newark, I have also appeared on a number of programmes with Mr. Martin. It is not for me, as an unqualified person, to comment entirely on his intellectual analysis of the situation, but he was described by a near neighbour of his as being as mad as a box of hot frogs.

Perhaps we should put Tony Martin aside. Let us not forget that his lonely farmhouse, Bleak House, had been broken into some dozen times. I look to the hon. Member for North-West Norfolk (Mr. Bellingham) for confirmation or denial of that. The fact that he had suffered in that way does not excuse what happened. Is not the absolute heart—the crux—of the debate what should happen when a person is being victimised? Are we seriously talking about a world of elephant traps, shotguns—illegally held or otherwise—and the arms race, or are we saying that the law is on the side of the victim? The law is on the side of the householder, and the presumption of innocence will always rest with the householder, never with the intruder.

I will not be the only person in the House to be glad to hear me say that I shall now bring my remarks to a close, if I may.

**Mr. Dismore** *rose—*

**Mr. Pound:** I give way again to my hon. Friend.

**Mr. Dismore:** I am grateful to my hon. Friend for giving way. He has been speaking for 50 minutes and I know that he has said quite a lot about this, but I want to return to the key point of the burden of proof when a defence of self-defence is used. In such circumstances, the law is definitely on the side of the person who has been charged with the offence, because the burden of proving that the defence of self-defence does not apply is on the prosecution, which is trying to gain a conviction, not on the person defending himself.

**Mr. Pound:** My hon. Friend makes that point extremely well. I wish I were more familiar with the law—although I have to say that by the end of a few more Fridays like this I might be, if not approaching qualification in it, at least a little better educated, if not more intelligent.

I am acutely aware of the fact that others wish to speak and I will bring my remarks to a close. I repeat what I said at the beginning, which is that I respect the emotion—the motives—of the hon. and gallant Member for Newark. However, we hear one phrase over and over again every time this issue is debated, whether in the great debating halls of the Palace or on television or radio—I shall not even mention Radio 4. The expression prayed in aid is archaic and anachronistic, but often repeated: "An Englishman's home is his castle." I suggest that one can make a case for saying that the Englishman's home is his castle, but whether a person's home is a castle or not, they do not have the right to pour boiling oil over somebody coming up the front path. I rest on that point.

12.34 pm

**David Davis** (Haltemprice and Howden) (Con): I note that the final remark of the hon. Member for Ealing, North (Mr. Pound) on the Englishman's home being his castle is rather different from the Government's aim to make it his dungeon, as it would appear. I hope that I can speak in rather less time than he took on his speech.

Most of today's debate has been extremely good, despite the frequent appearance of Aunt Sally on the Government Benches. I congratulate my hon. Friend the Member for Newark (Patrick Mercer) not just on obtaining the first position in the private Member's Bill ballot, but on putting it to such good effect? He made a brilliant speech this morning, and I agree with the Liberal spokesman, who is not in his place at the moment, that what he has done has already had an effect—a constructive one.

I also congratulate the right hon. Member for Birkenhead (Mr. Field) on a courageous and clear speech in support of the Bill, and on his honesty in describing what he saw as the Government's beliefs. It is rare that I congratulate Liberal spokesmen, but the hon. Member for Somerton and Frome (Mr. Heath) made a speech that went right to the core of the issue in terms of

the balance of proof and the balance between the victim—the householder, in this case—and the burglar. We have heard some extremely important speeches in support of this important Bill.

The Conservative party supports this Bill, as do so many others. Sir John Stevens, the recently retired Metropolitan Police Commissioner, supports it. The new commissioner Sir Ian Blair signalled initial support, but I shall draw a veil over what happened thereafter. The listeners of BBC Radio 4's "Today" programme voted for a similar Bill to be brought forward last year, as the hon. Member for Ealing, North has painful reason to remember.

**Tom Levitt:** Will the right hon. Gentleman give way?

**David Davis:** I shall do so in a moment, even to some of the most dismal interventions.

As has been pointed out, even a former burglar supports the Bill. For a moment, the Government appeared to support the Bill, too. Then they changed their mind. The Lord Chancellor said that he was not sure that changing round the legal test would make the difference. The former Home Secretary was said to be "relaxed" about a change in the law. The Prime Minister said,

"we will, of course, support a change in the law."—[*Official Report*, 8 December 2004; Vol. 428, c. 1160.]

Finally, the Home Secretary decided that a leaflet was the answer—perhaps he had forgotten the question. The Under-Secretary of State for the Home Department, the hon. Member for Wythenshawe and Sale, East (Paul Goggins), broke ranks and said, if I remember him correctly, "The burglar has no rights. The burglar is in the wrong." That is simply another example of the chaos at the heart of the Government's policy making in this area.

**Tom Levitt:** I thank the right hon. Gentleman for giving way, albeit in a qualified way.

In relation to this Bill, several Opposition Members have prayed in aid quotes from Ian Blair's interview on the "Today" programme. Is the right hon. Gentleman aware that in the same interview, Mr. Blair, referring to existing legislation, continued:

"I really do want it to be clear that people are not at risk of prosecution if they resist somebody coming into their home."

He concluded:

"I don't really mind whether it's a change in the law or a change in the guidance. I don't mind which of those two it is as long as everybody is clear that it is the intruder who is at risk not the householder."

That is hardly categorical support.

**David Davis:** The Government have offered neither—they have offered a leaflet, which is not a change in guidance. It has no standing in the law, as he of all people should know. What we are talking about is a proper change in the law to make this clear, constant and a defence for the victim, not the villain, which is generally the burglar.

The hon. Members for Leyton and Wanstead (Harry Cohen), for Ilford, South (Mike Gapes), for High Peak (Tom Levitt) claimed that burglary has fallen. They did not point out that there were still nearly 820,000 incidents of burglary last year. Home Office researchers recently interviewed burglars, asking them to describe the decisions that they had taken when planning and carrying out a domestic burglary. The Home Office published that report last year, with which I am sure the Minister is familiar, and it was clear that the need for drugs money was the main reason that offenders gave for burgling property. That was another issue raised by the hon. Member for High Peak.

One of the main findings of the report, which will not surprise many people, was that burglars considered their criminal activities to be "virtually risk free". Sixty-seven per cent. thought that there was little or no risk of being arrested for their crime. The threat of detection during the course of burglary was not a deterrent—hardly surprising, since detection rates under this Government have halved in seven years. Two thirds of the sample said that they had returned to the same property that had been burgled previously, which is relevant to some of the discussions about baseball bats and whether people should be allowed to defend themselves having been attacked once already. All that is hardly surprising either, given that the burglar has hardly any chance of being brought to justice. According to the Home Office's own statistics, only three out of 100 burglaries resulted in a conviction. Out of the 820,000 cases of burglary, 25,000 people were convicted. In addition, since 2002, first-time burglars are likely to be given a community sentence instead of going to prison.

So the judicial system that has been much vaunted today does not actually provide much protection. To compound it all, when the householder faces one or more burglars, he does not know where he stands in the eyes of the law when he tries to protect himself, his loved ones or his property. That is what my hon. Friend's Bill will put right.

In some cases, the Bill will stop people being dragged through the courts on a charge of assault or worse. It will also protect the many more people who, as my hon. Friend the Member for North-West Norfolk (Mr. Bellingham) pointed out, suffer unnecessarily extended investigation, which can wreck their lives. It will give home owners peace of mind that, if confronted with an intruder, they can defend themselves, their possessions and their family, and they can do so with complete freedom from prosecution if the force that they use is not "grossly disproportionate".

As I said, we have had a lot of Aunt Sallys today, but this not an Oklahoma law as people have suggested. It is simply an amendment to criminal law to bring it in line with the Government's own amendment to the civil law. The Government say that the current phrase "reasonable force" is adequate for criminal law. I disagree. If, as my hon. Friend the Member for Newark pointed out, "reasonable force" is a suitable term, why was it changed by the Government in the Criminal Justice Act 2003, under pressure from ourselves and the Liberal Democrats, to "grossly disproportionate"? That term is used for similar purposes in other countries, such as France and

*[David Davis]*

New Zealand. As I said before, even the new Metropolitan Police Commissioner said only this week that the term proposed by my hon. Friend

"does make the intruder feel at risk"—

a quote that the hon. Member for High Peak did not repeat. That is the point; at the moment the burglar feels less at risk than the home owner. My hon. Friend's Bill will change that.

The Government say that everything is fine—that people just need to be educated on what is acceptable and what is not, so on Tuesday they published 100,000 leaflets to send to householders explaining their rights. The other 700,000 people who were burgled last year presumably will just have to guess.

The cartoonists had a field day, but in short the leaflets have done nothing to clear up the confusion. There were headlines all over the next day, saying that you may kill a burglar but, if you chase him out of the house, "don't dare hit him twice", and "Advice is laughable and silly, say the victims" and many more. Will a householder really remember—a point made, to be fair to him, by the hon. Member for Ealing, North—at 2 am when chasing an intruder down the street that they can only rugby tackle him or land him a single blow?

Two things are notable about the debate that has been engendered by the leaflet. The first was that, in order to explain what was allowable under the law, the language used by the representatives of the Association of Chief Police Officers was not very "excessive and gratuitous force"—almost synonymous with not "grossly disproportionate" force. Indeed, spokesmen seemed to find a variety of ways of re-expressing precisely what my hon. Friend the Member for Newark has written into the Bill—ironic, given that the words in the Bill are the Government's own.

A leaflet does not have the force of law, so the leaflet will not do. A range of views was expressed by the people who should know, particularly chief constables: Sir John Stevens believes that a clarification is necessary; and Sir Ian Blair voiced—how can I express this?—a range of views. Others, it is true, have said the opposite. Indeed, I saw on television three weeks ago a chief constable expressing a view of what a householder can do in far more robust terms than are laid out in this leaflet. So if chief constables do not know—indeed, Sir Ian Blair appeared not to on the programme the other morning—how on earth, even with a leaflet, can ordinary members of the public be expected to know?

**Chris Bryant:** Will the right hon. Gentleman give way?

**David Davis:** No, I will not. I am making only a brief speech.

Leaders of our police forces are unclear because the law is unclear. The law is unclear because it involves a great deal of interpretation by the police, by the Crown Prosecution Service and, in the final analysis, by the jury—even those who throw out these cases in half an hour. The fact that interpretation is difficult and uncertain is demonstrated by the changing interpretation of "reasonable force" over the decades. There was even a case in 1924—the hon. Member for Ealing, North will like this—in which the court said that

"in defence of a man's house the owner or his family may kill a trespasser who would forcibly dispossess him of it."

That was considered reasonable force. Nobody would agree with such a stark definition today, but it demonstrates that over the years the interpretation has changed with changes in conventional wisdom and political correctness.

There will always be in the law a margin for interpretation, as we discussed in the speech of the hon. Member for Somerton and Frome (Mr. Heath). That is why we have judges and juries. The Bill moves the point at which that interpretation is made in favour of the householder, including those who rent, and away from the criminal. It is as simple as that. All the confusing tactics deployed by Government Members will not drive that fact away. The public deserve better—an evocative phrase from the past—and they deserve clarity, consistency and protection against villains. The Government are not providing any of those. The Bill provides them all and therefore deserves the support of the House.

12.46 pm

**The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins):** I have learned this morning that speeches in the House are just as good on a Friday morning as they are at other times of the week.

I congratulate the hon. Member for Newark (Patrick Mercer) on his success in the ballot. The first slot is a considerable prize. Indeed, my predecessor as MP for Wythenshawe, Alf, now Lord, Morris of Manchester, famously gained a similar place in the ballot in the late 1960s and succeeded in introducing the private Member's Bill that became the Chronically Sick and Disabled Persons Act 1970. It remains to be seen whether the hon. Gentleman's Bill manages to survive as well as that piece of legislation. It is not, of course, the first Bill to be introduced on the issue. The House will recall that last April, the hon. Member for North Thanet (Mr. Gale) introduced a Bill that ultimately ran out of time. The present Bill is not quite the same as that Bill, but it addresses the same issues. We all recognise the legitimate concerns of a householder who has to defend himself or his property against intruders.

**Mr. John Taylor** (Solihull) (Con): It has been my experience as a former Government Whip and as a Back-Bench sponsor of private Members' Bills that such Bills run out of time, as euphemism has it, only if the Government do not try to help them. That is very much in the Minister's gift this morning, and I am sure that my hon. Friend the Member for Newark (Patrick Mercer) would be pleased to receive reassurance, especially as a general election may not be far off, that the Government will back the Bill and get it on to the statute book.

**Paul Goggins:** As the Minister responsible, it is vital that I set out clearly the Government's response to this important Bill. It is important that I set out the Government's position, and I shall do so as quickly as possible, although I welcome the intervention by the hon. Member for Solihull (Mr. Taylor).

We all recognise the legitimate concern of a householder who has to defend himself or his property against intruders. A number of hon. Members on both sides of the House have made it clear that that is a dreadful prospect for anyone to face, particularly when they are isolated or vulnerable, or if they live in remote areas where help may not be close at hand. Whatever the differences between us over the Bill, the Government—indeed, all of us—recognise that those concerns are real and should be dealt with seriously and sympathetically. We all have a legitimate right to expect that our families should be able to feel safe and secure in their own homes.

**David Davis:** As always, the Minister is taking a constructive approach to the Bill. Given that, as he says, there are real concerns about this issue, that a very high percentage of the public believe that such a Bill is necessary and that members of all parties, including distinguished members of his party, think that the Bill is a good idea and has serious merit, if he is not going to support it, will he tell us clearly what he thinks its demerit is? As far as I can see, it has no downsides and only advantages. I would like to hear from the Government what they think the disadvantage is.

**Paul Goggins:** I am sure the right hon. Gentleman will listen carefully. He always does, and is very gracious in doing so. I hope to have the opportunity to explain why the Government have come to the conclusion that it is not the law itself that is the problem, but perhaps the public misunderstanding how far they can go in defending themselves reasonably in the face of an intruder in the home. I hope that I will be able to persuade him and his colleagues of the merits of our argument. I shall equally listen to him.

**Chris Bryant:** Will my hon. Friend also point out some of the anomalies that the Bill would introduce? For instance, someone in a house or a building would have one defence under the law, but someone who tried to do the exactly same thing in the garden of their home would not have the same defence. Such anomalies are likely to lead to greater uncertainty, rather than less.

**Paul Goggins:** My hon. Friend asks me to point to some of the difficulties with the Bill, and the right hon. Gentleman asked a similar question. Who knows? In due course, I might reach the point at which I am able to do that. I look forward to being able to offer an explanation.

My right hon. Friend the Member for Birkenhead (Mr. Field) made a very impressive speech. At the same time, he brilliantly gave his support to the Bill and to the Government. His contribution was very telling, and I agreed with the central thrust. We must have greater community confidence if we are to take on and defeat crime more generally. I did not agree with his comment that the police are broken backed, but he advanced a powerful argument.

There is considerable public anxiety and uncertainty about how far an individual can go to defend himself. Prompted by particular cases and widespread media coverage, people have asked a perfectly understandable question, "If I do come across an intruder and I try to defend myself, could I find myself on the wrong side of the law?" Faced with an intruder in his home, at dead of night and with family and vulnerable young children to protect, it is perfectly understandable that a householder will feel threatened. His first thoughts must be of defending all that he holds dear. Of course, in such circumstances, the right to self-defence is incontrovertible.

An intruder's first thought may be flight, or it may be to continue their crime. The householder very probably will want to remove the potential threat from the premises quickly. In truth, the householder, already surprised, has no way of knowing what the intruder may do. Lashing out with a fist or whatever comes to hand against a threat, perceived or real, is likely to be a common and understandable reaction.

**Tom Levitt:** I appreciate that the Bill and the law in question are not just about people being killed, but that is where the headlines are concentrated. I understand that the Home Office is conducting a review of the law on murder and, presumably, illegal killing of any sort. Will my hon. Friend comment on that review? Perhaps he feels, as I do, that it would be inappropriate to push ahead with the Bill while that review is still in progress.

**Paul Goggins:** My hon. Friend raises an important point. The Home Office is conducting a review of the law on murder and manslaughter. Self-defence will be an important issue in that review, but it relates to incidents that end in the loss of life. This Bill may also be talking about other incidents that do not lead to the loss of life, so we are having a legitimate discussion now. However, he is quite right to point to the review.

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): The Minister has just told us that the Home Office is conducting a review after seven years—we congratulate it. Will he tell us how many other reviews the Home Office is conducting?

**Paul Goggins:** Given the earlier comments of my hon. Friend the Member for Ealing, North (Mr. Pound), I am tempted to say that I will write to the hon. Gentleman. I certainly could not give him a precise figure at the moment, but in a Department such as the Home Office, responsible as it is for a wide range of issues, it is not unreasonable that a number of reviews should be going on at any particular time.

Under the law as it stands, a person is entitled to use "reasonable force" in self-defence or to protect another person or their property. What constitutes that reasonable force will depend on the circumstances of each case, and Members on both sides of the House have speculated about those different circumstances. Faced with an intruder who is a grown man of 6 ft 4 in, the threat—perceived or real—will be different from the threat posed by an immature 12 year old. The circumstances in each case will lead to a judgment about what is reasonable. The nature of the threat and what it would take to counter the threat must be taken into account when judging what is reasonable in the circumstances.

The law also takes account of the fact that a person under attack or being robbed may be frightened and confused. Woken by an intruder at 3 o'clock in the morning, a person cannot be expected to judge to a fine

*[Paul Goggins]*

nicety the level of force that might be required to defend themselves against the threat posed. What the law asks is that the person act instinctively and honestly. So we must be clear: the law itself, and every part of the criminal justice system, must and does support the right to self-defence.

As the Director of Public Prosecutions said on 12 January,

"the law is on the side of householders".

Many Members have made that comment this morning, not least my hon. Friend the Member for Ealing, North, and it bears repeating: the law is on the side of householders. Being burgled is a frightening experience and householders who react instinctively and attack intruders will be prosecuted only if they use very excessive force. Only in the most extreme circumstances are householders prosecuted for violence against burglars. The Director of Public Prosecutions made it clear on 12 January that only in those extreme circumstances would prosecution be considered.

What the law does not permit is an act of retaliation. The punishment of criminals is rightly a matter for the courts; it is not for victims, vigilantes or anyone else to take the law into their own hands. People should support the police and the courts so that they can do their job effectively. People can defend themselves, but they should not seek to punish an offender for a crime or trespass committed against them. Prevention and self-defence are one thing, retaliation is quite another.

The Government continue to judge that the law as it stands represents a fair balance between the need for householders to defend themselves and their property and the need for society at large to have confidence in the rule of law. The Director of Public Prosecutions said that prosecutors recognise that householders confronted by intruders are entitled to use violence to protect themselves and their families. He continued:

"We routinely refuse to prosecute those reacting in the heat of the moment to finding intruders within their homes. So householders who have killed burglars in this situation have not been prosecuted. Householders who have shot burglars have not been prosecuted. Householders who have stabbed burglars have not been prosecuted. Householders who have struck burglars on the head, fracturing their skulls, have not been prosecuted."

My hon. Friend the Member for Ilford, South (Mike Gapes) made a powerful intervention, underlining precisely those points.

The right hon. Member for Haltemprice and Howden (David Davis) referred to remarks that I was reported to have made when I was in a television studio with the hon. Member for Newark on Wednesday afternoon, at exactly the same time as the Leader of the Opposition and the Prime Minister were discussing the same issue. The point I was making in that interview—I am sure that the hon. Member for Newark will back me up—was that it is the burglar who is in the wrong when they have entered somebody else's house. It is the householder who is in the right and who has the right to expect the full force of the law to support them. There is sometimes in debate a sense that the threshold has been lowered to the point at which the burglar has greater rights than the individual householder—that is completely wrong, as the current law indicates. A burglar entering somebody's house is absolutely in the wrong. A householder, in defending himself, is absolutely in the right.

**David Davis:** The Minister is generous in giving way. I do not dispute for a second the fact that that is what he wants, and intends, the law to be. The difficulty is the latitude. The fact that he can cite a number of cases in which the law got it right does not deal with the point made by my hon. Friend the Member for Newark (Patrick Mercer), which is that there is also a large number of cases in which the law got it wrong. The Government put up a figure of 11 such cases, which they pretended was the result of comprehensive research, but it turns out that there are at least a couple of dozen, including cases that have gone to court and been dismissed by the judge, or within half an hour by the jury. It is the latitude that is the problem. What matters is not that some judgments are right, but that some are wrong.

**Paul Goggins:** The right hon. Gentleman questions the figure of 11, which came from a first review. Others have suggested that the number may be greater; the right hon. Gentleman suggests that there may have been a couple of dozen such cases, but that is over 15 years. The point is that whether it is 11 or two dozen, it is a small number over a substantial period.

**Mr. Lilley:** How many examples were required before the Government decided to change the test in civil cases to one of disproportionate force?

**Paul Goggins:** I was going come on to that later in my speech, but I shall respond to the point now. The decision was not a response to a particular case. The point was forcefully argued during the passage of the Criminal Justice Bill, now the 2003 Act, that there was a lack of clarity in the law, and whether or not there had been previous such cases, burglars and other criminals who had committed serious offences could take a legal action for damages against the victim of their crime. There was agreement in the House that we could not contemplate that, so we set out, in civil law, the test of grossly disproportionate force for that sort of criminality in order to stop burglars and others gaining further advantage from their crimes. That issue is different from the one that we are discussing today.

**Chris Bryant:** Is not the truth of the matter that under the current criminal law, if it is properly understood, burglars cannot be choosers?

**Paul Goggins:** My hon. Friend has, as ever, a clever way with words.

**Tom Levitt:** Unless it is the intention of the hon. Member for Newark (Patrick Mercer) to bring in a law that will never convict anyone, is it not the case that with the same test, that of gross disproportionality, in criminal and civil law, anyone convicted under the proposed legislation would automatically be liable for damages? Is not that precisely what the House wanted to avoid when it passed the earlier legislation?

**Paul Goggins:** There may be some confusion, but the whole point of the Government introducing the measure in the Criminal Justice Act was to prevent burglars or other criminals who had carried out serious offences from trying to gain a second time from their offending by taking the victim of their crime to court to get damages from them. The whole House recognised that that would have been utterly wrong. The read-across from that new provision in civil law to a proposition for criminal law does not work as simply as the right hon. Member for Haltemprice and Howden or the hon. Member for Newark have suggested.

**Mr. Gale:** What, apart from semantics and the fact that neither is enshrined in law, is the difference between "very excessive and gratuitous" and "grossly disproportionate"?

**Paul Goggins:** The hon. Gentleman is probably referring again to the leaflet, as he has done once or twice. It is convenient that he does so, because I want to make an important point. The leaflet seeks to explain that "reasonable", in the context of a burglar coming into one's house in the middle of the night, has a high threshold of understanding. Perhaps the public believe that "reasonable" is a limiting word, allowing little action to be taken.

The whole point of the leaflet and the explanation that we offer is to make it clear that householders facing a serious threat from an intruder can go to considerable lengths to defend themselves and their family. For example, the householder can strike the first blow—many members of the public did not understand that they could do that if it was reasonable to do so in the circumstances. They believed that if someone who broke into their house was killed or badly injured, they would automatically be prosecuted—that is absolutely not so. The leaflet makes it clear that "reasonable" can cover actions that at one level seem quite severe, but that are important to take in the context of householders' rights to defend themselves. I see no contradiction between the current law on reasonable defence and the terminology of the leaflet. Incidentally, I am glad that hon. Members on both sides of the House have quoted the leaflet extensively, because the more we advertise the message it contains, the better.

**David Davis:** Especially as the Government did not print enough.

**Paul Goggins:** The hon. Member for Newark mentioned that 100,000 copies of the leaflet had been distributed, but it is widely available on various websites and I am sure that the whole House will be delighted to learn that, in view of the huge demand, 200,000 additional copies are being printed. If more are required, we shall print more.

**Mr. Stunell:** Will the Minister take back to the Home Office the suggestion that police authorities should be encouraged to require the levying authorities to enclose the leaflet with council tax demands, which go out in a month or two's time, so that every household in the country receives it? That is one way to ensure better penetration.

**Paul Goggins:** I do not know what estimate the hon. Gentleman has made of the cost of producing and circulating so many leaflets, but as we do any suggestion made in the House, we shall consider his carefully. I thought that he was going to make another attempt to draw me on to the subject of the standard of policing in Greater Manchester, in which we have a shared interest.

**Harry Cohen:** Does my hon. Friend agree that the Conservatives' argument that the leaflet is not law is spurious? The decision on whether to take action against a householder rests with the police and the CPS, who will use the leaflet as their bible in such instances. The leaflet will have an impact on the law, so to say that it is irrelevant because it does not carry the force of law is simply incorrect.

**Paul Goggins:** My hon. Friend makes an important point. There are three levels to the provision: first, we have the law, which the Government believe is perfectly adequate to allow householders to take whatever steps are necessary to defend themselves and their families from an intruder; secondly, the leaflet explains that law in simple, straightforward terms to the general public, so that they can have greater confidence about what they can and cannot do when someone enters their house and poses a threat; and, thirdly, we have the guidance against which the police and the CPS weigh each case. We therefore have appropriate provision in terms of the law, public understanding and professional judgment. In my view, that provision is adequate to ensure that everyone knows that the law is on the side of the householder who takes defensive action when someone breaks into their house.

Several speakers mentioned the comments made by the Prime Minister in the House on 8 December. He acknowledged that there was public anxiety about the issue and made it clear that he was prepared to consult chief police officers, the CPS and the Attorney-General to discover whether there was a problem with the law, or a problem with the way in which the law was operating and with public understanding of the law. Having heard from them all, my right hon. Friend the Home Secretary has concluded that the law itself is sound. My hon. Friend the Member for Leyton and Wanstead (Harry Cohen) reminded us of the comment made by Anthony Scrivener, Tony Martin's barrister, last year: he stated plainly that the law as it stands is

"simple and weighted overwhelmingly in favour of the householder."

**Mr. Dismore:** The Leader of the Opposition said when he was Home Secretary that he was not persuaded that there was a need to change the law, but that he would look at the public reaction. He has now switched his position because he thinks that doing so suits his political ends. Are not the Opposition involved in blatant opportunism?

**Paul Goggins:** I agree with my hon. Friend. Not only has the Leader of the Opposition switched his position, but when he was Home Secretary, there were far more burglaries than today.

We recognise—this is clear from the many voices raised in the debate both this morning and at other times—that there is a pressing need to ensure that

*[Paul Goggins]*

householders fully understand the law. Steps have now been taken to address the need for clear information. We have already discussed at some length the leaflet entitled "Householders and the use of force against intruders", published by the CPS and the Association of Chief Police Officers earlier this week. The leaflet sets out in plain, straightforward language what rights householders have and what level of force they can use when confronted by an intruder. It makes it clear that

"as a general rule, the more extreme the circumstances and the fear felt, the more force you can lawfully use in self-defence."

I was struck by the fact that my hon. Friend the Member for Hendon (Mr. Dismore) made the point very forcefully in an earlier intervention that the different circumstances that people face will determine the level of force that it is reasonable for them to use.

The leaflet also quite rightly explains, however, that if very excessive and gratuitous force is used by a householder, he could be prosecuted. I am thinking of the comments made by my hon. Friend the Member for Ealing, North, who talked extensively about the use of a cricket bat. If someone used a cricket bat to take defensive action against someone who came into his property, even if he had left that cricket bat conveniently to hand in case those circumstances arose, it would be reasonable to use the bat to defend himself. Clearly, if after hitting the burglar over the back of the head, making him unconscious, he continued to hit him over the head to the point where he killed him, that would go beyond what was reasonable. That would be a very serious matter and the police would need to investigate it. Equally, if householders set traps to hurt or kill intruders, they would be acting with excessive and gratuitous force and could be prosecuted. The hon. Member for New Forest, East (Dr. Lewis) suggested in an intervention that setting any kind of trap by someone who was trying to anticipate a burglary would somehow be wrong. The advice in the leaflet makes it clear that such a trap would have to be intended to hurt or kill a possible intruder.

**Mr. Gale:** Unfortunately, the Minister left off the last few words of that paragraph in the leaflet, which says:

"rather than involve the police."

The Minister, above all people, must be aware that someone cannot involve the police until a crime has been committed. The police will not act on the theory that someone may be about to commit a crime.

**Paul Goggins:** I am deeply grateful to the hon. Gentleman, who keeps explaining to the House—and, I hope, the wider public—the merits of the leaflet and the extensive advice that it offers. He is right: of course, any householder who is sufficiently in fear of someone entering their house, perhaps because they have been burgled before or because they have specific information that leads them to believe that someone will burgle their house, should share that information with the police. The police and the law are on their side. They have every right to expect the police to support them in those circumstances. I am very happy to take any other intervention that any hon. Member wants to make that draws out further information from the very helpful leaflet from the CPS and the police.

**Mr. Hancock:** The Minister suggests that it is not unreasonable for someone to make the police aware of what is happening. Many hon. Members have told us about the failure of the police to respond either quickly enough or positively enough to give confidence. What would the Minister suggest is a reasonable response from the police if a telephone call for help or assistance is made when someone suspects that they are being burgled?

**Paul Goggins:** I would expect the police to turn up as soon as it was possible for them to do so. The hon. Member for Somerton and Frome (Mr. Heath) pointed out that in some remote rural areas the situation may be different from that in the centre of an urban area, but with record numbers of police officers and community support officers provided by the Government, the chances of an officer coming to someone's aid are all the greater than they were or than they would be if police numbers were cut.

We have discussed the leaflet extensively. It is widely available from Citizens Advice and from a number of websites, including the Home Office website. As I said, in addition to the original 100,000 copies, a further 200,000 have been printed, and if more are required, they will be provided.

**Tom Levitt:** My hon. Friend will be interested to know that I intend to make sure that those of my constituents who have a particular interest or experience in this field receive a copy of the leaflet. It is extremely helpful. We should recognise the professionalism of the police in these circumstances. On the comment from the hon. Member for North Thanet (Mr. Gale), I hope the experience will lead people to use the 999 service better. People can call 999 when they are in fear of a crime or an injury being committed. They do not have to wait until the crime has been committed, but they should not do what one of my constituents, unfortunately, did the other day—ring 999 when someone had damaged the wing mirror on his car, thus perhaps stopping the police attending a real emergency where life and limb were at risk.

**Paul Goggins:** Anybody who uses 999 in such circumstances can only be criticised by any sensible person and by hon. Members across the House. The 999 service is for emergencies. Householders who feel that they are about to be burgled or who are being burgled should immediately dial 999 and should be able to expect the full support of the police.

**Mr. Dismore:** May I correct a misapprehension that may have been created by the hon. Member for North Thanet (Mr. Gale) when my hon. Friend the Minister was talking about a trap? The leaflet says that if a householder

"knew of an intended intruder and set a trap . . . rather than involve the police".

the householder might be in trouble. That is the important point. If someone knows a crime is going to be committed, that is the time to call the police, rather than set a trap. That is not the impression that was given earlier.

**Paul Goggins:** I am grateful to my hon. Friend, who always speaks with great clarity on these issues. I draw his attention and that of the House to the fact that in circumstances where it may be judged that the householder has acted with excessive force and there may be an investigation and a potential prosecution, infrequent as such cases are, the leaflet makes it clear that those inquiries will always be conducted by senior and experienced members of the police and the Crown Prosecution Service and will be dealt with as quickly as possible. A number of hon. Members have noted that in the past such cases have dragged on for a long time, but there has subsequently been no prosecution or appearance in court. Those matters should be cleared up as quickly as possible. I hope that with the assurance received this week from the CPS and the police, not least in the leaflet, people will have confidence that such matters will be dealt with expertly and quickly.

**Harry Cohen:** My hon. Friend spoke earlier about a Home Office review. About a year ago the Home Office was considering another telephone number to supplement 999, or perhaps designating 999 for emergencies only and the other line for non-emergencies. Is that subject to review? Has my hon. Friend any information to pass on to the House?

**Paul Goggins:** I reassure my hon. Friend that the Home Office is looking very carefully at that issue at the moment. Clearly, that is another review that the public and Members of the House will think important. We are conducting it at the moment and many issues will obviously have to be addressed, but the aim is to ensure that members of the public who need the help of the emergency services can expect them to be at hand as quickly as possible.

**Mr. Dismore:** My hon. Friend referred to the fact that the police and Crown Prosecution Service would investigate swiftly, which is what the leaflet says. It also says, however, that they will investigate sympathetically. That is an important point, and the leaflet refers to it twice, emphasising that cases will be investigated both as swiftly and as sympathetically as possible. That may correct some of the public's misapprehensions about how they may be treated.

**Paul Goggins:** I am grateful to my hon. Friend, who is quite right that the cases will be dealt with sympathetically. Of course, the sympathy will all be on the side of the householder, who will not have invited the intruder in and will be the victim. Even if there are difficult questions to be addressed, there will always be great sympathy as well as great skill in the way in which any such investigations are carried out, few in number as they are.

I referred earlier to the number of burglaries. Of course, we all want fewer burglaries, which has to be an objective for all of us. Domestic burglary is a terrible crime, and it is vital that we do all we can to prevent it from occurring. Where it does occur, we want to see the offender caught and prosecuted. The good news is that burglary has fallen by about 31 per cent. since 1999, so that the chances of being burgled now are lower than for about 20 years. Recorded crime figures show that domestic burglary in the 12 months to June 2004 was down by 13 per cent. compared with the same period in 2002–03. They are gains that we should all celebrate, but none of us should be complacent and no one can guarantee that the unthinkable will not happen. When somebody enters somebody else's house, the householder must be confident that the law is on their side. They have every right to expect that the incident will be investigated quickly and sensitively—something that my hon. Friend the Member for Hendon mentioned—and that all the facts of the case will be taken into account.

**Mr. Dismore:** A number of suggestions have been made from the Opposition Benches that the police should somehow not investigate such cases where somebody has died. Does my hon. Friend agree that that has to be nonsense, and that cases in which serious injuries occur or people are killed have to be investigated properly, at the very least because there will have to be a coroner's inquest?

**Paul Goggins:** My hon. Friend is right that there will need to an investigation when somebody is killed and that information will be needed for the coroner. Of course, there will need to be an investigation of any such incident, because there will have been a burglary, which is the crime.

**David Davis:** Just for the record and to help the Minister, the only suggestions that there should be no investigation came from his own Benches; none came from this side of the House.

**Paul Goggins:** Whoever raised the issue of investigation, my hon. Friend the Member for Hendon has made it clear to the House that there should and will always be an investigation, as is completely right.

**Martin Linton** (Battersea) (Lab): To clarify the point, the hon. Member for Surrey Heath (Mr. Hawkins) made an intervention in which he suggested precisely that it was wrong that there should be any investigation when it was the intruder who was the victim.

**Tom Levitt** *rose—*

**Paul Goggins:** I shall give way again.

**Tom Levitt:** Further to that point, several Opposition Members have suggested that the investigations themselves have been so harrowing to the householders involved that they should either not take place or not be taken as seriously as they have been in the past.

**Paul Goggins:** Different Members have sought to emphasise different views. What the House should be clear about, however, is that there will be an investigation whenever such an incident happens. The burglary will be investigated, and there will also be an investigation where there is any suggestion of excessive

*[Paul Goggins]*

force or a death occurs. I am grateful to my hon. Friends for making that clear, in case there were any doubts that investigations will always be carried out in those circumstances.

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): As the Minister said, burglary is a serious offence. My constituents are enraged when a derisory community service sentence is handed out by the courts, particularly for repeat burglaries. As he says that burglary is a serious offence, does he believe that the sentence should also be serious?

**Paul Goggins:** That takes us slightly wider, but I am happy to say that the Government are clear that for serious, dangerous and persistent offenders, prison is the appropriate punishment. The fact that, since 1997, we have provided 17,000 additional prison places with 3,000 more on the way is testimony to our belief that prison plays an important role in our criminal justice system. However, we also believe that community service sentences are appropriate for less serious, non-dangerous offenders. It is of course for the courts to decide on the appropriate punishment in each case.

**Mike Gapes:** My hon. Friend the Member for Leyton and Wanstead (Harry Cohen) referred to this earlier. We recently had experience in Redbridge of people being given bail, much to the regret of the police and, no doubt, the local community. Will my hon. Friend consider talking to his colleagues elsewhere in the Government about giving guidance to magistrates courts on the circumstances in which persistent offenders are given bail?

**Paul Goggins:** My hon. Friend will remember the passage of the Criminal Justice Act 2003 almost as well as I do. It was one of the first pieces of legislation that I had to deal with as a newly appointed Minister. He will remember that in that legislation we created the Sentencing Guidelines Council, which is responsible, under the chairmanship of the Lord Chief Justice, for issuing guidance on precisely the sort of matters that my hon. Friend mentioned. It is important that magistrates, and sentencers generally, have the whole range of powers and penalties available to them so that they can use the appropriate penalties in the right circumstances.

My hon. Friend referred to bail, which, backed up with electronic tagging or tracking, might be an adequate form of supervision; alternatively, an offender may need to be in prison. It is for magistrates to determine the appropriate course of action in each case. We must empower them to make those decisions in the right way so that my hon. Friend's constituents are safe from the crimes that those offenders might otherwise commit.

The 2003 Act introduced a measure, which we have discussed to some extent this morning, to ensure that people who commit burglary and serious offences cannot take the victims of their crimes to court to claim damages from them. It would be outrageous if a victim of crime were then turned into a perpetrator of crime and made to pay a financial penalty. We made it clear that that should not happen and we countered the possibility of any unjustified claims for damages where someone had acted reasonably and proportionately in self-defence against a perceived or actual threat. Provided that the householder was acting reasonably and proportionally in self-defence, there could be no question of a criminal taking them to court to claim damages.

That new provision came into force on 20 January 2004. It covers cases in which a person who has been convicted of an imprisonable criminal offence takes civil action for damages against the victim of that offence or a third party who has intervened, for example, to protect the victim; or to protect or recover property. In other words, in an area of the law that was previously unclear we have confirmed that the law is on the side of the victim, and we have made it crystal clear that we will not tolerate a situation in which a victim of crime is, in effect, turned into the perpetrator.

Any claim can now proceed only in strictly defined circumstances with the express permission of the court and would not succeed unless the court was satisfied that the householder's actions had been grossly disproportionate. However, the use of the term "grossly disproportionate" in the context of the civil law does not mean that it can or should be used in the criminal law. In addition to the burden of proof, there are several other differences between civil and criminal law. I am grateful to my hon. Friend the Member for Hendon for making that clear on several occasions this morning.

The test of whether force is reasonable in the circumstances is already well established for self-defence. It is used throughout the criminal law for deciding culpability when violence is used against another person. The test of reasonableness applies whether the act of self-defence occurs in the home, the workplace or on the street, although the location may have a bearing on assessing the level of threat that the victim faced. For example, the threat may well be greater for an individual in their home at night than for a member of a group in the street in the middle of the day. However, the law is applied clearly and consistently. We believe that the law is right as it stands, and I am sure that the hon. Member for Newark will not be pleased to hear that we shall resist the Bill. We do not believe that a change in the law is necessary.

We recognise the need to clarify the law so that people can be more confident about the steps that they can legitimately take in self-defence but we should not put householders beyond the reach of the law. The hon. Member for Newark doubtless believes that the Bill would produce greater clarity. However, I do not believe that that would be the result.

The Bill would create anomalies. Earlier, I was asked to comment on them. Although the measure is described as a householder protection measure, it is not limited to houses or homes but applies to any building. The person who uses the force does not need to be the owner or even a legitimate resident. He could even be a trespasser. Whether an assault takes place in a building and whether the person is a trespasser may be important and relevant factors.

**Mr. Dismore:** My hon. Friend is making an important point. Someone who lives in a caravan may believe that

that is their home and that the Bill protected them. However, a caravan is not a building and they would be confused if the Bill were passed.

**Paul Goggins:** My hon. Friend gives one example and there are others.

**Chris Bryant:** Although the measure is called the Criminal Law (Amendment) (Householder Protection) Bill, it does not give any greater rights to a householder. It does not specify whether someone is a householder or a tenant. The measure simply refers to "a person".

**Paul Goggins:** My hon. Friend raises another anomaly, which could confuse the public rather than clarify the position.

The Bill would apply to a householder who woke in the night to find an intruder menacing his family. However, it would also apply to a security guard who found a potential thief attempting to enter a warehouse, a farmer who found a child in a barn eating his apples, or a squatter who attacked another squatter who was trying to steal some money from him. The Bill would cover all those examples. That would be its effect, although the hon. Member for Newark may not have intended that.

**Tom Levitt:** The hon. Member for Somerton and Frome (Mr. Heath), who is not in his place, talked about scrumping. Will the Minister confirm that scrumping would not be covered because it happens in an orchard, not a building?

**Paul Goggins:** Scrumping generally happens in an orchard rather than a building. The important point is that it could be any building, not necessarily someone's home. That is a genuine consideration.

Current law is based on what is reasonable in all the circumstances and allows the court to take them all into account. Moreover, the term "grossly disproportionate" does not clarify the law. To amend the law so that a person is not guilty of an offence unless

"the degree of force used was grossly disproportionate"

does not provide a clearer test than that of reasonable force. How are we to define disproportionate? How will the courts interpret it? "Reasonable" is often used in criminal law and the courts are used to interpreting it. Introducing a new test will also introduce uncertainty. Introducing a new test would introduce a new area of uncertainty, because a judgment would still be required, whichever measure was in the law. It has been suggested in this debate that a test of gross disproportionality would somehow be no test at all. Well, there is a test, and there is still a judgment to be made.

We have had a wide-ranging discussion, and I think that we all agree that there is more that we can do to make sure that the public understand the law and the measures that they may legitimately take to defend themselves, their family and their property. That is why the leaflet and the reassurance that it offers are very helpful.

**Mr. Dismore:** I get the impression that my hon. Friend is drawing his remarks to a close. One part of the Bill with which I have a degree of sympathy provides that no prosecution should be brought without the consent of the Attorney-General. That would provide an additional safeguard. The Minister has not mentioned that provision so far. Will he let us have the Government's view on it? I can see how it could be a useful safeguard, but it could also result in politics being brought into the decision making process.

**Paul Goggins:** There are a number of dangers involved. We strongly believe that the decision whether to prosecute and the investigations that are carried out should take place at local level. We also believe that we have a service that is professional and experienced enough to make such judgments. Given the correct guidance and the correct public understanding, the local Crown Prosecution Service officers will be the most appropriate people to make those decisions.

My hon. Friend was completely right in his judgment that I was coming to the end of my remarks. I hope that I have explained the Government's position clearly. We believe that the law on reasonable force is perfectly adequate as it stands. It is not as limiting as the public might sometimes think. For example, in certain circumstances it is reasonable to strike the first blow when dealing with an intruder, and it might be reasonable to take an action that ultimately leads to the loss of the intruder's life. I believe that the term "reasonable" gives us the degree of latitude that we need. What we need more than anything is to convey this message to the public—and I wish that the whole House would unite behind us in this—not to sow further confusion but to give people the confidence that, when they are in their own home, they can take reasonable steps to defend themselves and their family.

1.37 pm

**Mr. Mike Hancock** (Portsmouth, South) (LD): I want to offer my warmest congratulations to the hon. Member for Newark (Patrick Mercer), not only on coming first in the ballot but on having the courage to take this issue on. I find quite unacceptable the suggestion that he has done this for short-term political gain. Surely everyone who has taken part in the debate has been faced in their constituency with the reality of the situations described in the debate. They will be aware of people's distrust of the law, and of their perception of the law's inability to protect them properly, either through the courts or in terms of the ability of the police to respond. What is a reasonable response time when someone's life is being threatened in the middle of the night, either in a big city or in a rural environment? Most people's perception is that, if they dial 999, there is little likelihood of the police arriving in time either to protect them properly or to apprehend the perpetrators of the crime.

**Tom Levitt:** On the hon. Gentleman's point about opportunism, many hon. Members have mentioned the fact that the Leader of the Opposition, in his capacity of Home Secretary in 1997, said that he did not feel that the current legislation needed to be changed, yet now, with only half the number of burglaries that there were in those days, his party is proposing this draconian change in the law. Does the hon. Gentleman not regard that as opportunistic?

**Mr. Hancock:** The hon. Gentleman should put that question to the Leader of the Opposition, not to me. It is not for me to answer on behalf of the right hon. and learned Member for Folkestone and Hythe (Mr. Howard). The hon. Gentleman's own Prime Minister had some doubts about this issue just a few months ago, when he spoke positively in favour of what the hon. Member for Newark is proposing. So we should not be too critical of people who have held different views on this issue; the Prime Minister is probably at the forefront of that group at the moment.

Several hon. Members have deliberately introduced red herrings to defeat what the Bill is attempting to achieve. No one today has suggested that there would be no investigation if a person was killed during the committing of a crime. The hon. Member for Surrey Heath (Mr. Hawkins) did not say that if a person was killed, the coroner would have no responsibility for carrying out an investigation of that death. It is convenient that so many Members have spent so much time hiding behind that as an excuse for not discussing what the hon. Member for Newark hopes to achieve here today. We seem to have lost the plot on that score.

That argument is similar to the one put up by so many Labour Members, who have suggested that someone who is not a householder would not be covered by the Bill. Where is the reasonableness in their thought about what the Bill is trying to achieve? I suggest that anyone in their own home would be covered. Using such a reason as an excuse for not voting for the Bill is pretty shallow.

**Chris Bryant:** Will the hon. Gentleman give way?

**Mr. Hancock:** No.

**Chris Bryant:** The hon. Gentleman has misunderstood.

**Mr. Hancock:** No, no. I have listened very carefully to every intervention and all that has been said this morning. The hon. Member for Newark and I, and possibly my hon. Friend the Member for Hazel Grove (Mr. Stunell), are the only Members who have stayed—*[Interruption.]* The hon. Member for Rhondda (Chris Bryant) will have ample opportunity to make his own speech. I would encourage him to do so. *[Interruption.]* From a sedentary position, the hon. Gentleman says that the Bill does not say "home" anywhere. The suggestion is that this applies in someone's home—my home, their home. I do not believe that any reasonable person—

**Chris Bryant:** It is not in the Bill.

**Mr. Hancock:** If the hon. Gentleman was arguing that to his constituents, they would laugh at him and say, "I'm sorry, but no wonder you don't understand the issue of lack of policing. You don't even understand when I am trying to protect myself in my own home." It is clear that Labour Members are so intent on defeating the Bill that they are using any excuse—grasping any straw—to do so. They are once again failing to address what people are concerned about.

The legislation is about allowing me or anyone else who is in their own home, or in somebody else's home as a guest, to defend that property.

**Chris Bryant:** It is not.

**Mr. Hancock:** I give way to the hon. and learned Member for Harborough (Mr. Garnier).

**Mr. Edward Garnier** (Harborough) (Con): The hon. Gentleman is perfectly right: the Bill would protect those who were in their own homes, but it would also protect, for example, those who were attacked in the street. The point that he is concerned about—the one that our constituents are concerned about—is what happens in their own houses. He is perfectly right to address it. I would not expect him to be bothered by the hon. Member for Rhondda (Chris Bryant).

**Mr. Hancock:** We are hearing the rattle of a very sad tune. Labour Members have realised that their Prime Minister probably had it right in December when he said that he believed that it might be time for the law to be changed. Their regret is that the hon. Member for Newark happens to be introducing the legislation, not one of their own. That is the real reason for the rebuttal we have received today. I am sure that many Members who have spoken would have sung from a different sheet had one of their colleagues introduced the Bill today.

**Chris Bryant:** Will the hon. Gentleman give way?

**Mr. Hancock:** No, I am not prepared to give way to the hon. Gentleman. He has been in and out of the House today more often than the Doorkeepers.

**Chris Bryant:** That is unfair.

**Mr. Hancock:** It is true, though. Is the law on the side of the home occupier?

**Mr. Deputy Speaker (Sir Michael Lord):** Order. We cannot keep having sedentary interventions. The House must listen to the hon. Member for Portsmouth, South (Mr. Hancock), who is addressing it.

**Mr. Hancock:** The hon. Member for Rhondda would do well to remember that those who dish it out ought to be able to take it. He seems to have lost the ability to take it when it comes back to him.

Today's debate is about whether the House has the confidence of the British people in delivering to them a change in the law that they want. They want that change because the only action that the Government have been prepared to take is to produce a leaflet. I share the view, which has been expressed by others, that the hon. Member for Newark has already made a considerable contribution to the debate. The leaflet has been produced only because of what he and others have been doing in the last three months. If the law was so right, readily understandable and correct, as Labour Members have said today, why was there a need for a leaflet? It did not just suddenly appear—it was needed to get the Prime Minister off the hook, and to give the Minister a reason for saying today that the Government would not back the Bill. That is a pretty shabby way to treat the House and public opinion on such an important issue as whether the public have the Government's support in defending their rights.

The right hon. Member for Birkenhead (Mr. Field) made the most telling point about the effect that a burglary or intrusion into someone's home space has on them. For some people I have known, that intrusion might not have ended in a terminal incident on the day, but certainly ended in an early death. Such people were traumatised and had their whole life turned upside down because of that sort of intrusion. Never once in the near-hour for which the hon. Member for Ealing, North (Mr. Pound) spoke did he mention the crisis that happens in the home of the victim.

**Mr. Pound:** I did.

**Mr. Hancock:** No, the hon. Gentleman talked about the rights of the perpetrator being taken from him with his death.

**Mr. Pound:** Will the hon. Gentleman give way?

**Mr. Hancock:** In a moment. The hon. Gentleman knows that I would always give way to a former member of the Royal Navy.

The right hon. Member for Birkenhead was speaking about something that most of us have experienced in our lives, our families' lives or with constituents. That sadness, trauma and inability to recover is not recognised in the courts, which is why so many people feel let down by the leniency of sentences when people's homes have been violated in an appalling way. Even without violence on the person, the intrusion into someone's home continually scars their existence and seriously damages lives. Courts do not take enough account of that. Time and again, the victims of that sort of crime are amazed at the leniency of sentence dished out to the perpetrators.

I have been in the houses of people, including my family, who have been subjected to burglary, and I have been subjected to it. It is not a pleasant experience. The only assistance that I was offered when it happened to me were suggestions as to where to go to recover some of the things that were stolen, as I might be able to buy them back from some market or other where they might feature.

**Mr. Pound:** I apologise for interrupting the hon. Gentleman's flow, as he is talking a lot of good sense. May I please tell him and the House that I did not refer exclusively to the rights of the burglar? I quoted the Monckton case, and talked about the trauma in the family. I referred to the case of a young woman that occurred in my constituency in Northolt yesterday and invited the House to imagine the trauma involved. No Member, on either side of the House, has anything less than complete and utter sympathy for and understanding of the traumatic effect of such incidents on the victims.

**Mr. Hancock:** I accept entirely what the hon. Gentleman has said, and I apologise to him if what I considered to be an accurate reflection of his speech has been misleading, which I did not intend. I accept that he mentioned those other issues.

Other hon. Members have raised as a red herring, to excuse their failure to support the Bill, the fact that it would not cover other types of abuse or crime that might be committed against people in their home. They have said that a woman who was raped in her own home, possibly even by someone she knew, would not be covered by this law. But we have other laws, and she is covered and protected by those. The amendment to the law that we are considering today is specific to issues that have been of general public concern. If the House—

**Mr. Gale:** Does the hon. Gentleman agree that we have heard a lot of nit-picking weasel words, designed to get the Government and their supporters off an unpleasant hook? They want to oppose the Bill. They know that they cannot. This is a Second Reading debate. If they believe what they say, they have every opportunity to take the Bill into Committee and amend it.

**Mr. Hancock:** I could not agree more, and the hon. Gentleman has said it far better than I could. Nevertheless we have an opportunity today to do what most of our constituents believe is reasonable. Most of our constituents will not believe—

**Tom Levitt:** Will the hon. Gentleman give way?

**Mr. Hancock:** No. Other Members want to speak and I have waited four and a half hours, so I think I need to be tolerant enough to give other Members the opportunity to speak.

It is perfectly reasonable for us to give this legislation a Second Reading today, and to let it test itself in Committee. What is wholly unreasonable is for the Government and Labour Members to hide behind a leaflet and believe that that is a reasonable alternative to a change in the law. When people are prosecuted, they are prosecuted not on the strength of advice in a leaflet, and on whether the prosecution will curry favour with the person who wrote that leaflet; they are prosecuted on the strength of what the law says, and whether there is a reasonable chance of a conviction. It is wholly unreasonable for us to leave here today having voted for a leaflet as opposed to a positive move in the right direction with a change in legislation.

I am delighted to be a sponsor of the Bill, and I again congratulate the hon. Member for Newark. I hope that Labour Members will not be led on this occasion by the Minister's words, because their constituents will not accept or understand the way that they voted on this issue.

1.52 pm

**Tom Levitt** (High Peak) (Lab): It is very often a great pleasure in the House to follow someone who can speak for 15 minutes without notes in a way that is focused, to the point, effective and powerful—even if that was not the case on this occasion.

There is a phrase in the English language, "using a sledgehammer to crack a nut". That is a classic example of something being grossly disproportionate in its use, and that in fact is what we are talking about today—a Bill that is grossly disproportionate to the problems that

*[Tom Levitt]*

it pretends to address, and which I believe exists for no reason other than to provide camouflage for an election campaign.

Let us put the matter in context. I know that there is controversy about the number of cases where householders have been convicted following attacks on people entering their home, but of the 11 that have been most often cited—there may be more or there may not; we do not know—only seven related to burglaries of domestic households, and that is over 15 years. I put it to the House that if that statistic is a huge underestimate—if it is only a quarter, a fifth or even a tenth of the number of cases involved—it means that this problem simply is not large enough, wide enough, or often enough occurring to merit legislation of this type. We should certainly not be legislating on the basis of seven cases in 15 years, but I do accept that this occasion is a good opportunity to clarify the law as it stands through the leaflet and so on.

Still setting the Bill in context, the likelihood of being a victim of crime today in Britain is lower than it was 20 years ago. Overall crime is down 36 per cent., including a fall of 6 per cent. in the last year alone, or 11 per cent. down according to the British crime survey—the longest standing, most consistent measure of crime levels in this country. There are 500,000 fewer victims of violent crime each year and, since 1997, the incidence of burglary has fallen by 42 per cent.—not a background on which legislation of this sort could be justified. The statistical average is equivalent to every house in the country being burgled once every 50 years or on one night in 18,500.

My constituency is fortunate in having below-average crime figures, but 60 per cent. of all crime in this country happens in just six police authority areas. We are not talking about a general problem of burglary or about disproportionate outcomes for householders.

**Mr. Dismore:** My hon. Friend has given some interesting statistics on burglary, but how many of those burglaries took place when the householder was on the premises? I believe the norm is for burglaries to take place in vacant premises or when the householder is not at home.

**Tom Levitt:** I do not have the figures to hand, but I believe that my hon. Friend is correct. Most burglaries of domestic properties take place when the house is empty or not occupied, and the Bill would clearly not apply in those circumstances.

It is quite amazing that a two-clause Bill should have so many loopholes. When the hon. Member for Portsmouth, South (Mr. Hancock) was speaking, some of us tried to raise the issue of what is meant by "property". Someone who lives in a caravan or a mobile home is not protected by the Bill. It relates only to buildings and not to gardens. Is a car port part of the building or part of the garden? Such issues would be raised if the Bill became law.

**Mike Gapes:** Is my hon. Friend aware that although the title of the Bill includes the words "Householder Protection", the Bill does not refer to householders? It refers to property and buildings. Is it therefore not misleading to call it the Criminal Law (Amendment)(Householder Protection) Bill? It should be called a property protection Bill or a building protection Bill.

**Tom Levitt:** My hon. Friend makes a good point. I had not spotted that flaw, and I will add it to my list.

It is problematic to apply the same legal tests of proportionality and reasonableness to the civil threshold for damages and to the criminal threshold for the response that the householder is allowed. Under the Bill, if the same threshold for gross disproportionality were used in civil and criminal law and someone is found guilty—let us assume that people will be found guilty every now and then, although I gained the impression that this would be a law without any culprits—the burglar attacked by the householder would automatically be able to claim damages. At present, because of the use of the word "reasonable" in criminal law, the householder is allowed to take a reasonable level of action. There is an unreasonable level of action but, if the householder takes such action, the burglar cannot to claim damages. Finally, there is a grossly disproportionate response, from which damages could ensue. The Bill would therefore provide a dangerous trigger.

**Mr. Dismore:** My hon. Friend has raised the issue of whether people would become richer under the Bill. It is important to emphasise the fact that Tony Martin would still have been convicted under the measure. As for the difference between civil and criminal law, in civil law the test is the balance of probabilities, but a higher threshold of grossly disproportionate action applies. In the criminal law, the test is reasonableness, but there is a much higher threshold of proof beyond all reasonable proof. To a certain extent, therefore, the reform of civil law levels the playing field.

**Tom Levitt:** My hon. Friend, with his knowledge of the law, which he often offers to the House, speaks with far more authority than I could.

One issue that has not been raised is the danger that the Bill would pose to the police if it were to come into force. Just before Christmas, my wife and I heard something in the street outside where we live in London. We listened carefully and there were certainly sounds of someone trying to get access to the house next door. When we heard our next-door neighbour's window being knocked in and broken, my wife called the police, and I tried to monitor what was going on by looking through the peephole in the door. Because someone was trying to gain entry to that house, it would have been reasonable for the householder to have attacked the intruder. They could have done so almost without restraint if the Bill were in force.

As it happened, the intruder to the house was actually a police officer. If the housebound lady who lived in the house had been tooled up ready to defend herself, perhaps with a firearm of some sort—that would not be unreasonable under the terms of the Bill—the police officer entering the house could have been placed in very great danger. I believe that the Bill would make people more ready to hold weapons ready for use in their house, more ready to use them and more ready to face

accidental consequences such as endangering the life of police officers who may well have highly legitimate and authorised reasons for wanting to enter a house without the householder's knowledge.

In this case, the lady in question had inadvertently pressed her alarm that summoned assistance. She had not realised that she had done so and therefore did not expect the police to arrive. The surprise arrival of a police officer through her window could have put that police officer in great danger.

**Mr. Dismore:** I am grateful to my hon. Friend for making that point because such a real case has arisen. Kenneth Noye shot a police officer, and where would he stand under the Bill? I suspect that he would have had protection, because the police officer would, I suppose, be deemed to have been a trespasser.

**David Maclean** (Penrith and The Border) (Con) *rose in his place and claimed to move*, That the Question be now put:—

*Question put*, That the Question be now put:—

*The House divided:* Ayes 140, Noes 21.

**Division No. 67]** **[2.1 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Bell, Sir Stuart
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Cameron, David
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Hancock, Mike
Hawkins, Nick
Heald, Oliver
Heath, David
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Mumson, Dr. Andrew
Osborne, George *(Tatton)*
Ottaway, Richard
Paige, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Redwood, rh John
Robathan, Andrew
Robertson, Laurence *(Tewk'bury)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Trend, Michael
Turner, Andrew *(Isle of Wight)*
Viggers, Peter
Walter, Robert
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. Geoffrey Clifton-Brown and**
**Mr. John Randall**

**NOES**

Beard, Nigel
Brown, rh Nicholas *(Newcastle E Wallsend)*
Bryant, Chris
Clark, Mrs Helen *(Peterborough)*
Cohen, Harry
Cryer, Ann *(Keighley)*
Fitzpatrick, Jim
Gapes, Mike *(Ilford S)*
Gardiner, Barry
Goggins, Paul
Harman, rh Ms Harriet
Hendrick, Mark
Hill, rh Keith *(Streatham)*
Hopkins, Kelvin
Jackson, Glenda *(Hampstead & Highgate)*
Levitt, Tom *(High Peak)*
McCabe, Stephen
McIsaac, Shona
Soley, Clive
Watson, Tom
Woolas, Phil

**Tellers for the Noes:**
**Mr. Andrew Dismore and**
**Mr. Stephen Pound**

*Question accordingly agreed to.*

*Question put accordingly*, That the Bill be now read a Second time:—

*The House divided:* Ayes 130, Noes 4.

**Division No. 68]** **[2.16 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Bellingham, Henry
Beresford, Sir Paul
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Cameron, David
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian

Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Hancock, Mike
Hawkins, Nick
Heald, Oliver
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Redwood, rh John
Robathan, Andrew
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Trend, Michael
Turner, Andrew *(Isle of Wight)*
Viggers, Peter
Walter, Robert
Watkinson, Angela
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. Geoffrey Clifton-Brown and**
**Mr. John Randall**

**NOES**

Clark, Mrs Helen *(Peterborough)*
Corbyn, Jeremy
Hopkins, Kelvin
Jackson, Glenda *(Hampstead & Highgate)*

**Tellers for the Noes:**
**Mr. Peter Luff and**
**Mr. Crispin Blunt**

*Question accordingly agreed to.*

*Bill read a Second time, and committed to a Standing Committee, pursuant to Standing Order No. 63 (Committal of Bills).*

**Mr. Forth:** On a point of order, Mr. Deputy Speaker. Can you confirm to the House that following that substantial and overwhelming vote, the composition of the Standing Committee to consider the Bill in detail will reflect the views and wishes of the House as expressed in the Second Reading debate and vote, in order that the Committee may do its job properly?

**Mr. Deputy Speaker:** The right hon. Gentleman is well aware of how these matters are arranged, and that is a matter for the Committee of Selection, not the Chair. I am sure that the Committee will consider it in the usual way.

**Mike Gapes:** On a point of order, Mr. Deputy Speaker. I seek your advice. As you are aware, I was present for almost the entirety of the debate, but regrettably, I was not called to speak because a closure motion was moved. I therefore voted against closure, but I would like your advice on how I can pursue my interest in the Criminal Law (Amendment) (Householder Protection) Bill in future, and on whether—

**Mr. Deputy Speaker:** Order. I can tell the hon. Gentleman that the one way in which he cannot pursue the matter is by prolonging the debate that we have just concluded.

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): On a point of order, Mr. Deputy Speaker. Given that the Government's policy in the area debated today has been massively repudiated in a vote on the Floor of the House, have you had any request from the Home Secretary to come here and make a statement apologising to the householders of Britain for not being prepared to stand up for them against the fear and concern that burglary cause?

**Mr. Deputy Speaker:** There has hardly been time for me to receive such a request since the result of the vote was announced, but it is now a matter of record, and I am sure that the Government will respond as they see fit.

**Mr. Geoffrey Clifton-Brown:** On a point of order, Mr. Deputy Speaker. You will be aware of the rule change that all questions that are not answered at Prorogation fall. I therefore tabled a written parliamentary question to every Department asking how many questions had fallen in that way. I received various answers from various Departments, ranging from four to zero. I did not receive an answer from the Ministry of Defence, so I tabled a pursuant question, and eventually received the answer that there were no questions outstanding at Prorogation. I did some research, however, and found that 21 questions had in fact fallen under this procedure. Would you please rule that when the Government answer written questions, the answers should be truthful and full? Furthermore, would you be prepared to recommend that this matter be referred to the Procedure Committee, to see whether the rule should be altered? It seems to me to be a charter for Departments not to have to answer questions that they do not like.

**Mr. Deputy Speaker:** On the hon. Gentleman's first point, the way in which Ministers reply to hon. Members is entirely a matter for them and is not a point of order for the Chair. On his second point, it is open to any Member of the House to make suggestions to the Procedure Committee, which I suggest he does if he wishes to pursue the matter.

**Mr. Dismore:** On a point of order, Mr. Deputy Speaker. My understanding was that private Members' Bills were unwhipped business, but I was impressed, although rather disappointed, by the activities of the Opposition Whips, who seem to have gone out of their way to ensure that Opposition Members turned up, effectively whipping the business. The closure motion was moved by the Opposition Chief Whip, and Tellers were put in for both sides in the second vote—

**Mr. Deputy Speaker:** Order. The hon. Gentleman is an experienced Member of this House and understands how we do things. He is well aware that that is not a matter for the Chair.

**Mr. Clifton-Brown:** On a point of order, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** I though that I had dealt with the hon. Gentleman's point of order.

**Mr. Clifton-Brown:** I am grateful for your ruling, Mr. Deputy Speaker. Nevertheless, it is a serious matter when a Department that is asked how many questions have fallen answers that no questions remain unanswered, but when I research the matter, I find that 21 questions remain unanswered. It seems a very serious matter that Ministers are answering questions in a way that means that the public might misinterpret them.

**Mr. Deputy Speaker:** I understand how the hon. Gentleman feels about this matter. It is a serious matter, and I draw his attention to a written ministerial statement made by the Leader of the House on 21 July 2004 at column 35WS, where the new arrangements to minimise such answers are set out. As I said before, however, I think that this is a matter that the hon. Gentleman should pursue in the way that I suggested.

## RENEWABLE HEAT BILL

*Order for Second Reading read.*

**Hon. Members:** Object.

*To be read a Second time on Friday 20 May.*

## COUNCIL TAX BENEFIT (ENTITLEMENT INFORMATION) BILL

*Order for Second Reading read.*

**Hon. Members:** Object.

*To be read a Second time on Friday 1 July.*

## Internet Shopping

*Motion made, and Question proposed,* That this House do now adjourn.—*[Mr. Watson.]*

2.34 pm

**Dr. Alan Whitehead** (Southampton, Test) (Lab): I was delighted to be selected to present this Adjournment debate. It concerns a relatively new phenomenon in shopping, which will have substantial implications for all of us, but which the House has rarely, if ever, discussed it in detail. It will affect the way we shop and the way we plan retail placement and logistics, and will have implications for the high street and the vitality of our town and city centres.

Over the past 20 years or so, we have had a similar shock in the way in which we do our shopping, with the development of out-of-town shopping centres, major superstores and hypermarkets. Although those are now very much part of our shopping lives, it is fair to say that the Government have successfully planned a future through planning policy guidance and other measures so that we have those stores and the protection and enhancement of high streets and town centres.

When that last wave of new shopping arose, the National Economic Development Council reviewed in 1971 what it thought the future would be for that new form of shopping. It stated:

"Despite the rate and scale of new developments, there is likely to be considerable rigidity in the basic framework now existing. The changes that are likely to take place in shopping over the next twenty years are only marginal within the established context."

That was in a year when six superstores and no out-of-town hypermarkets opened. By 1987, no fewer than 50 superstores and three out-of-town hypermarkets had opened. Clearly, Neddy's crystal ball was somewhat wonky.

However, even in that year, the then environment Minister, Sir Nicholas Ridley, said that out-of-town shopping

"is a bigger force than I. It is a mistake to say that I must stop it or that it can be stopped . . . I don't think it can be stopped with the powers that government has."

Yet in the next two years, 145 superstores and four out-of-town hypermarkets opened. In that wave of shopping we had gone from denial to resignation in 15 years. but five years after that, PPG6 appeared on the scene and it was found that we could do something about it with planning, and the Government could intervene. In 1992, the hon. Member for Banbury (Tony Baldry), who was then a junior environment Minister, said:

"Town centres should remain the anchor of our retailing system We now have a plan led approach to development . . . we are grappling with the concept of sustainable development—promising development today that will not compromise the choices of our children tomorrow".

With revised PPG6 and with the new planning policy statement 6 in draft form, this Government have been successful in promoting action to ensure that the explosive growth of out-of-town centres, which was widely regarded as detrimental to the maintenance of comparison shopping in town centres, was tempered. The figures and the way in which new developments are taking place demonstrate the success of that policy.

*[Dr. Alan Whitehead]*

Draft PPS6 states that one of its main aims now is

"the need to promote more sustainable patterns of development with less reliance on the car".

Other planning policy notes reinforce that aim.

We are now facing a new wave of retail development, and many people believe, just as they did in 1987 and earlier, that nothing much can be done about it and that it will simply work its way through the system—perhaps, as optimistic forecasters suggest, without effect; after all, it is a weightless form of shopping. However, that is not true. The ordering is different, but the logistics of delivery are real. The packaging is real; the products are real; and they work in a very different way from the logistics, which, in just a couple of decades, have informed our system of hypermarket, out-of-town and just-in-time-shopping deliveries to supply them.

It is sobering to consider the rise of internet shopping in the past couple of years. Perhaps some of us have been lulled by the dotcom disasters of a few years ago, and many people believed that that activity might not take off. However, it has taken off and will undoubtedly expand.

Some 12 million people shopped online in 1994. Some £2.6 billion was spent online in the last three months of 2004. That represented no less than a 44 per cent. increase on the same three months of 2003. Of course, we must put that in context. Total retail sales in 2004 were £246 billion. If we compare the latest available full year figures for internet sales, in 2003, approximately £39 billion was spent on internet sales as a whole, of which some £11.3 billion represented household internet shopping. That is not an enormous proportion of the total retail spend, but it is rising enormously fast —a rise that shows every sign of increasing rapidity as the years pass.

Internet shopping is very much part of our shopping landscape and is already spawning logistical challenges. Indeed, the stunning performance of internet shopping over the Christmas period, associated with poor in-store retail figures, leads Verdict, the shopping consultant, to suggest that

"internet shopping prompted a migration of shoppers from the high st. to online retailers, which we believe is an important factor for the disappointing high st. trading this Christmas".

The recent experience of our Christmas shopping demonstrated the new power of internet shopping.

The authors of a report from the university of Lund in Sweden, Johnsonn and Jönson, stated:

"in practice the internet opens a new store for every consumer every day."

However, that is done on the basis of what one might describe as the opposite of existing logistics. Goods are shipped from manufacturers or importers to large warehouses. They are ordered on a just-in-time basis and trucked to stores. The public arrive and select several purchases from what has been assembled for them in the stores. For internet shopping, goods are assembled in regional or semi-local warehouses and are then picked for the customer, repackaged and distributed individually to the customer's home.

An additional logistical stage is therefore included in the process. Instead of the customer comparing and picking the goods, each order is separately packaged and dispatched via increasingly large fleets of white vans to the residential neighbourhood in which the customer lives.

There is a variant on that method of organising internet shopping. Some internet grocery providers, such as Tesco, pick from their existing stores and redistribution is added to the end of the logistical process, although Johnson and Jönson point out that that is an unsustainable practice as volume increases, and that traditional handling in stores will have to give way to dedicated pick-and-distribute warehouses.

As I said, PPS6 refers to sustainability in shopping. How sustainable is internet shopping in terms of what the Government are trying to achieve for future shopping patterns? The assumption that it is sustainable has been skewed by the apparent weightlessness of the order. Some elements undoubtedly are sustainable. If one downloads music instead of purchasing a CD, one saves a substantial amount of energy, but the moment one burns music on to one's own CD, even if has previously been downloaded, the energy costs are far higher than if it had been produced in the factory.

Studies at the university of Northumberland and elsewhere suggest that the picture is at least ambiguous. Michael Kundt, the Wuppertal institute lead author of European Union's Eurodigital report, states:

"Online products move the environmental burden from producer to consumer . . . there are no big gains for ordering products off the internet . . . the small delivery trucks consume as much energy as going to the shops yourself would."

There are several issues relating to the sustainability and planning of internet shopping. First, as the range of goods offered expands, it will become less easy to post items, and delivery by separate systems will increase. Secondly, the sheer volume of individual deliveries will mean that residential districts will increasingly become populated by many separate white vans, which will reverse the existing distribution patterns. Thirdly, how are those white vans to deliver items such as groceries reliably when the customer is out at work? Should we perhaps all have a lockable drop-box—the Royal Mail, among others, has experimented with these—or should the white van keep calling back? Many undeliverable parcels are left at the carrying company's centre, at a separate customer collection point. Several such centres are being expanded for that purpose. Of course, a customer going to a centre to collect a parcel will probably expend as much petrol as they would have used going to the shops in the first place.

Fourthly, we might achieve sustainability if internet shopping completely replaced comparison shopping, but of course it has not done so. Internet shopping has taken part of the comparison market, but other parts have stayed and undoubtedly will stay for a long time, for a number of reasons, such as the nature of comparison shopping and the fact that many people like to go to shopping centres to compare goods. There is, however, a danger that some of the elements of comparison shopping that sustain shopping centres will be stripped away, just as they were during the move from in-town shopping to out-of-town superstores.

The additional packaging required for repacking the goods and sending them to the customer's home is a new factor in the sustainability continuum. The use of the

small vehicles that will necessarily be the cornerstone of this new wave of logistics represents a reversal of the logic behind larger vehicles being the norm for the previous logistical way of shopping.

Is this, as the late Nicholas Ridley suggested, something that is bigger than all of us, or should we be thinking about the issue just as we did when out-of-town shopping first became a serious proposition? I believe that we should. The Government should introduce a policy on distribution and logistics for internet shopping, just as they introduced a successful policy on out-of-town shopping. We need to think about where the distribution might take place, and about the planning implications of the inevitable rise in the number of picking warehouses. Will we, as a result, have a new wave of disguised out-of-town shopping, this time involving picking warehouses instead of shops? Will the places that start out as picking warehouses remain picking warehouses, or will they become yet more out-of-town retail establishments?

Could we change the nature of drop-off, perhaps through sponsored drop-boxes? After all, households throughout the country have over last few years been issued with drop-boxes, largely at public expense. They are called wheelie bins, and we drop our rubbish into them. More recently, of course, we have begun to sort our rubbish and to drop our recyclates into them.

If we did not wish to go down the drop-box route, could we think about how district centres might be revived? Instead of having a large building on an industrial estate a long way away from houses, would it not make sense to have district drop-off centres? Either people could put the drop-off centre as the address to which they wanted the item sent, and collect it at leisure, or district drop-off centres could be used as collection centres for returns, or for items undelivered within walking distance of houses in particular areas, rather than in relatively remote locations. In rural areas, could not that perhaps be a new role for village stores in communities that are suffering from a substantial decline in business for shops?

Right now, most importantly, we should not ignore internet shopping or simply assume that it will have no effect. It will, and in my view we should be establishing a planning policy for it. We should be discussing with internet retail providers how its distributive and logistical effects can be ameliorated. My question is: are we doing this, and if not, why not?

2.50 pm

**The Minister for Housing and Planning (Keith Hill):** First, let me congratulate my hon. Friend the Member for Southampton, Test (Dr. Whitehead) on securing the debate and bringing this important issue to the attention of the House. He has shown that we cannot start too early to think about the possible impacts of significant new retailing trends.

I have to say to my hon. Friend that the Government are well aware of the increasing rate of growth in home shopping and of the increasing share of home shopping that is carried out on the internet. The Department of Trade and Industry and the Department for Transport have commissioned studies on these matters over the past few years. They show that the UK home shopping market had a value of approximately £18.9 billion in 2000. Commentators suggest that that will grow to £35 billion by 2005, with the internet taking an increasing share. In 2000, home shopping represented only 8 per cent. of total retail sales. It is estimated that that will rise to 13.8 per cent. in 2005.

UK shopping on the internet—or online shopping, as it is often referred to—is predicted to rise from £4.9 billion in 2000 to an estimated £11 billion in 2005. That is 4.3 per cent. of total retail sales. The number of people making purchases online grew from 1.8 million in 1998 to 4 million in 1999—in just one year.

While early results suggest that a number of retailers did poorly over the Christmas season and that retail sales over the internet grew significantly, I am not aware of any evidence to suggest that those two factors are connected. As well as internet traders, many manufacturers, mail order companies and other retailers, including supermarkets, are making use of the new technology to expand their market. Some manufacturers sell only to the public online, cutting out the middle man and offering lower prices.

While supermarkets tend to use their own fleet of vehicles to deliver groceries and other goods ordered by telephone or over the internet, the majority of internet suppliers use national carriers to transport goods or first-class post for smaller items. Some deliveries may require movement of goods over long distances and the trans-shipment of goods between vehicles. However, it is in the interests of supplier, carrier and customer to optimise these trips by combining deliveries from different suppliers and pooling deliveries for the same area.

The traffic implications of internet shopping are primarily for my right hon. Friend the Secretary of State for Transport to consider and the focus of today's debate is on urban planning. What is the impact of internet shopping on urban planning? I think it is too early to draw any firm conclusions. Internet shopping is still in its infancy and there is little empirical research on the effect that e-commerce and increased home delivery will have on towns and cities in the UK.

As a recent DTI report noted, the functions performed by e-commerce that replace physical transactions and sales take place in a virtual space, so they do not have the same physical presence as the services and functions that they may replicate or replace. The environmental impacts that those virtual spaces impose on the physical world are therefore less tangible and difficult to measure.

Although the implications of internet shopping have yet to work themselves through, recent research provides some insight on possible impacts, the most likely being the development of warehouses—known in the trade, I understand, as fulfilment centres—where orders are processed and packaged, as well as an increase in collection and delivery points. There is also evidence to suggest that the growth in internet shopping may lead to a reduction in the number of shopping trips to existing retail premises.

In common with most technological change, it seems likely that there will be both benefits and costs associated with the growth of internet shopping. For example, on energy consumption, Department of Trade and Industry research shows that 1 sq m of warehouse space holds far more goods than an equivalent area of

*[Keith Hill]*

retail space, and uses 16 times less energy. There might therefore be genuine savings in land take and energy consumption with internet shopping, but it is not yet clear whether internet shopping will reduce the need for retail floor space, or merely add to the range of retailing options.

Another possible consequence lies in the reuse of existing floor space. If there is a reduction in the need for retail floor space because of reduced retail activity in shops as a result of internet shopping, that could adversely affect the vitality and viability of existing shopping areas. On the other hand, in such a scenario, the existing floor space that is no longer needed could be put to alternative use. In the United States, for example, some banks that have suffered falling visitor numbers because of the growth in internet banking have given over floor space to café operators. A reduction in the need for floor space might therefore offer new opportunities for mixed-use development.

On social inclusion issues, there are other possible effects. Internet shopping and home deliveries offer advantages for people who do not own a car, who live in remote or deprived locations, or who are disabled to the extent that they are unable to visit shops. Many of the people in one or more of the above categories also tend to have relatively low incomes, which might present a barrier to using online shopping. There are concerns that certain groups of people, particularly the elderly and the poor, might remain relatively disconnected from the new technologies, with implications for social inclusion.

That said, access to new technology is growing fast. According to the Office for National Statistics, between 1998–99 and 2002–03, the proportion of households with a home computer increased from 33 to 55 per cent. and the proportion with internet access rose from 10 to 45 per cent. Take-up of new technologies is expected to continue, partly because of a growth in technical literacy, and partly because new technologies are becoming cheaper.

There are concerns about the increase in delivery vehicles in residential areas, but mechanisms exist, such as traffic regulation orders, for local authorities to control where vehicles park and in some instances the types of vehicles that may use a street. However, those mechanisms are outside the scope of the planning system. In addition, it must be remembered that an increase in home deliveries might lead to a reduction in car use by shoppers now receiving their goods directly.

It is not yet clear what degree of pressure will arise from increased warehouse development. While some internet retailers might use existing premises, such as mail order firms moving online and supermarkets delivering from existing stores or depots, others are likely to require warehouses for their "fulfilment centres". New warehouses will require planning permission, and local planning authorities will need to take into account the policies of planning policy guidance note 1 on delivering sustainable development, planning policy guidance note 6 on town centres, PPG13 on transport and other policy guidance in preparing their development plans and deciding on planning applications. Any increased demand for warehouse development will therefore be controlled through the planning system in the same way as it is at the moment.

As I have suggested, the possible impacts of the growth of internet shopping extend more widely than just urban planning. The Government have already funded a number of studies on home shopping, including internet shopping, which provide a valuable insight into this fast-growing sector. Further work is also planned: for example, the DTI is examining such issues as part of its Foresight project.

National planning policy addresses the issue of technological change and provides a strong framework for planning to harness those changes, to facilitate and promote sustainable and inclusive patterns of urban and rural development.

In planning policy guidance note 1, "Creating Sustainable Communities", which we published earlier this month, we made it clear that it is important for planning authorities, in helping to deliver sustainable economic development, to seek to provide for improved productivity, choice and competition, particularly when technological and other requirements of modern business are changing rapidly. Indeed, we specifically address the possible implications of a growth in internet shopping in planning policy guidance note 13, "Transport", where we make it clear that if the growth of internet shopping enables a reduction in the size of some retail outlets, it may present increased opportunities for shops to be located in existing town centres.

PPG13 also requires that planning authorities seize the opportunity to use new technology to promote urban renaissance and to reinforce the existing role of town, district and local centres. I know that many local authorities are already using the internet as a powerful marketing tool for attracting residents and visitors to their centres.

In draft PPG6 on town centre planning, we encourage planning authorities to actively manage change and focus new retail development in town centres first. As PPG13 acknowledges, if shop unit sizes decline as a result of internet shopping, this may provide a better opportunity for new retail development to be accommodated in town centres rather than out of centre.

My hon. Friend referred to so-called delivery offices or drop-off points. One of the complaints about home deliveries is about the number of failed deliveries—abortive journeys that need repeating either to redeliver goods or pick them up and arrange a distribution point. One suggestion has been to use delivery lockers or drop-off points, which a customer may choose as a delivery option. Such a situation has been trialled in Nottingham by Royal Mail plc, working with the city council. Royal Mail has conducted similar trials in other areas during 2004. We are not yet privy to the outcome of the trials, but studies suggest that encouraging greater use of drop-off centres could reduce the amount of home shopping delivery travel. However, the costs of providing such facilities may be quite substantial and it is unknown at this stage whether the private sector is likely to invest in them.

In conclusion, it seems clear that internet shopping is rapidly expanding and is becoming an increasingly well-established form of retail activity. The implications

of internet commerce go beyond land use planning and, as I have explained, various arms of Government are investigating what impact the growth of home shopping and internet shopping may have on issues such as patterns of movement for people and goods. It is too early to judge what the full impact of internet shopping might be in terms of urban planning. However, we already address the issues of possible changes that may result from internet shopping in national planning guidance, for example in PPG13, and as we have made clear in PPG1 on sustainable development, we want the planning system to respond positively to technological change that delivers improved productivity, choice and competition while ensuring that any changes contribute towards sustainable development.

I recognise that the internet is developing rapidly and I can assure my hon. Friend that we will keep this issue under close review. I am grateful to him for giving me the opportunity to respond to this important debate, just as on an earlier and memorable occasion I was able to reply to him on the subject of short sea shipping.

*Question put and agreed to.*

*Adjourned accordingly at three minutes past Three o'clock.*

# House of Commons

*Monday 7 February 2005*

*The House met at half-past Two o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## DEFENCE

*The Secretary of State was asked—*

### Iraq

1. **Mr. David Heath** (Somerton and Frome) (LD): If he will make a statement on the deployment of British troops during the Iraqi elections. [214080]

**The Secretary of State for Defence (Mr. Geoffrey Hoon):** UK forces in Multi-National Division (South-East) worked with the Iraqi security forces to provide a safe security environment for the elections. On election day, the Iraqi police provided inner-ring security at the polling stations, with the Iraqi national guard in support. UK forces provided back-up as required.

The whole House will wish to join me in taking this opportunity to recognise the hard work of all UK troops deployed in Iraq, which helped create the environment for the successful Iraqi elections. The day was tragically marred by the crash of the Hercules and the death of 10 service personnel. I pay tribute to those men. Investigations into the cause of the crash are continuing and the repatriation of their bodies is planned to take place tomorrow at RAF Lyneham.

**Mr. Heath:** Whatever one's views on the conflict in Iraq, no one in the House would fail to pay tribute to the servicemen and women who lost their lives—and, indeed, to the courage of all those who work in Iraq. Neither would anyone fail to welcome the fact that it was possible to hold democratic elections in a significant part of Iraq.

I understand that the Czech Republic has now decided to keep troops in Iraq for the foreseeable future, but that other coalition partners are likely to withdraw their present contingents. Under those circumstances, what are the right hon. Gentleman's expectations in respect of increased demands on British troops in Iraq, and when does he expect British troops to be withdrawn?

**Mr. Hoon:** The issue is not so much the withdrawal of other members of the coalition at the end of their planned tours of duty in Iraq, as the speed at which the Iraqi security forces can assume responsibility, particularly in the UK's areas of operations. As I have told the House previously, I do not anticipate any significant adjustment in the size of British forces for the moment, though I hope that, as and when the Iraqi security forces become available to take responsibility, any such adjustments will be reductions. That, for want of a better expression, is our exit strategy. It is part of a process of restoring responsibility increasingly across the board. The elections are part of that process, as is the training of Iraqi security forces, and we anticipate it continuing. It is proving successful and I hope to be able to report to the House, in due course, that certain discrete parts of our area of responsibility have been restored to Iraqi responsibility.

**Ann Clwyd** (Cynon Valley) (Lab): I should be grateful if my right hon. Friend would pass on my thanks for what I saw happening in Iraq on election day. I saw British troops working discreetly in the background—I could catch a glimpse of them from the rooftops—and the whole process was well managed both by coalition troops and by the Iraqi police, who must be commended for their excellent job on election day. I also want to mention the people of Basra, where several hon. Friends and I were present during the election. It is estimated that 80 per cent. of the people there turned out to vote—a figure that puts some of us in well-established democracies to shame.

**Mr. Hoon:** I thank my hon. Friend for her observations and I shall certainly ensure that they are passed on to those responsible. In turn, I would like to thank her, two other MPs and two MEPs who were in Britain's area of responsibility on election day. As reported to me by the commanding officer of Britain's armed forces, there was a tremendous response from the people of southern Iraq—predominantly Shi'a, but also Sunni—who turned out to vote in an atmosphere that was positive and encouraging for the future of the whole of Iraq. If I may add to my hon. Friend's observations, a significant degree of courage was displayed in some parts of Iraq—Falluja, for example—when people turned out to vote, despite the intimidation of the recent past. The response of the Iraqi people, it seems to me, provides real encouragement for the future of the country.

**Mr. James Gray** (North Wiltshire) (Con): My constituents in and around RAF Lyneham will greatly welcome the Secretary of State's tribute to the men who gave their lives. They will also welcome the announcement that their bodies will be repatriated there tomorrow. Will the Secretary of State join me in expressing some disquiet about the national press—the local press have, in contrast, been very good—which has been extremely intrusive in its activities in and around Lyneham? Will he join me in calling on the national press to leave the bereaved alone to suffer in peace and quiet?

**Mr. Hoon:** I am grateful to the hon. Gentleman for his substantive observation and for the specific point that he made. I visited RAF Lyneham on Thursday afternoon and the same point was put to me on a number of different occasions in different parts of the base both by the families of the deceased and by serving

members of the Royal Air Force, who were extremely concerned about journalists going to their children's schools, posing as florists or using a range of deceptions in order to gain access to the bereaved families. I echo the hon. Gentleman's observation that this is not an appropriate time for that sort of intrusion.

## Army Strength

2. **Gregory Barker** (Bexhill and Battle) (Con): If he will make a statement on manning levels in the Army. [21408]

**The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin):** The strength of the Army, including the Gurkhas, is currently around 103,500. We are planning on it remaining broadly at that level until full normalisation is achieved in Northern Ireland, when we expect to reduce it to around 102,000.

**Gregory Barker:** The five most recent Chiefs of the Defence Staff are among the many experts who have roundly condemned Labour's proposed defence cuts. In the light of the growing uncertainty in Northern Ireland and the massive ongoing commitment in Iraq, is it not now time to admit that those cuts are wrong and to withdraw them with good grace?

**Mr. Caplin:** First, I must put the hon. Gentleman straight. This Government are spending more money on defence than his Government ever did. Perhaps he would like me to reflect on the size of the British Army in April 1997, when it was 101,360, compared with today, when it is 103,780. It is clear which party is more interested in getting more people into the British Army.

**Mr. Brian Jenkins** (Tamworth) (Lab): My hon. Friend finds it easy to bat these silly questions away, but the changes in technology have meant that we have to change and reshape our forces. What is he doing to meet the shortfall in engineering and logistics, especially as such skills are very saleable in a buoyant economy? If he cannot answer that now, will he place his answer in the Library, showing the exact make-up of the Army, the shortfall and the pressures faced?

**Mr. Caplin:** My hon. Friend has raised an important point. One of the reasons for the changes that were announced on 16 December is to provide the necessary expertise in the right areas—the so-called pinch points—at the right time. My hon. Friend has asked for a more detailed reply and I will be happy to write to him with that information.

**Mr. Keith Simpson** (Mid-Norfolk) (Con): The Minister will know that it is not a question of just replacing infantry with logisticians, because the British Army needs both. The Minister mentioned pinch points, so let us look at one. Can he confirm that last week 120 infantry officers received what was in effect a redundancy letter? How does that square with his Department's claim to have a duty of care to its military personnel? What effect will that have on the morale of infantry officers in Iraq, some of whom presumably received that redundancy letter? That is a pinch point all right.

**Mr. Dennis Skinner** (Bolsover) (Lab): Howard will get a redundancy letter after the election.

**Mr. Caplin:** As always, my hon. Friend makes a clear observation on today's politics.

The hon. Member for Mid-Norfolk (Mr. Simpson) raises an interesting point, but does he want the British Army to fight the battles of yesterday or does he expect it to fight the threats of tomorrow and the day after?

**Mr. Nicholas Soames** (Mid-Sussex) (Con): You are missing the point.

**Mr. Caplin:** I am not missing the point. If we are to provide a modern, well-equipped Army, it has to be properly arranged and organised. That is what we will achieve with the changes to the regiments.

**Mr. Iain Luke** (Dundee, East) (Lab): Given the furore over the Army reforms, will my hon. Friend the Minister give an undertaking that everything will be done to keep recruitment levels high in areas such as mine, which has suffered from the trauma of the reforms more than many others?

**Mr. Caplin:** I pay tribute to my hon. Friend for the work that he has done and the support that he gives to the British armed forces. I assure him and the House that we will endeavour to keep recruiting at a very high level in Scotland.

**Mr. Paul Keetch** (Hereford) (LD): While it is easy to make political points about how Governments have spent more or less on defence than others and while we all accept that we need modern and well-equipped armed forces, is not the reality a balance between modern technology and boots on the ground? Given the wise words of Lords Guthrie, Bramall and Boyce in the other place on 17 January, would it not now be a good idea for the Secretary of State and his colleagues to review what is going on? We understand that we need new technology, but we are also seeing more troops being sent to Iraq and we have in Northern Ireland a situation that, sadly, is not as good as it was a few months ago. Is it not time for the Government to scrap the cutting of the infantry units?

**Mr. Caplin:** The ending of the arms plot, which has been widely welcomed in this House—I thought that all parties agreed with it—will make the Army more efficient, because more infantry will be available for deployment. That is not the case today when regiments are moved around the country solely for the purposes of the arms plot. By 2008, that will not be the case and more regiments will be available for deployment. That seems to me to be a modern, practical way forward for the British Army.

**Iraqi National Guard**

3. **Huw Irranca-Davies** (Ogmore) (Lab): If he will make a statement on the development of the Iraqi national guard. [214082]

**The Secretary of State for Defence (Mr. Geoffrey Hoon):** On 6 January this year, Iraq's Prime Minister announced that the Iraqi national guard and the new Iraqi army would be merging to form the Iraqi regular army. The mission of the Iraqi national guard is to conduct internal security operations, including support to Ministry of Interior forces and constabulary duties. The training process comprises three weeks' basic training for the individual, followed by four weeks' collective training. Currently, more than 36,500 personnel are trained, equipped and operational in the Iraqi national guard. Multi-National Force Iraq assesses that the future strength of the Iraqi national guard will be more than 56,000 personnel.

**Huw Irranca-Davies:** I commend the work of our troops in the development of Iraqi forces, knowing that the long-term security of the region should be in the hands of the Iraqis themselves. However, are we on target to achieve readiness of the Iraqi forces by September 2005, as predicted, and what further steps will my right hon. Friend take to ensure that the target is achieved?

**Mr. Hoon:** The advice that I have received is that we are confident that the Iraqi national guard is making significant progress and is on track to be fully operational by September this year. In the south-east area of Iraq, we have decided to speed up the process by gifting more than £27 million-worth of equipment to the Iraqi security forces, to make them still more capable. As I have said several times before, our aim is to ensure that the Iraqi security forces are capable of taking responsibility for their own security. The sooner they are trained and assuming that responsibility, the sooner the security environment will improve and the sooner our troops will be able to come home.

**Mr. Nicholas Soames** (Mid-Sussex) (Con): Will the right hon. Gentleman say what is the present number of fully trained and deployable members of the Iraqi national guard and security forces? Will he confirm the unfortunate news that emerged during the Washington confirmation hearings for the Secretary of State—that credible security forces, including the national guard, that will be capable of dealing with the insurgency will not emerge for at least a year? What are the implications for the present and future deployment of British forces in Iraq?

**Mr. Hoon:** I made it clear that there are about 36,500 personnel trained, equipped and operational in the Iraqi national guard, but I accept that it is important that they receive training both individually and collectively. What is important is that they are able to take responsibility—that is, take decisions, deploy and take effective action. I recognise that we still have some way to go, for example, in ensuring that there are properly trained officers. I am pleased that NATO has undertaken that particular responsibility, but we have to make progress, not only in training individuals, but in ensuring that collectively they have the ability to take action.

**Recruitment**

4. **Jane Griffiths** (Reading, East) (Lab): What steps he is taking to increase recruitment in areas of low unemployment. [214083]

**The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin):** The armed forces recruiting organisations do not specifically target areas of low unemployment. Recruiting activities are kept under constant review to respond to changing recruiting priorities and to reflect national and regional issues.

**Jane Griffiths:** With reference to the Royal Gloucestershire, Berkshire and Wiltshire regiment, Anthony West, high sheriff of the royal county of Berkshire, has described as cruel the dismemberment of the Berkshire regiment. In his statement of 16 December, my right hon. Friend the Secretary of State referred to specific issues around recruitment. Will my hon. Friend the Under-Secretary of State bear in mind that unemployment is very low in Berkshire and that therefore recruitment has historically been difficult? Will he give a commitment that recruitment to regiments will be maintained in Reading and Berkshire?

**Mr. Caplin:** I think that I can give my hon. Friend the assurance she seeks. We employ many techniques to attract people to our armed forces and I am pleased to tell the House that we are on course to meet our recruiting target. At the same time, however, it is important that we have no no-go areas for recruitment into the Army and our armed forces generally.

**Mr. Owen Paterson** (North Shropshire) (Con): By allowing the Scottish regiments to keep their names, the Minister has acknowledged that name and reputation are a major tool for recruiting areas where there are unemployment difficulties. Will the Minister please consider the case of the Welsh regiments? The Royal Welch Fusiliers have an outstanding recruitment record, which could be damaged if their name is amalgamated.

**Mr. Caplin:** My right hon. Friend the Secretary of State has already dealt with these matters in his statement on 16 December. It was a matter for the Army, which considered it carefully, working with the regiments and the various colonels commandant.

**Mr. Martin Salter** (Reading, West) (Lab): The Minister will undoubtedly be aware of the meeting on 19 January between the Secretary of State for Defence, local MPs and representatives of the Royal Gloucester, Berkshire and Wiltshire regiment. Can he confirm that at the meeting the issue of recruitment was discussed? If the infantry is already reviewing recruitment, would it not make sense to put on hold the decision to disband the RGBW?

**Mr. Caplin:** No, no is the answer, for the clear reasons that I gave the hon. Member for Hereford (Mr. Keetch)

just a few moments ago about the efficiency gains from ending the arms plot, including more infantry being available for deployment.

## Navy

6. **Mr. Desmond Swayne** (New Forest, West) (Con): How many frigates and destroyers are operational. [214086]

**The Minister of State, Ministry of Defence (Mr. Adam Ingram):** There are 22 frigates and destroyers available for tasking by the Commander-in-Chief, Fleet.

**Mr. Swayne:** What on earth has happened to all the rest? The Chief of the Naval Staff said that instinctively he did not welcome the early disposal of good ships. What could he possibly have meant? For the record, which frigates and destroyers will be decommissioned this year?

**Mr. Ingram:** As has been said before at the Dispatch Box, it is the role of the commander-in-chief of each service to argue their case for more resources, and we seek to assist them in that. As in previous years and decades, the available resources must be properly apportioned among the three services. The hon. Gentleman asked which vessels have been withdrawn. Norfolk will be decommissioned in March 2005; Marlborough, in June 2005; and Grafton in March 2006—I accept that that is not this year. Of the Type 42s, Glasgow was withdrawn in January 2005, and the same is true of Newcastle. Cardiff will go in August 2005.

**Mr. Nicholas Soames** (Mid-Sussex) (Con): Will the Minister confirm that in the strategic defence review the Government endorsed the idea of a strong Navy and promised new aircraft carriers? However, while they were ready to resort to arms and commit our forces, they have ordered very few new ships. The new carriers have, in a magnificent typically new Labour gesture, been named but not ordered, although we hope to hear something about that later today. The Navy will get eight, instead of 12, Type 45s as well as a reduced number of submarines, and the MOD has quietly cancelled the future surface combatant project. With a smaller and ageing fleet, how will the Navy eventually deliver the tasks that Ministers lay upon them, and what will the Government's apparently low priority for the Navy do for its effectiveness as a service?

**Mr. Ingram:** I remind the hon. Gentleman that in 1986 we had 54 frigates and destroyers, but there was a substantial reduction to 35 in 1994. The hon. Gentleman was in government for some of those years, and if he has any advice about the way in which we handle the restructuring of the Navy to ensure that we continue to make it as powerful and effective as it has been in the past, perhaps he will write to me. Interestingly, he listed the range of ships that we have on order. It was quite a significant list, consisting of 10 ships in total, and is the biggest warship construction programme since the second world war. That should be rejoiced at, not knocked.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): Is not there bogus outrage among Opposition Members, given that in government their party reduced the number of submarines from 18 to 10, the number of frigates from 22 to 19, and naval personnel from 55,000 to 45,000? How would further cuts on top of the £2 billion already planned impact on the size of the fleet?

**Mr. Ingram:** My hon. Friend makes his point in his own way. I gave other statistics and other information about the reduction of the fleet over the years. An important aspect of the fleet size is that it has all the component parts that give it its powerful effect. None of the ships listed by the hon. Member for Mid-Sussex (Mr. Soames), speaking on behalf of the Opposition, is undesirable or unwanted. They will significantly increase capacity. My hon. Friend the Member for North-West Leicestershire (David Taylor) has highlighted the paucity of thought on the part of the Conservatives.

## Iraq

7. **Bob Spink** (Castle Point) (Con): What changes in troop deployment he is planning for Iraq over the next three months. [214087]

**The Secretary of State for Defence (Mr. Geoffrey Hoon):** The extremely high readiness reserve was deployed to support Multi-National Division (South-East) during the election period. It is planned that they will return to Cyprus around the end of this month. I announced to the House on 27 January that a UK battle group will replace the Dutch troops in al Muthanna in March, involving an initial increase of around 220 UK troops in Iraq. The majority of this force will be found by redeploying other UK forces in MND (South-East). We keep the role of our armed forces in Iraq under continuous review. If it is judged that further changes to the UK military contribution in Iraq would be appropriate, the House will be informed.

**Bob Spink:** I am grateful for that detailed response. We can be proud of our troops in Iraq who have served with professionalism and courage. Now that the elections are successfully secured, will the Secretary of State make it his priority to secure the earliest possible return of those troops to this country, consistent with our international obligations and with security developing in Iraq?

**Mr. Hoon:** I am grateful to the hon. Gentleman both for his initial comments and for his constructive observations. British troops should not stay in Iraq for a day longer than is necessary, but equally we must stay there until our job is done. That involves training Iraqi security forces to take over our security responsibilities.

**David Cairns** (Greenock and Inverclyde) (Lab): I, too, share the view of the high levels of professionalism among the British soldiers serving in Iraq, but has my right hon. Friend seen the reported comments of the hon. Member for Glasgow, Kelvin (Mr. Galloway) who, when asked about abuse carried out by British soldiers, said that

"the mainstream political parties . . . like to reassure each other that this is conduct unrepresentative of British occupation forces. But I'm sorry to tell you it is entirely representative."

He goes on to list a long line of alleged criminal activity by British soldiers and says that they are taking part "in the demonisation, the subhumanisation of the occupied people".

Is that not an unwarranted assault on the integrity and decency of the vast majority of British soldiers serving in Iraq, and an insult to the communities and families from which they grew?

**Mr. Hoon:** I am aware of the recent comments made by the hon. Member for Glasgow, Kelvin (Mr. Galloway). They reveal what appears to be his complete contempt for members of our armed forces, but I do not intend to give him more comfort by giving him the publicity that he obviously seeks.

**Patrick Mercer** (Newark) (Con): The Secretary of State has been clear about troop numbers in the immediate future. By my reckoning, the British forces will have to cover for the Dutch and at the same time the Royal Highland Fusiliers will withdraw. That means two battle groups gone—the best part of a brigade. Although I understand that the Secretary of State needs to get on with his redundancy programme and his cutting of the infantry, can he assure the House that Multi-National Division (South-East) will have the correct number of reserves?

**Mr. Hoon:** The hon. Gentleman does not usually resort to cheap party political point scoring, but on this occasion he is obviously suffering from pre-electionitis. I can assure him that the number of British troops in MND (South-East) will be the result of clear military advice given by the commanding officer. There are currently about 8,150 troops in Iraq. By March we anticipate that the number should fall to around 7,900, taking account of the withdrawal of the extra high readiness reserve and extra enabling forces to cover al Muthanna province. But the numbers of troops at any time are based on the advice given to me by the commanding officer.

**Mr. Jeffrey M. Donaldson** (Lagan Valley) (DUP): Our continuing troop commitments in Iraq, together with our other international obligations, are a drain on our military resources. There is concern in Northern Ireland about the potential for an upsurge in violence from the IRA. Can the Secretary of State provide reassurance that if extra troops are needed in Northern Ireland, they will be made available?

**Mr. Hoon:** I can give the hon. Gentleman that assurance. We keep the matter under constant review. We have troops in reserve available for that task, should it be necessary, although I sincerely hope it will not be necessary.

### Voter Registration

8. **Mr. David Cameron** (Witney) (Con): If he will undertake to send a service voter registration form to every serviceman and woman. [214089]

11. **Mr. David Amess** (Southend, West) (Con): If he will ensure that every member of the armed forces is provided with a service electoral registration form before the end of February. [214092]

**The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin):** We have launched an extensive information campaign to raise awareness of the options open to service personnel to register to vote. Forms for those who choose to register as service voters are readily available to units and individuals via a link on the Ministry of Defence website to the Electoral Commission or from electoral registration officers.

**Mr. Cameron:** I am grateful for that answer, but does the Minister not accept that the Government have shown a degree of complacency on this issue? The fact is that the number of service personnel registered to vote in many areas has plummeted. Is he aware that, until this morning, the MOD website told servicemen and women that they had to register only once during their career? As that advice is absolutely plumb wrong, will he ensure that every serviceman and woman is sent a voter registration form? Is that not the least we can do for them?

**Mr. Caplin:** I am afraid that the hon. Gentleman is wrong. I have not checked the website, but I know that the Defence Council instruction was sent out on 28 January, as I told the House it would be during the last Defence questions. I sent a copy of that Defence Council instruction to the Opposition parties so that they knew it had been sent out, and to the hon. Member for Chichester (Mr. Tyrie), who was the first Member to raise this matter, before Christmas in Westminster Hall.

**Mr. Amess:** Following on from an exchange with the Prime Minister, given that it is an offence with a fine of up to £1,000 for a member of the public not to enrol on the electoral register after being contacted by an electoral registration officer, what action have the Government taken to remind our wonderful service personnel of their duty to re-register?

**Mr. Caplin:** I have just explained one of the actions that we have taken, which was issuing the Defence Council instruction, but we have also agreed a strategy with the Electoral Commission to increase awareness and ensure registration. As I made clear to the House during the last Defence questions, I am keen for all members of our armed forces to register to vote.

I can list some of the things that we have done. We are using a series of interviews on British Forces Broadcasting, including one with me, to encourage people to ensure that they register. At the suggestion of the hon. Member for Chichester, who raised this issue, we are undertaking to distribute leaflets, and there are articles in our in-house magazines.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): My understanding is that if there is a general election on 5 May, the last date for electoral registration is 11 March. That will produce extra problems for service personnel and others who want to get their registration forms in on time. Can representations be made to the appropriate Department to ensure that the date of final electoral registration is pushed back to 11 April, which is the anticipated date of the issue of the writ?

**Mr. Caplin:** My hon. Friend knows a lot more about when the election might be than I do, that is for sure.

Schedule 1(8) of the Representation of the People Act 2000, which refers to section 15 of that Act, is pretty clear on these matters.

**Bob Russell** (Colchester) (LD): Will the Minister confirm that the responsibility for registration falls on the electoral registration officers in areas where military personnel live? The second problem, about which many Members are concerned, is that, once registered, many military personnel do not exercise their right to vote because they are not present on polling day, and they do not seem to be advised how best to register for postal or proxy votes.

**Mr. Caplin:** There is an issue of consistency here, and I would encourage—as I did during the Adjournment debate in December—those members of our armed forces who are abroad, in particular, to take a proxy vote. That is a way of ensuring that their franchise is dealt with in this country. It is not the responsibility of electoral registration officers to ensure that people are registered, and the 2000 Act makes each individual responsible for making a proper registration. That is consistent for all groups, not just the armed forces; it also accounts for students and nurses.

**Angus Robertson** (Moray) (SNP): Is the Minister concerned that there appears to be a difference of standard in the management of service votes in different parts of the country? One senior serviceman visiting the House this morning told me that he has to reapply proactively every year to get and keep his service vote. In the spirit of non-partisanship—all parties are agreed that as much needs to be done as possible to ensure that all service personnel can vote—does the Minister agree that more can be done to ensure that people do not have to reapply when it is not necessary?

**Mr. Caplin:** The 2000 Act is very clear that that is what people have to do. As I said to the hon. Member for Colchester (Bob Russell), the Act applies not only to servicemen and women but to nurses, students and all of us. We all have a requirement to register individually.

**Mr. Andrew Robathan** (Blaby) (Con): But does the Minister understand that when those of us sitting in Westminster or in our constituencies get a note from the local district council saying, "Please register your vote", it is very different from the circumstances for soldiers on the move in Iraq, Afghanistan, or wherever it may be? That is the problem with the 2000 Act. On 20 January, the Minister said: "Things are not nearly as bad as they seem." Actually, approximately two thirds, or possibly three quarters of the British armed forces and their spouses are disenfranchised. We have heard that the website is four years out of date and that people are threatened with £1,000 fines. When will the Minister take action to give every potential service voter and their spouse a form to ensure that they are all registered in time for the impending general election?

**Mr. Caplin:** I have looked carefully at the record of proceedings on the Act as it went through the House in 2000. In the time that I had available this morning, I could not find any suggestion that the issue of service registration was raised by the Conservatives at the time or that they took an opportunity to vote against the terms of the legislation. *[Interruption.]* Well, the Opposition normally raise such issues when legislation is passing through the House.

The hon. Gentleman raised the issue of overseas voters in the last Defence questions and at Prime Minister's questions on Wednesday. Let me assure him that I have dealt with the matter. I just made that clear, as I made it clear to the hon. Member for Chichester (Mr. Tyrie) in the Adjournment debate. The available forms are clear. We are doing all that we can to promote voter registration, and I hope that every member of our services, just like all the other groups, will participate whenever there is a general election.

## Iraq

9. **Mr. Ben Chapman** (Wirral, South) (Lab): If he will make a statement on the status of UK troops in Iraq following the elections of 30 January. [214090]

**The Secretary of State for Defence (Mr. Geoffrey Hoon):** The United Kingdom's armed forces continue to contribute to the establishment of a stable, free and democratic Iraq through the provision of security, the development and training of Iraq's security forces, and support to the Iraqi Government. UK forces remain in Iraq under the UN mandate set out in United Nations Security Council resolution 1546, which states that the presence of the multinational force is to be reviewed at the request of the Government of Iraq or 12 months from the date of the resolution. The mandate will expire upon the completion of the political process, and will be terminated earlier if requested by the Government of Iraq.

**Mr. Chapman:** Does my right hon. Friend agree that those who seek a fixed timetable for the withdrawal of our troops from Iraq do those troops a disservice? Is not their task to finish the job in hand, building on the success of the elections and training Iraqis to take over? Is it not irresponsible to talk of timetables in a situation in which there are so many imponderables; and would it not give the terrorists and those who oppose democracy and freedom in Iraq an opportunity to hinder that fixed timetable and to profit from it?

**Mr. Hoon:** My hon. Friend is right. A fixed timetable would simply provide comfort to the terrorists. It would give them a target against which to aim and would be extremely damaging to the job that British and other coalition forces are doing in Iraq. Let me emphasise that British forces will not stay in Iraq for a day longer than is necessary, but they will stay to complete the job.

**Hugh Robertson** (Faversham and Mid-Kent) (Con): But does the Secretary of State agree that from a soldier's point of view, there is no greater threat to the status of UK forces in Iraq than the decision to prosecute through the civil courts a soldier whose case had been dismissed under military law by his own commanding officer? As the Secretary of State must realise, that crucially undermines the whole system of military justice, so what steps is the Ministry of Defence taking to ensure that that will never happen again?

**Mr. Hoon:** I am sorry that the hon. Gentleman takes that view. The truth of the matter is that these issues are

in the hands of an independent prosecuting authority, and decisions are taken objectively in accordance with the law. One thing that I know about Britain's armed forces is that they want to be governed by the rule of law—that is the example that they set to the world. It is right that these matters should be dealt with entirely independently of the political process.

### Halliburton/KBR

10. **Dr. Vincent Cable** (Twickenham) (LD): If he will make a statement on the role to be played by Halliburton/KBR in the new aircraft carrier project. [214091]

**The Secretary of State for Defence (Mr. Geoffrey Hoon):** I am pleased to confirm the selection of Kellogg Brown and Root Ltd. as the preferred physical integrator for the future aircraft carrier project. Further discussions will take place with all alliance participants, including the Ministry of Defence, building on progress to date and to develop the build strategy for the carriers. I have today written to the hon. Member for Mid-Sussex (Mr. Soames) explaining that in detail and I will place a copy of the letter in the Library.

**Dr. Cable:** I thank the Secretary of State for his courtesy in giving me advance notice of his announcement. However, is not it the case that KBR's parent company, Halliburton, has an abysmal track record of cost overruns on British naval contracts, notably the Devonport shipyards; is being investigated for corruption in several countries, including Iraq; has spent the past year in chapter XI bankruptcy, and has a chief executive who is trying to sell it to an unknown purchaser? Does not giving responsibility for such a key contract to a company with that sort of track record suggest a lack of wisdom?

**Mr. Hoon:** The contract has been given to KBR. Perhaps I can assist the hon. Gentleman in his deliberations on that company by suggesting that he raises it with several Liberal Democrat Members of Parliament, who repeatedly write or attend my office to urge me to give it more work.

**Syd Rapson** (Portsmouth, North) (Lab): The Secretary of State knows that there is considerable disquiet about BAE Systems' posturing about the choice of company to act as the physical integrator. Will the introduction of the physical integrator and that company increase or delay the chances of the ships' being built on time?

**Mr. Hoon:** It is important that all those with an interest in the future carriers work co-operatively and effectively. I pay tribute to those who worked long and hard through the weekend to reach an agreement that allows me to make the announcement today.

**Mr. Gerald Howarth** (Aldershot) (Con): Will the Secretary of State accept that the unseemly wrangling of recent months that has characterised the Government's management of the project has done nothing to instil confidence in the prospect of the critically important contract's being completed to the Government's stated time scale? In the panel of four, who will take charge of contract—Thales, BAE, KBR or the Ministry of Defence? Who is ultimately accountable for managing the project? Have Ministers kept a veto on the location for the final assembly of the carriers as a pre-electionitis bung for the Chancellor of the Exchequer, whose constituency adjoins the possible site and who has been no friend of Her Majesty's armed forces?

**Mr. Hoon:** I am accountable for the management of the project to the House, as I am for all Ministry of Defence expenditure. I could not help but notice the hon. Gentleman's solution to the problem over the weekend. It was back to the future—back to the way in which previous Conservative Governments presided over massive cost overruns in major defence expenditure. That appears to be the hon. Gentleman's solution—to spend more and more public money and get less and less for it.

### EU Defence Equipment Policy

12. **Mr. Bill Tynan** (Hamilton, South) (Lab): What recent discussions he has had on the proposal to establish a European Union defence equipment policy. [214093]

**The Minister of State, Ministry of Defence (Mr. Adam Ingram):** The Government have been and remain fully engaged in bilateral and multilateral discussions in support of the common aim to establish a more effective and competitive European defence equipment market. Those discussions involve member states of the European Union, the recently created European defence agency, the European Commission and industry and have included discussions on the European Commission's Green Paper on defence procurement. However, policy for defence equipment procurement rests nationally with individual member states, with any contribution from the Commission's being in support of initiatives developed by national Governments.

**Mr. Tynan:** I thank my right hon. Friend for his comprehensive response. The Commission's current proposal is obviously for a European defence agency, which would be responsible for, for example, defence capabilities, research, acquisition and armaments. Does my right hon. Friend agree that it is vital to establish discussion on the European defence equipment market with a view to securing openness and transparency in the market's allocation of defence projects and strengthening its competitiveness when it comes about?

**Mr. Ingram:** My hon. Friend has alighted on an important subject. We have to tackle the structure of the European defence market. We must consider how to improve it and make it more responsive to capability needs. As he said, a European defence agency deals with precisely that, and examines the key matters that must be tackled. We are at the beginning of the upward curve and we must first analyse and ascertain where we are and examine the way forward to ensure that we have that capable European defence market. We have given it impetus and the European Commission's Green Paper is an added spur to all that progress.

**Miss Anne McIntosh** (Vale of York) (Con): If we are to go down the path of a European defence policy, will

the Minister confirm that we shall do so on the basis of fit for purpose, and not just value for money? Will he also confirm that, in the spirit of competitiveness, our companies will be able to apply for the EU budget line, allowing them to extend export credit guarantees from the EU budget?

**Mr. Ingram:** We are addressing precisely those parameters. This is about the opening up and the transparency of the European market, as the hon. Lady knows only too well. We have an open market here, and we believe that that has benefited our defence budget. We get not only value for money but quality, and we hope that, in future, deliveries will also be made on time, although historically the industry has not been good at that. We have to take all those factors into consideration, and there are signs of growing awareness of this issue. This is about lifting the capabilities of our European allies as well as our own, and ensuring that the potential exists in the manufacturing sector to deal with the changes that have taken place. Great opportunities will come out of this for the UK and European defence industries.

## Lynx Helicopter

13. **Jim Knight** (South Dorset) (Lab): If he will make a statement on the future requirement by the armed forces for the Lynx helicopter. [214094]

**The Minister of State, Ministry of Defence (Mr. Adam Ingram):** At present, we expect the Lynx mark 7 and mark 9 to have an out-of-service date with the Army of 2012, and the Lynx mark 3 and mark 8 to have out-of-service dates with the Royal Navy of 2012 and 2014 respectively. No decisions have yet been taken on the shape of our future rotorcraft capability programme, or on the individual components within it.

**Jim Knight:** I am grateful to the Minister for his response. He will know that, a week last Friday, workers at Westland celebrated President Bush's decision to procure the US101 for his presidential fleet. The following Monday, however, a large-scale redundancy programme was announced at Yeovil. Those workers desperately need a decision on the future of Lynx, as do other companies in the supply chain, including South Dorset Engineering in my constituency. Why the delay?

**Mr. Ingram:** My hon. Friend has been very active in putting forward his constituents' concerns on this matter. He is right to highlight the great success in achieving the US101 contract, which will give that aircraft much greater export potential. It is undoubtedly a success. We have procured from AgustaWestland the Merlin mark 3 for £750 million, and the Apache in a £4.1 billion project. We are therefore giving our support, but the important aspect of this is to ensure that we understand precisely what we need for our future capabilities. Therefore, rather than rushing into decisions, we must ensure that the £3 billion that we have allocated for rotorcraft capability is wisely spent in a way that will have the maximum impact, one hopes in the UK sector.

## Lloyd Inquiry

14. **Mr. Gordon Prentice** (Pendle) (Lab): If he will make a statement on the material that his Department provided to the inquiry by Lord Lloyd into Gulf war syndrome. [214095]

**The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin):** In order to assist Lord Lloyd's investigation into Gulf veterans' illnesses, the Ministry of Defence provided the noble Lord with a pack containing more than 80 documents that were considered essential background to Ministry of Defence policy on Gulf veterans' illnesses. The pack also provided full details of our findings to date, and set out the key issues involved. In line with this Government's consistent policy of openness and transparency, the documents had already been made publicly available.

**Mr. Prentice:** But does the Minister recall telling my friend the Member for Cunninghame, South (Mr. Donohoe) on 13 December 2004 that Lord Lloyd's report

"fails to take into account the large amount of either substantive or scientific written material provided by the Ministry of Defence . . . to help inform his investigation."?—[*Official Report*, 13 December 2004; Vol. 428, c. 911W.]

Why would an eminent retired Law Lord simply cast aside the 80 volumes that the Minister has just mentioned? Does the Minister acknowledge that there is continuing public disquiet on this issue? Does he agree with the Public Administration Select Committee's report, published last week, which urged Parliament to reassert itself and to initiate public inquiries in circumstances in which the Government refuse to do so?

**Mr. Caplin:** I stand by what I told our hon. Friend the Member for Cunninghame, South (Mr. Donohoe) during the Adjournment debate. That debate was useful, in that it put on record the Government's overall response to Lord Lloyd's inquiry. I must say that his four recommendations were disappointing. I did, in fact, respond to one of them on 29 November, during Defence questions.

We have been open and transparent with Gulf war veterans since 1997. Lord Lloyd has consistently refused to say where the funds for the inquiry came from, and that is not open and transparent.

**Mr. Colin Breed** (South-East Cornwall) (LD): In 1997 I accompanied my constituent Major Christine Lloyd, herself a Gulf war veteran suffering from a Gulf war illness. She was in the medical corps, and gave and received injections. She was promised in 1997 that the Government would undertake a full inquiry, and that it would be open and transparent. Nearly eight years later, she has received no further support and her health has deteriorated significantly. She and many others now look to the Government to honour their promises and hold a full public inquiry.

**Mr. Caplin:** I am not sure that that would necessarily help the hon. Gentleman's constituent.

About 2,800 Gulf war veterans are receiving war disablement pensions, and if memory serves me aright some 50,000 troops went to the Gulf. The way to resolve

the issue is to do so properly, as we are doing, through medical research. That research is under way, at a cost of £8.5 million, and I think it is the best way to find out why some Gulf war veterans are ill.

**Dr. Brian Iddon** (Bolton, South-East) (Lab): When the Government have accumulated all the research—for which I am very grateful—will they commit themselves to a public inquiry, so that they can draw a line under this very difficult matter?

**Mr. Caplin:** I hope that my hon. Friend will accept that today would be the wrong time to give such a commitment. We should wait and see what the medical research shows, and then consider the matter further. I have made clear before that a public inquiry has not been ruled out, but we need to research the medical background to the Gulf war veterans' illnesses before making further decisions.

**International Security Assistance Force**

15. **Ross Cranston** (Dudley, North) (Lab): If he will make a statement on the UK contribution to the international security assistance force in Afghanistan. [214096]

**The Minister of State, Ministry of Defence (Mr. Adam Ingram):** Around 740 United Kingdom personnel are currently serving with the international security assistance force (ISAF) in Afghanistan. Some 550 of them are deployed to Kabul, where they are assisting the Government of Afghanistan to maintain security. The balance of 190 personnel are serving in the UK-led multinational provincial reconstruction teams in Mazar-e Sharif and Meymaneh, and the associated forward support base in northern Afghanistan.

**Ross Cranston:** I thank my right hon. Friend for his answer, and I am sure that the whole House wishes to pay tribute to our troops in Afghanistan.

I welcome the progress in ISAF's work, but it would be useful to have an idea of when stage two will begin. May I also ask whether ISAF's remit still includes disposing of munitions, and in particular anti-personnel mines?

**Mr. Ingram:** Stage two is an important next step. It will be discussed at this week's NATO ministerials, and we hope that progress will be made then. We hope to announce later this week our decision, following those discussions, on the form that stage two will take. That, I think, gives a clear indication that we are moving forward.

We plan to move beyond stage two to stage three, and the United Kingdom plans to make the headquarters of the allied rapid reaction corps ISAF's headquarters next year. This is a developing process, which is gaining momentum. As for the details of ISAF's current roles, it is probably best for me to write to my hon. and learned Friend so that he has a full picture of all the tasks that it undertakes. I appreciate his warm support for the work that is being done in Afghanistan.

**Recruitment**

18. **Mr. Hugo Swire** (East Devon) (Con): How much was spent on army recruitment in each of the past seven years. (214099)

**The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin):** Headquarters Recruiting Group, a part of the Army Training and Recruiting Agency, is responsible for the Army's recruitment budget. In financial year 1998–99, the Army spent £50.1 million on recruiting. In the following four financial years, spending was as follows: in 1999–2000, £56.4 million; in 2000–01, £55.5 million; in 2002–03, £68.4 million and in 2003–04, £71.4 million. I regret that the figures for financial year 1997–98 are not currently available.

**Mr. Swire:** I am grateful to the Minister for those figures, which record an increase, but anyone with a morsel of practical understanding of the military will realise the importance of local regiments for local recruitment. What does he say, therefore, about the wilful emasculation of the county regimental system and the effects that that will have on recruitment to the armed forces?

**Mr. Caplin:** The hon. Gentleman suffers a bit from not having heard previous answers to questions today. Nevertheless, he is entitled to come here to ask his question. There is no emasculation of regiments. As I said earlier to the hon. Member for Hereford (Mr. Keetch), the purpose of the changes that my right hon. Friend the Secretary of State announced on 16 December and of the ending of the arms plot is to ensure that the Army is more able and more nimble in responding to the threats of today and tomorrow. The Conservative party, which the hon. Member for East Devon supports, is interested only in the battles of yesterday.

**Mr. Lindsay Hoyle** (Chorley) (Lab): It is important to recognise that more money will have to be spent following the announcement in terms of what came out of the merging of regiments. In Lancashire, it is not necessary to spend that money because people wish to join their own county regiment, so I wonder whether my hon. Friend would reconsider the new name that the regiment has been given. It is now called the King's Lancashire Border regiment but the three regiments recommended that it be called the Royal Lancashire regiment; it is a true county regiment and covers the old county palatine. I wonder whether I can save him money by getting him to reconsider that change and to give the regiment the name that the three regiments want. I emphasise that the Royal Lancashire regiment is what we want.

**Mr. Caplin:** My hon. Friend is an assiduous campaigner for all matters Lancashire, and has been so many times over the years. The changes have been the subject of lengthy consultation and my hon. Friend, other hon. Friends and hon. Members have been able to lobby the Secretary of State directly. The Army Board itself made those recommendations.

**Sir Patrick Cormack** (South Staffordshire) (Con): That is all very well, but can the Minister name a

single former serving officer, or does he know of a single present serving officer, who welcomes the cut in the infantry?

**Mr. Caplin:** Many current serving officers welcome the changes that were announced on 16 December. I do not think that there is much doubt about that. Indeed, many people may wish that they had made the changes in the past. For example, ending the arms plot was first raised at the Army Board in 1962. It has taken over 40 years but this Army Board, together with this Government, have finally ended it.

## Voter Registration

19. **Sir Sydney Chapman** (Chipping Barnet) (Con): How many servicemen and women are serving overseas; and what steps he will take to ensure that each one has the opportunity to register to vote. [214100]

**The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin):** As at October last year, when data were last collated centrally, the number of servicemen and women overseas on postings and operations was 42,000. As I told the House earlier, we are working closely with the Electoral Commission to raise awareness of the options for service personnel to register to vote. I have made it absolutely clear that my personal preference for those serving overseas is for them to have a proxy vote to ensure that their vote is cast at any election.

**Sir Sydney Chapman:** I apologise to you, Mr. Speaker, and to the House for not being here for the earlier exchanges, but I was at a rather important constituency meeting. However, I have been fully informed of the exchanges that have taken place. May I just put to the Minister, for whom I have a very high regard, that the central point is that, until 2000, members of the armed forces were automatically registered in their name because if they were abroad it was virtually impossible to do that themselves? That surely is the key point. Could the Minister look at the matter again to see whether we can return to the old regime, especially as the number registering has catastrophically fallen?

**Mr. Caplin:** I am not sure how fully informed the hon. Gentleman is of the debate that we have already had on previous questions, but we are engaged with the Electoral Commission. We take the matter seriously and we have taken it very seriously. The hon. Member for Chichester (Mr. Tyrie) raised it in an Adjournment debate in December, and since then we have taken on board the points that many hon. Members on both sides of the House have made. We are determined that those able to vote and wishing to vote can do so.

## Gulf War Syndrome

21. **Ms Joan Walley** (Stoke-on-Trent, North) (Lab): What his latest estimate is of the number of former service personnel suffering from Gulf war-related illnesses. [214102]

**The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin):** The Ministry of Defence is unable to estimate how many personnel may be suffering from Gulf-related illnesses as it does not hold the primary health care records for the 53,000 veterans of the 1990–91 Gulf conflict. This information is held by the individuals' doctors and is not accessible for reasons of patient confidentiality.

**Ms Walley:** I noted what my hon. Friend said earlier about the importance of further medical research and the possibility even of a public inquiry, but my constituents, who believe that they are suffering from this syndrome, want to know exactly what further health care they can have, and that the research is taking place. Will he give an assurance that he will keep in close contact with the National Gulf Veterans and Families Benevolent Association, because 13 years after the Gulf war we owe those ex-servicemen the very best in health care?

**Mr. Caplin:** We take the illnesses that some Gulf veterans have very seriously indeed. The Gulf medical assessment programme is based at St. Thomas' hospital and if any Gulf veteran from the first Gulf war or from Operation Telic has any concerns about their health, they should immediately contact St. Thomas' hospital.

## Five-year Asylum Strategy

3.32 pm

**The Secretary of State for the Home Department (Mr. Charles Clarke):** With permission, Mr. Speaker, I would like to make a statement about the five-year strategy that I am publishing today to take forward our reforms to the immigration and asylum system.

The Government's approach to this important subject begins with the recognition that migration is vital for our economy and society. Visitors sustain a tourist industry that is worth £38 billion a year and employs more than 2 million people. Migrant workers, skilled and unskilled, do key jobs that cannot be filled from our domestic labour force. Overseas students make a major contribution, economic and intellectual, to our education institutions, and many as a result develop lifelong ties with this country. The positive effect of migrants is true throughout the United Kingdom. For example, in Scotland the declining population presents a particular challenge that Scottish Ministers are addressing through their fresh talent policy to attract and integrate bright, talented people. We will continue to support measures of this kind.

Moreover this country has always been among those first in the world to recognise our moral and legal duty to offer protection to those genuinely fleeing death or persecution at home. It is a fact that those who have migrated to this country over centuries have made, and continue to make, a major contribution to all aspects of our national life. But I think that the House will agree that it is essential to enforce our rules rigorously and fairly to ensure that we admit only those who bring this country the benefits or meet the moral obligations that I have described.

The proposals that I am publishing today are intended to build upon the major progress that we have made in recent years. We have strengthened our borders by operating our own controls in northern France and Belgium, supported by sophisticated new technology to detect illegal immigrants in freight vehicles. This has substantially cut illegal entry through the Channel tunnel and Calais and other ports. We have tightened the asylum system against abuse, reducing applications by 67 per cent. from their peak. Since 1997, we have doubled the number of removals of those not entitled to be here. We have made our legal routes for migration much more robust against abuse.

We must do more, however, to clarify the basis on which we admit people to the UK, whether temporarily or permanently, and we must do more to ensure that we operate an effective control to prevent those who do not meet our criteria from getting here, and to ensure that they leave when they are no longer entitled to be in the UK.

Lack of confidence in our systems of control can foster bigotry of whatever kind, and it is our responsibility—*[Interruption.]*

**Mr. Speaker:** Order. Members often ask me to bring Ministers before the House to make a statement. The Secretary of State is making a statement and it should be treated with courtesy. Many Members, including me, have asylum seekers in their community, and we want to hear what the Secretary of State has to say on this matter.

**Mr. Clarke:** Thank you, Mr. Speaker.

The strategy that I am setting out today comprises a major programme of measures to build confidence. We will continue to welcome genuine economic migration within strict criteria. The current system works well but is complex and difficult to understand. Therefore, we will bring all our current schemes for work and student migrants into one simple points-based system. That will ensure that we only take migrants for jobs that cannot be filled from our own work force and that we focus on the skilled workers that we need most. We believe that the labour available from European Union member states—old and new—should over time meet our national needs for low-skilled work. Therefore, in consultation with the industries and over time, we intend to phase out the current low-skilled quota schemes. We will of course review with the sectors how to fill any gaps that still remain, but any new schemes will be, as now, quota-based, temporary and tightly managed to ensure that people return home at the end of their stay. They will only be open to nationals of countries who agree to take back their citizens when they are no longer entitled to remain in the UK.

That points system will be supported by new measures to ensure that it is not abused. Workers and students will be required to have sponsors such as employers or educational institutions who will share the responsibility of ensuring that they leave at the end of their time in the UK. The cost of running the visa system will be recovered from those who benefit—I am answering a written statement on that today. Where there has been clear evidence of abuse, we are ready to introduce financial bonds to guarantee that migrants return home when they should.

We will set up an independent skills advisory body to advise us on labour market needs and skills shortages. The Government believe that a modern market-based economy such as ours requires a system that is flexible and employer-led, rather than some kind of centrally determined, rigid and arbitrary quota.

We will continue to welcome genuine refugees. Like all other developed countries and the rest of the 145 nations that are now signatories, we will honour our obligations under the 1951 Geneva convention. It is part of the international legal and ethical framework that enshrines basic principles of human decency. The Government reject the idea of a fixed and arbitrary quota of refugees and withdrawal from the convention as unworkable, unjust, counter-productive and immoral. Withdrawal would deny to us the international co-operation that we need to deal with the real problems that cause asylum such as resolving conflict, combating immigration crime and returning failed asylum seekers to their own countries.

We will continue to root out abuse by implementing rigorously the measures that we have taken to identify genuine refugees, by further strengthening our borders and by removing those whose claims fail. We will rationalise the appeals system to improve access to justice. From April, we will implement the new streamlined single tier of appeal. We will abolish the

*[Mr. Clarke]*

right of appeal against refusal of leave to enter the UK for work or study, and we will tighten up the operation of family visit appeals. We will continue to allow permanent settlement in this country where there is clear economic benefit and where migrants wish to integrate socially. We will tighten our conditions of settlement to reflect that by requiring those who want to settle to pass tests on English language and knowledge of the UK, by restricting settlement for economic migrants to skilled workers only, and by extending the period for which they need to have been here to five years before they get settlement.

We will in future grant genuine refugees temporary status once their asylum claim has been granted, as happens in many comparable European countries. We will encourage them to work and participate in local communities, we will keep the situation in their home country under review and, if there has been significant improvement, we will expect them to return. If there has been no improvement after five years, they will be permitted to settle in the UK.

Over the next five years, we will transform our immigration control. Using new technology, we will develop an integrated system dealing with people before they enter the UK, at our borders and while they are in the country. We will fingerprint everyone when they apply for a visa. Those fingerprints and other personal travel information will be checked against our own watch lists of those who present an immigration or security threat. Airlines will not have the authority to carry people until that check has been made.

Identity cards will provide a simple and secure way of verifying identity, helping us to tackle illegal working, organised crime, terrorist activity, identity theft and fraudulent access to public services. The new borders technology will record people's departure from the country, which will help us to target our immigration checks, and we will back that up with fines for employers who take on illegal labour.

We will continue to crack down hard on organised immigration crime, which targets the most vulnerable, the poorest and the young. We have introduced tough new penalties, gone after criminal assets and established the multi-agency Reflex task force to co-ordinate law enforcement and intelligence activity. That will be a major priority for the new Serious Organised Crime Agency.

Swift removal of those not entitled to be in this country is central to the credibility of the whole system. Although we have removed many more failed asylum seekers and other immigration offenders than ever before, we intend substantially to increase the number in future. We will introduce a new and faster process for asylum applications, detain more people and use other means of contact like tagging to prevent people from absconding when they are ready to be removed.

We will take new measures to prevent people from concealing their identity by destroying their documents and thus making it much harder to get their own countries to take them back. We have already made it a criminal offence to arrive in the UK undocumented without good reason, and we are asking airlines to copy travel documents on certain routes.

It will be most important to secure more effective returns arrangements with the countries from which most of our failed asylum seekers come. We will place migration at the centre of our relationship with those countries. We will give support to help with the reintegration of failed asylum seekers, if they need it, but we will also make it clear to the relevant countries that failure to agree such a joint approach will have implications for our wider relationship, including access to some migration schemes.

Migration is a consequence of the increasingly global world economy, and asylum is an international issue. We will best address and make progress on those issues through effective international co-operation, not through some kind of fortress Britain splendid isolation. The fact is that partnerships with other countries, the European Union and the United Nations High Commissioner for Refugees are essential to delivering our objectives.

Taken together, this is a major programme to build on the foundations that we have laid by creating a system which will be, and which will be seen to be, transparent and fair to all. It is a practical and systematic response to the real problems of asylum and immigration. It will provide a simple and robust system for economic migration. It will tighten our rules for permanent settlement to ensure that those who stay bring benefit to the UK. It represents real determination to eliminate illegal entry, illegal working, asylum abuse and people-trafficking gangs, who, through their heinous crimes, gain most from the failures of our system. I commend the strategy to the House.

**David Davis** (Haltemprice and Howden) (Con): As usual, I am grateful to the Home Secretary for generously allowing me advance sight of his statement. I am particularly pleased to tell the House that today's statement accurately reflects the newspaper reports over the weekend.

Eight years ago, the Labour party manifesto stated:

"every country should have firm control over immigration and Britain is no exception".

The Prime Minister promised to clamp down on the thousands of people who settle in Britain illegally. Four years later, the manifesto promised:

"asylum seekers and their dependants whose claims are rejected will be removed from Britain with the aim of more than 30,000 in 2003–04".

Instead of the clear, firm and fair asylum and immigration system that we were promised, we have a system that is confused, weak and chaotic. The latest published figures show that asylum applications are 67 per cent. higher than they were in 1996. Only one in five failed asylum seekers is currently removed from Britain. There are now more than 250,000 failed asylum seekers in this country who should have been removed.

Net immigration has tripled under this Government. The legal aid budget for asylum and immigration has increased sevenfold since 1997. Despite obvious abuse of the system there have been far too few people convicted of employing illegal immigrants.

It comes as no surprise that on his first day in the job, the current Home Secretary said that he believed that the immigration asylum system needed "urgent reform". The right hon. Gentleman is right: it

desperately needs reform. That is reform of the mess that the Government have created over the eight years that they have been in power.

The Home Secretary has, today, set out plans to bring the system back under control—a rather different perspective. In November 2003, the previous Home Secretary described the Asylum and Immigration Bill as the "final phase" of reform.

As I first called for an Australian points system about nine months ago, it would be unfair of me not to welcome that system in today's plan. There is a clear economic case for limited migration of skilled people coming into and out of Britain, and a points system will allow us to manage this more effectively. However, will the Home Secretary explain to the House why the Government decided to do this only now? Is it because last year more than 200,000 people came to Britain, entering under various schemes for employment purposes? Migration is, of course, part of a competitive, dynamic economy. However, the issue is not only about the economy. It is also about pressure on public services such as housing, schools and hospitals. So we must decide how many people we can take. For that reason alone we need a clear limit on numbers.

The Government's plan to introduce a points system will not necessarily reduce the number of immigrants coming into Britain unless a limit is introduced. In 2003, the former Home Secretary said that he believed that there is

"no obvious upper limit to legal immigration".

Does the current Home Secretary agree?

The Government failed to foresee the implications of European Union enlargement. Today's announcement discusses but does not really deal with the EU accession states, whose 75 million population have an average wage half that of Britain's minimum wage and are registering at a rate of well over 100,000 a year, not the 13,000 originally claimed by the Home Office.

Given what the Home Secretary has said, is he, effectively, going to set a zero, zero quota for unskilled immigrants from outside the EU and the succession states? Will he explain why, last year, the Government increased the numbers under temporary labour schemes but did not implement departure controls? Does he know how many people remain in Britain having completed their employment under these schemes or, indeed, came to the country under any temporary visa and stayed here illegally?

We know from leaked Home Office documents that most major countries have good methods of estimating numbers of illegal immigrants but that this Government decided not to do so because it was embarrassing. Will the Home Secretary now publish the estimated number of illegal immigrants in this country?

The five-year plan proposes to reintroduce embarkation controls. Again, we welcome this because it is also familiar from nine months ago. However, the electronic system that is being proposed today has yet to complete its pilot stage. It will be yet another very complex computer project for the Home Office to get wrong and to overrun on cost and time, and time matters on an issue of such fundamental importance to national security.

The National Audit Office estimated that the cost of reintroducing embarkation controls will be about £26 million, or a little more, per year. Does the Home Secretary not think that this will be a far more cost-effective way of controlling entry and one that could be introduced relatively quickly—not the three-year timetable that he currently has, I think?

Finally, we learn that the Government are going to restrict the right to permanent settlement. It will not surprise the House to learn that this is also familiar from nine months ago. The number of people granted settlement in the UK between 1997 and 2003 more than doubled, the figure having been almost static between 1993 and 1997. Will the Home Secretary explain precisely when this measure will come into effect?

The Home Secretary proposes today to speed up the removal of failed asylum seekers—a measure that he describes as key to the credibility of the whole policy. I am afraid that we have heard this all before and frankly, the Government's record to date on this issue is abysmal. Targets have been constantly missed and dropped, and then missed again. This is not the first time that the Home Office has talked tough on removing failed asylum seekers. In 2001, the Government announced a target of 30,000 removals, against a background of the then current average of 8,000. That Government promise was simply dishonest; they knew when they made it that they could not achieve it.

I sometimes illustrate our immigration debates with leaked documents. This time, evidence of the Government's dishonesty is hidden in plain sight—in a document that is technically in the public domain—albeit buried in the middle of a 459-page report on the fire at the Yarl's Wood removal centre. The report quotes a deputy director of the immigration and nationality directorate, who said that

"the 30,000 target had been met with shrieks of hollow laughter"

at an immigration service conference. According to the director of detention at the immigration and nationality directorate, the culture inside the Home Office was such that despite the target's being—the Minister for Citizenship and Immigration will like this phrase—

"some kind of fantasy, you had to publicly acknowledge"

it, and if you did not,

"you were branded 'not one of us' and a trouble maker".

Disturbingly, the director of detention said that reasoned debate was forbidden.

The previous Home Secretary was told immediately after the 2001 general election that his target was unachievable. It was reported that he felt "uncomfortable" with the news. So he should, as the Government plainly knew that their campaign promise was incapable of being achieved before they made that promise. The question that the current Home Secretary should perhaps ask himself is this: given that history of deception by this Government on this subject, why should anyone believe them now?

It has taken the Government eight years to come up with a five-year plan—a plan that is a series of half steps towards a proper solution. It goes no way towards sorting out an asylum and immigration system that is a total shambles. It might surprise the House to learn that I feel some sympathy for the Home Secretary and the Minister for Citizenship and Immigration. Both inherited a complete disaster. We have had eight years of incompetence, cover up, deceit, missed targets and unmet promises. This is the latest headline-grabbing

*[David Davis]*

initiative from a panic stricken Government in the run-up to a general election. We have heard it all before; why should we believe any of it now? Frankly, we do not, and nor will the people of this country, who have now completely lost trust in a completely discredited Home Office.

**Mr. Clarke:** Well, that rant—that is the only word that I can use—was notable for its lack of comment on our detailed proposals, and for the right hon. Gentleman's reiteration of two fundamental weaknesses in his policy. First, he reiterated the official Opposition's commitment to quotas. I want to make it absolutely clear—in a way that the whole House, including Conservative Members, will understand—that the Tory quotas would damage our economy and our world-class education system and remove existing fundamental human rights under international law. It is an arbitrary, populist and impractical assertion that can achieve nothing, and I was disappointed at the right hon. Gentleman committing himself to it yet again.

Secondly, the right hon. Gentleman rightly referred to the border controls that we rigorously establish in this document. They will enable us for the first time fully to understand exactly the movement of people into and out of this country, which was never done under the Conservatives or previously under this Government. I am glad that the right hon. Gentleman affirmed that he supported it in principle, but I am disappointed that he did not take the opportunity to renounce the cuts that the James proposals suggest for the Conservatives, which would remove the resources necessary to make our borders strong and robust at home and abroad. That is the second big weakness.

Thirdly, I am not surprised that the right hon. Gentleman made no mention of his intention to leave the Geneva convention on refugees, which would destroy the very international co-operation that is essential to solve the challenges that we face on immigration and asylum. The fact remains that we are putting forward today a clear, coherent and practical set of propositions as against the false rhetoric of the official Opposition. I believe that the Conservatives will show that they have mistrusted the whole country in that regard.

**Mr. Mark Oaten** (Winchester) (LD): I thank the Home Secretary for advance notice of his statement. While there are many issues on which we disagree in this debate, we welcome at least his attempts to highlight the positive economic case for immigration. Included in the proposals that the Home Secretary has announced today is the suggestion for an independent economic review to assess how many jobs are needed. We have argued for that proposition since last summer, but will he consider our further suggestion that he should use the findings of the review to set an annual economic quota so that the public can see that it is being done independently rather than by politicians?

Will the Home Secretary also confirm that he has no plans to end the right to settlement after four years? Does he accept that workers who have been in this country with their families for four years have put down roots in the community, making it wholly wrong for them to lose that right? Furthermore, will he confirm that his proposals will apply to all immigrants, including those from America, Canada and Australia?

On asylum, I am glad that the Home Secretary rejected the totally unacceptable proposals for a quota that the Conservatives are advocating, but will he give a firm guarantee that the Government have no targets in mind for the number of asylum seekers coming into this country? Will he confirm that, in the next five years, there will be no further plans to change the rights of asylum seekers on appeal, and what is he going to do to try to get the initial decisions right on more occasions, because far too many of them are wrong at the moment? We welcome the plans further to speed up the removal of failed asylum seekers. In the past, the Government have set targets, but failed. Are there any targets in place now for the number that they intend to remove?

Finally, does the Home Secretary share my frustration that there is now a bidding war taking place on immigration and asylum between the Government and the official Opposition? Is it not important to speak up for the positive role that migrants play and to defend at all costs the principle that, in this country, we welcome refugees?

**Mr. Clarke:** Let me begin with the hon. Gentleman's final point. I do not believe that there is a bidding war of any sort whatever and it is quite wrong of him to say that there is. What is critical is to ensure that our migration regime allows our businesses, public services and universities to flourish while maintaining our responsibility to ensure that everyone who has the right to claim asylum is able to do so and encouraging visitors to this country for a variety of purposes. I believe that it is ludicrous to impose some sort of economic quota in that context. It will be factors in different areas of the marketplace that determine the position—and quite rightly so. The position is simple. The hon. Gentleman is right to welcome the advisory body, which will ensure that we properly—and, independently, by the way—understand exactly where the pressures in the system are, how to carry the necessary measures through and how to build on our sector skills council approach. That is a sound approach to the problem.

We are not setting specific targets on the number of applications, removals or other particular aspects. We do believe that we can move forward in the directions that we suggested, including establishing settlement at five years, rather than four years. To answer another of the hon. Gentleman's questions, we believe that the proposals should apply to everyone, rather than to any particular groups. We will try to make the initial decisions more effective, and we believe that the accelerated asylum system will mean that better decisions can be taken more rapidly than in the past. My final appeal to the Liberal Democrats would be not to play a game of party politics, but properly to consider the merit of the proposals and decide accordingly.

**Mr. Kevin Hughes** (Doncaster, North) (Lab): I welcome my right hon. Friend's statement. Anybody with half an ounce of grey matter between their ears knows that economic migrants are a good and necessary thing for this country. The real problem is the amount of people who try to cheat the asylum system. My

constituents want the Home Secretary to concentrate on that issue, not get drawn in to a "mine's bigger than yours" contest with the Conservatives.

**Mr. Clarke:** My hon. Friend is correct and I shall be unequivocal in my response. We welcome migration for economic and educational reasons and we understand and meet our international obligations. However, the determination at the core of the document is to reduce and minimise the number of people who evade the system through duplicity, organised crime or collusion between various forces. My hon. Friend's constituents, like many other people, are impatient when they see the system bypassed in that way. That is why, once we have clarified exactly what the basis for entry is, it is necessary to ensure that the system is rigorously policed, enforced and tightened up. I am glad that my hon. Friend has focused on that aspect of the proposals.

**Derek Conway** (Old Bexley and Sidcup) (Con): The House has been unduly harsh on the Home Secretary and he should be congratulated on delivering his statement with a straight face. However, he should recognise that no one believes him on this issue. They do not believe his figures or his statement. When he talks about enforcing rules vigorously and strengthening our borders, very few constituents will believe those words for a moment. If he does know what the figures are, will he undertake to put them in the Library so that the allegations that he made in his statement can be sustained by the actual facts?

**Mr. Clarke:** The reason I try to make my statement and give my responses with a straight face is that this is a serious issue which needs to be seriously addressed. It is true that there is room for party political badinage, but the people of this country are fed up with that aspect and seriously concerned about what needs to be done in practice. My challenge for the other parties is to put forward serious, considered and practical proposals, as we have sought to do, based on the facts of the situation as they are properly understood. That is what the document seeks to do, and I invite the Conservatives and the Liberal Democrats to do that also. That is the basis on which we should have the national debate.

**Mr. Neil Gerrard** (Walthamstow) (Lab): I am sure that my right hon. Friend the Home Secretary accepts that if someone is given refugee status, which is not very easy to get, it implies that we accept that they would be in real danger if they returned. Can he confirm whether people who are given refugee status in the future will retain the right to family reunion while they have the temporary status that he proposes? If so, we will be leaving people in limbo for up to five years while their families start to put down roots. What will happen at the end of the five years if we then attempt to send those people back? We will certainly see those people in our surgeries if that happens.

**Mr. Clarke:** I pay tribute to the work done by my hon. Friend on this issue over a period of time. The important point to acknowledge—as many other European countries do—is that refugee status becoming settlement is a privilege, rather than a right. We need to acknowledge that some applications for refugee status are temporary in character. The most recent example is Kosovo, but there are others. In such cases, one may reasonably anticipate that by seeking to end conflict in various parts of the world, we can address some of the genuine issues that give rise to applications for refugee status in the first place. That is why we say that it is necessary to keep the situation under review. If the cause has not changed after five years—and in many cases it will not have done so—we will, as now, grant indefinite leave to remain as a permanent status. However, it is reasonable that after refugee status is granted, it should be kept under review in the light of changing circumstances for each individual.

**Mr. Roger Gale** (North Thanet) (Con): In August 1997, I—and, to be fair, the hon. Member for Dover (Mr. Prosser)—informed the Home Office, on the basis of information provided by Kent police, of a likely influx of illegal immigrants. In the autumn of that year, my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) and I called on the then Minister of State to reinforce personally our concerns. No action was taken by the Home Office and the floodgates opened. In 1996, approximately 50 applications for asylum were made in Kent. Can the Home Secretary say how many asylum seekers are currently resident in Kent and what in his statement today will prevent the many asylum seekers who are now illegally on the electoral register from voting in the election?

**Mr. Clarke:** I cannot give the figures for Kent, but I can draw the hon. Gentleman's attention to figure 5 on page 17 of the document that we published today, which clearly shows that, according to the latest estimate, the number of asylum applications in 2004—the most recent year—was about the same as it was in 1996–97. I can also say that when Labour entered office in 1997, we found no serious preparation by the Government then leaving office to deal with the terrible crime of people trafficking, which was the core of the system. The Labour Government have put that at the top of the agenda and established approaches to deal with it. That is to the credit of our Government and to the discredit of the Government whom he supported.

**Glenda Jackson** (Hampstead and Highgate) (Lab): Is it not the case that the majority of economic migrants into this country come from the island of Ireland, New Zealand and Australia? How, if there are two applicants with equal qualifications for a job under the quota, can we be assured that the applicant with white skin will not automatically get the job?

**Mr. Clarke:** My hon. Friend's figures are correct. One of the reasons why I oppose quotas as proposed by the Opposition is that they could have precisely the effect that she suggests.

**Mr. Alex Salmond** (Banff and Buchan) (SNP): The Home Secretary complimented the fresh talent initiative, but yesterday's *Sunday Herald* detailed five separate instances of policy initiatives proposed by the Scottish Executive being turned down by the right hon. Gentleman's predecessor. How on earth can he satisfy Scotland that the policy he has announced today will

*[Mr. Alex Salmond]*

recognise the economic benefits of immigration when he is simultaneously engaged in an increasingly unpleasant auction with the Conservative party on who can sound toughest on immigration?

**Mr. Clarke:** The hon. Gentleman is simply wrong. We specifically welcome the fresh talent initiative, as I was at pains to point out in my statement, and I engage in regular dialogue with my colleagues in the Scottish Executive, including the First Minister, on what we can do to support it. We are not involved in a bidding war.

**Mr. Tom Harris** (Glasgow, Cathcart) (Lab): My right hon. Friend is right to identify as a source of profound public concern a situation in which the vast majority of asylum seekers cannot establish a case for remaining in the UK, but do so anyway. If democracy, peace and stability take root in Iraq, will the Government under the new policy take the measures necessary to ensure that every failed Iraqi asylum seeker is removed to their country of origin?

**Mr. Clarke:** The short answer to that question is yes. The question illustrates extremely clearly the fact that in the modern world, in large part, the need for asylum arises from conflicts in various parts of the world—Africa, east Africa, the middle east and elsewhere. The principal aim of our policy is to resolve those conflicts in the best possible way, and resolution enables us to consider returning people who were genuine refugees to those countries if necessary. That is what we will consider.

**Mrs. Gillian Shephard** (South-West Norfolk) (Con): The right hon. Gentleman has spoken of the Government's moral responsibility in these matters. We have reached, or nearly so, the anniversary of the shocking events in Morecambe bay, over which the Labour Government presided, and as a Norfolk MP he is aware of the intolerable abuse suffered by some migrant workers at the hands of some unscrupulous employers in East Anglia. The reason for that abuse is that such people are invisible. His predecessor memorably said that he had not a clue how many migrant workers there were in Britain, either legally or illegally. Will one of the results of today's announcement be that in future the Government will know and, as a consequence, will be able to accord to those forgotten and neglected people the protection that the Morecambe bay workers so spectacularly did not have?

**Mr. Clarke:** The right hon. Lady is quite right. The imposition of the border control systems that I have set out today will allow this or any Government to have the information that she rightly identified as necessary. She is right, too, about the impact of illegal working and people trafficking on our economies. She will be aware that an individual who ran a huge people-trafficking business in East Anglia was found guilty last week, and was brought to justice as a result of measures that we introduced. However, there is a great deal more to be done. The right hon. Lady has rightly campaigned on these matters, and I will join her in doing so.

**Ms Karen Buck** (Regent's Park and Kensington, North) (Lab): The Opposition spokesman raised the issue of pressure on public services, but may I tell my right hon. Friend that swathes of those services, especially in London, could not function without migrant and refugee labour? I, for one, pay tribute to those people. Is my right hon. Friend aware that in opinion polls the British public regularly overestimate the size of the migrant and refugee population, and assume that between one quarter and one third of the entire population are first-generation migrants. Last week, however, the House of Commons Library advised me that the figure was nearer 4 per cent. Will he do what he can to ensure, particularly in the next few weeks in the highly charged atmosphere in the run-up to an election, that we reach an agreement that it is not in anyone's interest to distort and exaggerate the picture?

**Mr. Clarke:** My hon. Friend is quite right. As I understand it, 27 per cent. of professionals in the health service were born overseas. A vital number of key services and businesses depend entirely on that migration, so I was accurate in describing the Opposition's proposals for a quota as economically illiterate and destructive, as they would wipe out much of that key support. As for responsibility in the debate, it is legitimate to debate these questions, but every party to the debate, political or otherwise, should be required to introduce a balanced set of practical propositions. That is the nature of our proposals, and I very much regret that the official Opposition have not introduced proposals that are even remotely practical, as that can foster fear and uncertainty.

**Mr. John Gummer** (Suffolk, Coastal) (Con): Does the Home Secretary not agree that confidence in him is important if his proposals are to work? Many people must be asking why all this was not in the Queen's Speech or, indeed, previous Queen's Speeches; to the general public it looks very much as if the right hon. Gentleman has introduced these proposals only because of the sensible proposals introduced by the Opposition. He is under fundamental pressure from No. 10 to deliver on this very matter.

**Mr. Clarke:** I am staggered that the right hon. Gentleman should consider the proposals introduced by his Front Bench team sensible. I am surprised that, with his personal record and internationalist background, he should be happy that they propose to withdraw from the 1951 Geneva convention on refugees. I agree that confidence is important, but the Queen's Speech deals with the legislative programme of the present Parliament. A vast number of the measures that I have set out today can be introduced without primary legislation, and we shall do so.

**Keith Vaz** (Leicester, East) (Lab): May I tell my right hon. Friend that, as a first-generation immigrant whose parents did not have to face a quota before they came to the United Kingdom, I am concerned about his proposals to limit the right of appeal in family visitor cases. That very special right was introduced by a Labour Government, and it affects people in this country who want to see family visitors. Does he not agree that if he is going to charge higher fees at the

immigration and nationality directorate, then the services that it provides must be much better; and that we must get a grip on that system?

**Mr. Clarke:** I agree with my hon. Friend. I intend to retain the right of appeal in family visitor cases, as I have made clear. However, that should be done on the basis of papers rather than oral hearings, and I have said in terms that we will consult on the question of a charging regime, precisely because, as my hon. Friend argued, it is important that any charges be considered alongside the efficiency of the service that is provided. I therefore accept the general thrust of what he said.

**Mr. Mike Hancock** (Portsmouth, South) (LD): I for one on the Liberal Democrat Benches welcome much of what the Home Secretary said today. When he spoke about removals, he did not emphasise what the problems had been and why we had not been able to remove so many people. Why should people be confident that the Government now have a plan that will get it right, when they failed so badly in the past, with tens of thousands of people who have been refused permission to stay remaining in the country?

**Mr. Clarke:** There are three key things that we must do in connection with removals. First, we must identify countries that are not ready to accept removals in the way that they need to. I set out a coherent cross-Government strategy for doing that in a way that has not been done before. Secondly, we must ensure that everybody is identified consistently. Though we have some good record on this, we do not have a good enough record, and we must make technology work for us in that regard. Thirdly, we have recently legislated to make it a criminal offence to destroy documents upon entry to the country. That is only a recent development, but we need to take it still further. All three steps are part of our removals approach. Putting all three into effect will build on the record that we already have for the highest number of removals the country has ever had.

**Jeremy Corbyn** (Islington, North) (Lab): Is the Home Secretary not concerned that the debate is being increasingly conducted in a shrill atmosphere of dealing from the lowest card in the deck? We are going to the lowest common denominator in the debate. Will he reflect on the plight that many asylum seekers face in this country? They come from war-torn communities, having suffered personal and systematic abuse, often live in great poverty in this country because they are unrepresented through the asylum system, and are then threatened with removal to countries such as the Congo, which are extremely unstable. Will he not instead raise the debate to the level of serious concern about human rights for people all around the world, as we want for ourselves, rather than indulging in a debate with the Opposition about who can be toughest on immigration and toughest on asylum?

**Mr. Clarke:** I am very disappointed that my hon. Friend takes the view that that is what I have been doing. I do not consider that I have been shrill or that I have adopted a lowest common denominator approach. I have tried, in a way that has not always been part of the debate, first, to assert the absolute importance of migration to this country for work and study, for visitors and for our economic necessity, and not to confuse that with other aspects; and secondly, to assert our absolute determination to honour our membership of the Geneva convention on refuges, precisely to protect people in the position that my hon. Friend described. I consider that a positive way to look at the debate, and the document is a positive way to set it out. I do not know whether my hon. Friend agrees, but I think it is reasonable to debate these matters, rather than not. We should discuss them, and the document is a serious effort to provide a basis for doing that.

**Alistair Burt** (North-East Bedfordshire) (Con): With what remains of the Yarl's Wood detention centre being in my constituency, and the insurance claim against Bedfordshire police still unresolved nearly three years after the fire, the Home Secretary will appreciate the importance of his remarks to the people of North-East Bedfordshire. Will he accept the invitation offered by the leader of Bedfordshire county council, Angela Roberts, last week for him to come to Bedfordshire to explain why the Prison Service ombudsman held the failures of Home Office policy to be responsible for the Yarl's Wood fire incident, and at the same time explain to my constituents why they should have any more faith in the current five-year plan than those many thousands who suffered from the fiasco of the past five years should have in that?

**Mr. Clarke:** I am certainly ready to consider with the hon. Gentleman the best way to discuss with his colleagues on Bedfordshire county council how we can address these matters in a positive way for his constituents. The approach set out in the document will provide a firmer basis for doing that.

**Ms Sally Keeble** (Northampton, North) (Lab): My right hon. Friend recognises the concerns in the community about the pressure that people perceive, rightly or wrongly, to be placed on public services by the asylum system. How is he working with colleagues across Government to make sure that a similar approach applies across all Government services, so that fairness in public services is both the public perception and the reality?

**Mr. Clarke:** I am grateful for that question. My hon. Friend is right. It is important that the approach should go right across Government. For example, we intend to work with our colleagues in the Department of Trade and Industry to ensure that the law is enforced strongly and coherently in relation to employing people who are in the country illegally. We intend to work with our colleagues in the Treasury and elsewhere on establishing a border regime that works extremely carefully. We intend to work with the Department of Health and the Department for Education and Skills to ensure that we have a proper regime for the recruitment of people coming into the country. In relation to housing, it is particularly important that we have that dialogue with the Office of the Deputy Prime Minister. So we are working right across the range and will continue to do so.

**Mr. David Wilshire** (Spelthorne) (Con): It would be churlish of us not to commend the Home Secretary for having the honesty to admit that the time has now come for him to clear up the mess made by his own Government. Could he perhaps tell the House why all the things that he now tells us need to be done were not done during the past eight years?

**Mr. Clarke:** Actually, what I tried to say—perhaps the hon. Gentleman was not paying attention—was that in each of the areas that we are talking about, and in particular in reducing the number of asylum applications that deal with embarkation at Calais, Sangatte or through the channel tunnel, we have made significant progress. The question is how we make further progress. It is obvious, I would have thought, that more progress needs to be made, and it is that to which I am committed.

**Mr. Gwyn Prosser** (Dover) (Lab): I am pleased to welcome the Home Secretary's announcement and the measures to continue cutting out abuse in our asylum and immigration systems and improving security at our ports. Does my right hon. Friend recall his visit to my constituency last month? He met immigration officers and heard about the dramatic fall in applicants that has already taken place because of past measures on border controls, juxtaposition and other matters. Will he join me in paying tribute to those hard-working immigration and customs officers who put policy in place and are actually making a difference today?

**Mr. Clarke:** I very much appreciate my hon. Friend's raising those points. I recall my visit, and I am grateful to him for inviting me to Dover. I was extremely impressed by the commitment, energy and drive of the employees of the immigration and nationality directorate and Customs and Excise, and others working on such issues. Also—and this is a really important point in light of the preceding question—they all told me, when I met them at the beginning of January, that there had been major improvements in the previous six to nine months, during which things had moved forward. They felt—and it was they, not me or even my hon. Friend who said this—that there had been major progress. The question is how we build on that progress; we should consider that, rather than pretending that no progress of any kind has been made.

**Mr. Peter Lilley** (Hitchin and Harpenden) (Con): During this Parliament, lawful net immigration to this country has averaged more than 150,000 a year. Does the Home Secretary think that that level of lawful immigration is too high, too low or about right?

**Mr. Clarke:** I do not really have a view on that—[HON. MEMBERS: "Ah!"] That is for a very good reason; I will tell the right hon. Gentleman why. I am not one of those who, like the right hon. Gentleman, takes the Stalinist view that the best way to proceed is for the Government to decide exactly how many people will work in each sector of the economy, how many students will come to the country and how many visitors we will have. That is a very silly way to proceed. What has to happen—perhaps, I suggest to the right hon. Gentleman, in a more free market way—is that companies and organisations in each sector of the economy, universities that recruit students from south-east Asia, or whatever it might be, should come to their views about what is the right thing to do. Our system would then facilitate that. I think that that is a good way to proceed.

**Tony Lloyd** (Manchester, Central) (Lab): The Home Secretary rightly paid tribute to the role of migrants in recent decades—and, indeed, over the centuries. Does he accept that people from migrant and non-migrant families would agree with him that those who abuse our visa regimes and our refugee processes should be quickly removed from these shores? Does he also accept that one of the issues that he has to deal with in the Home Office is the slow rate of processing of those claims? That is imperative. Many people retain their long-term relationships with family and friends outside our shores. Does he join me in accepting that the need for family visits, and a proper, effective and fair system whereby people can visit these islands of ours, is imperative if we are to be seen to be taking the racism out of this debate? I know that that is what my right hon. Friend wants to do.

**Mr. Clarke:** I am very glad that my hon. Friend raised that point. The fact is that the time for processing an asylum application is now two months for an initial decision in 80 per cent. of cases, against an average of 22 months—11 times as long—in 1997, when the previous Government left office. That is a significant process of achievement, as I know that my hon. Friend will agree; but, yes, we have to do far more in that regard.

I particularly appreciated my hon. Friend's first point—that people who live in this country, whatever their origin and history, all agree that we need to address the issue of people who try to bypass the system, and to get it right. That is what we are trying to do. Anyone who suggests that the set of measures is for one community or against another is simply wrong. I assert that strongly and I am grateful to my hon. Friend for giving me the chance to make that clear.

**Mr. James Paice** (South-East Cambridgeshire) (Con): Given the Government's past woeful achievement on the matter and the Secretary of State's admission that most of what he has announced will not require primary legislation, when will anything happen? For example, when will he introduce embarkation controls? When will the points system come in? When will he introduce the temporary status for asylum seekers? It is all very well listening to his comments, many of which we all support for the reasons that my right hon. Friend the Member for Haltemprice and Howden (David Davis) outlined, but what matters is when he delivers.

**Mr. Clarke:** Some of the proposals will be delivered with immediate effect and others will take more time. The hon. Gentleman's first point was about embarkation controls. We cannot establish that system until the technology and regime are in place to make it work. We have taken the first steps but the process must be completed. We anticipate that the full fingerprinting system for visas will be complete by 2008. On the other

hand, it is possible to set in motion the process for the points system almost immediately, after we have held a proper consultation about what the points regime should be. There is therefore a different answer for each part of the proposals. However, I can assure the hon. Gentleman that, as of today, we will move forward on implementing the whole document.

**Mr. John Denham** (Southampton, Itchen) (Lab): I congratulate my right hon. Friend on his important statement. If he has had the opportunity to read last year's Home Affairs Committee report on those matters, he will have found a more measured discussion of them than has been apparent in much of the past fortnight. The report recognised the considerable improvements that the Government made in reducing the time taken to process applications and in the reduction of failed asylum applications. However, it highlighted the need for radical change in the approach to the return of asylum seekers, for embarkation controls and for making asylum issues central to this country's foreign policy. My right hon. Friend has dealt with those matters this afternoon and I am grateful to him for that.

**Mr. Clarke:** I very much appreciate the way in which the Home Affairs Committee, under my right hon. Friend's chairmanship, has sought to conduct the debate. It is potentially an emotive and difficult debate and we must all conduct it in a balanced way which is based on the facts. The Select Committee has shown us the way on that. I am glad that my right hon. Friend believes that we have been able, at least to some extent, to move in the direction that the Committee suggested. I look forward to continued dialogue with him and his Committee.

**Mr. Edward Garnier** (Harborough) (Con): Until my hon. Friend the Member for South-East Cambridgeshire (Mr. Paice) asked the Home Secretary about the timetable, the right hon. Gentleman had not condescended to give us any detail about the schedule and when we could expect the reforms to come through. What does he expect the public to have to pay for those additional proposals?

**Mr. Clarke:** As I said in answer to the hon. Member for South-East Cambridgeshire (Mr. Paice), there are different timetables for the different aspects. For example, establishing a points-based scheme, the requirement for migrants in specific categories to have sponsors and bonds, changing the settlement regulations and so on require secondary, not primary legislation. On the other hand, establishing a new civil penalty for employers, removing appeals for work and study routes and so on require primary legislation. A detailed schedule will be published in due course, but I can assure the House that we start work on the document immediately.

**Mrs. Ann Cryer** (Keighley) (Lab): When a person has entered the country and gained indefinite leave to remain as a spouse, will that person be allowed to continue to act as a sponsor after leaving the wife who sponsored him? Or does my right hon. Friend have plans to stop that sort of abuse?

**Mr. Clarke:** We are trying specifically to deal with that. I believe that I understood my hon. Friend's question correctly and that what I have proposed today will tackle the abuse that she describes. However, to avoid doubt, I shall write to her rather than give an answer at the Dispatch Box, to ensure that I have understood the wording of the question accurately.

**Bob Russell** (Colchester) (LD): I thank the Home Secretary for drawing attention at the beginning of his statement to the importance of migration to this country's economy. He drew attention to skilled and unskilled migrant workers. Now that he is Mr. Nice Guy at the Home Office, will he emulate his predecessor in at least one respect and update and publish the economic evidence that asylum seekers and refugees, when given permission to work, are net contributors to the public purse and not a drain on the national economy?

**Mr. Clarke:** We always seek to analyse these matters and to keep them under review. However, it is important that the hon. Gentleman should be clear about the Liberal Democrats' policy on this issue. I have tried to set out our position as clearly as possible, as I think I have done today. I look forward to his comments—

**Mr. Russell:** I am trying to be helpful.

**Mr. Clarke:** Well, if this is the hon. Gentleman's idea of being helpful, it is a bit like when he supports Norwich against Ipswich: he always gives slightly barbed support at the key time.

**Paul Flynn** (Newport, West) (Lab): As a descendant of an economic migrant of 1849 and a representative of a city founded almost entirely on layers of migration, I welcome today's statement. It will ensure that the door remains open to those would-be migrants whose lives are at risk, while seeking to close the door on the human trafficking that results in problems of abuse by gangmasters and other criminals, and which also, perversely, ensures that deserving migrants do not get in because their places are taken by those who can pay the huge charges demanded by the human traffickers.

**Mr. Clarke:** I am particularly glad that my hon. Friend should focus on the role of the human trafficking gangs and on the trade that gives billions of pounds in profits every year to some of the most unpleasant people in the world. It is important to remember that some of the people coming into this country under their auspices are the wretched—really they are. They are the victims of the system rather than the causes of evil. I have sought in my statement to distinguish between the legitimate migration path that my hon. Friend celebrates and the pressing need to deal with the illegitimate paths.

## Points of Order

3.31 pm

**Tony Baldry** (Banbury) (Con): On a point of order, Mr. Speaker. Ideally, I would have liked to raise this point of order a couple of weeks ago, but I have been away with the Select Committee on International Development and this is the first opportunity that I have had.

One of the most contentious issues in my constituency is the Government's proposal for an "accommodation centre for asylum seekers"—the phrase used by the Government—at Bicester. I was somewhat surprised, on 20 January, to be told by the regional media that, according to a Government website, leaflets were being distributed in my constituency by the Home Office. I knew nothing of that. I obtained a copy of the leaflet and was even more surprised to see that it contained this announcement by Ministers:

"A community liaison group will shortly be set up which will play an important role in shaping the relationship between the centre and the local community. This will also be the forum for raising local concerns on matters associated with the centre . . . Membership of this group will be made up of a variety of key people from the local community, including local service providers, residents, voluntary organisations and clergy, amongst others."

Mr. Speaker, there is absolutely no reference in the Nationality, Immigration and Asylum Act 2002 to community liaison groups, so this is an extra-statutory provision. At no time did the Minister concerned either make a written statement to the House on this matter or have the courtesy to write to me as the local Member of Parliament. So far, this is the only accommodation centre in the country being proposed, so it is not a though there is a huge number of us to write to. I fin that contemptuous of us as Members of Parliament If our constituents feel that Ministers are being contemptuous of us, they will also conclude that they are being contemptuous of Parliament as a whole That substantially undermines our ability to provide leadership in the community and to represent our constituents. I therefore urge you to urge Ministers no to make policy announcements of this kind by shoving leaflets through our constituents' letterboxes, but to have the courtesy to inform the House first.

**Mr. Speaker:** I am grateful to the hon. Gentleman fo giving me notice of his point of order. I hope that th Ministers concerned will take careful notice of what h said. Ministers are expected to notify Members befor visiting their constituencies, and the same courtesy should extend to the announcement of new initiatives affecting Members' constituencies, particularly when they concern issues of high political sensitivity.

**Mrs. Alice Mahon** (Halifax) (Lab): On a point o order, Mr. Speaker. In our next business, we shal debate amendments dealing with religious hatred and blasphemy. I think that most Members would agree that religion is about people's consciences I understand that some Opposition parties have been given a free vote on the issue. I have asked for one from my party and wonder whether, at this late stage, it ha revealed whether we shall have one.

**Mr. Speaker:** As far as the Speaker is concerned, all votes are free.

# Orders of the Day

## Serious Organised Crime and Police Bill

[1ST ALLOTTED DAY]

*As amended in the Committee, considered.*

### New Clause 3

RACIAL AND RELIGIOUS HATRED

'For section 17 of the Public Order Act 1986 (c. 64) (meaning of "racial hatred") substitute—

"(1) In this Part 'racial hatred' means hatred against a racial group, of persons defined by reference (whether directly or indirectly) to colour, race, nationality, (including citizenship) or ethnic or national origins ("a racial group").

(2) In this section—

(a) 'an indirect reference' means a reference to religion or religious belief or to a person's membership or presumed membership of a religious group as a pretext for stirring up racial hatred against a racial group;

(b) 'religious group' means a group of persons defined by reference to religion or religious belief."'.—*[Mr. Heath.]*

*Brought up, and read the First time.*

4.35 pm

**Mr. David Heath** (Somerton and Frome) (LD): I beg to move, That the clause be read a Second time.

**Mr. Speaker:** With this we may take the following Amendment No. 11, in page 89, line 6, leave out clause 122.

Amendment No. 12, in page 187, line 34, leave out schedule 10.

Government amendment No. 106

Amendment No. 182, in schedule 10, page 189, line 20, at end insert—

'11A After section 26 insert—

"26A Savings for freedom of speech

Nothing in this Part applies to activity which consists of—

(a) criticising beliefs, teachings or practices of a religion or its followers, for example, by claiming that they are false or harmful;

(b) proselytising one's own religion or urging followers of a different religion to cease practising theirs;

(c) expressing irreverent comedic comments about religion or belief, its worship, teaching, practice or observance; or

(d) expressing antipathy towards, or dislike of, particular religions or their adherents."'.

New clause 4—*Blasphemy*—

'The offences of blasphemy and blasphemous libel are abolished.'.

Amendment No. 7, in title, line 8, after 'orders;', insert

'to abolish the offences of blasphemy and blasphemous libel;'.

**Mr. Heath:** This is an extraordinarily important debate for many of our constituents. I say that knowing that it will be examined carefully by people of all faiths and of none because they are keen for us to get this right. To an extent, the issue has overshadowed the rest of what is a complex and important Bill.

The Bill contains a great number of provisions, but at times it has seemed as though it were the incitement to religious hatred Bill. I am going to suggest what I hope will be a positive direction for the debate that has engaged us both in Committee and outside the House. I want to underline what I believe is a strong consensus in the House. That consensus is in two parts. First, I do not believe that any Member does not deplore and abhor incitement to religious hatred, especially when it is used so often as a proxy or cipher for incitement to racial hatred as a way of subverting the present laws.

Along with my party and, I know, all other Members, I want our law to be as comprehensive as possible in bearing down on crimes of either racial or religious hatred and I want to find ways of expressing our law in an appropriate way. It is not because we do not deplore incitement to religious hatred that we seek to amend the Government's proposals. Quite the reverse: many of us have argued, in the context of the plethora of Home Office Bills with which we have dealt over the years, that there is already a crying need for the recognition of crimes with a religious connection. Obviously that applies particularly to the Muslim and Hindu faiths, but it applies to many others as well. We argued—successfully, as it turns out—for the introduction of an aggravating factor in such crimes. It gives me no pleasure whatsoever to see that the sector in which aggravating offences are committed has been increasing in recent years as, it would seem, we have become a more intolerant society.

There is an argument that the current racial hatred provisions cover, by almost an accident of interpretation, those who are Sikhs and those who are Jews. That is true. We should not be content with the fact that some sections of the community are covered by law and others are not. I recognise why we need to address the issue and why people—especially, but not exclusively, in the Muslim community—feel strongly that they do not have the protection that is afforded to others.

I hope that there is another, secondary consensus, in the House and shared outside it, though perhaps not universally. That consensus is based on another principle of a liberal democracy: that we believe people should have no bar to either believing in or pronouncing on their own faith. There should be no bar to them proselytising their faith without fear of intimidation or persecution. There should be the capacity within our laws to engage in discourse—sometimes vigorous discourse—about the merits not only of one's faith but of other faiths. It is necessarily the case that, if one believes in one faith, one does not hold to another and one believes that criticisms are inherent in the faith held by another. Therefore, criticisms of belief systems and of the usage of other faiths should not be matters in which the law intervenes.

We believe in the House in the right of free speech, which enables us to criticise, sometimes to deplore and even to hate the beliefs that some people hold. There is a difference between hating the belief and hating the believer, which I shall return to in a moment. Furthermore, there is in a liberal democracy a right to lampoon, to ridicule, to tell jokes that will touch on

*[Mr. Heath]*

sensitivities—a lot of humour is based on touching on the sensitivities of one person or another—and to depict the practices of a religious faith in books, plays and other works of fiction. Again, it is important to preserve that right. Lastly, I believe that it is right that one should be allowed to say words that will have the effect of forming an adverse opinion in the minds of others on occasions, not to the point where one is inciting hatred, but to the point where one can simply say, "I believe that this person is wrong and that their activities are hateful", without running the risk of prosecution.

**Simon Hughes** (Southwark, North and Bermondsey) (LD): Before my hon. Friend comes to the issue of the offence, does he accept that there is one other consensus: those of us in all parties who have a strong faith—we are of many different faiths—believe that our faith is strong enough to resist and to be able to defend itself? It does not need the law to defend it. It stands by its own merit. That is the nature of faith. Therefore, the law should not be required to give it that extra protection. It manages that by itself intrinsically without legal support.

**Mr. Heath:** I agree. The point that my hon. Friend makes is relevant to the debate that we may have on the amendment on the present blasphemy law. I personally believe that the Christian faith is capable of standing up for itself without the protection of the law. That law is not extended to others, so there is a further anomaly.

There is a critical difference between race and religion because a person cannot choose the race to which they belong but they can choose their religion. Belief systems are mutable. Beliefs are mutable. Therefore, in the case of religion, there is not the clear definition that is affordable in the field of race. That has the potential to give difficulties in definition—no more than that, but there is that potential.

**David Winnick** (Walsall, North) (Lab): The hon. Gentleman referred to the right to criticise religion. Of course, I would not in any way disagree with that, but is he aware that some of his arguments, which touch on free speech and the right of free expression, which we are all in favour of, were used in the 1960s against provisions on the incitement of race hatred? I remember the debates in the House of Commons. Those who argued against any such provisions said that they totally opposed and deplored racism but did not believe that infringement of free speech should be allowed in law. I hope that the Gentleman will bear it in mind that some of his arguments border on what I have just said.

4.45 pm

**Mr. Heath:** I will treat the hon. Gentleman's intervention in the most benign way. I hope that he is not suggesting that I would argue in that way, but I accept that there is a balance to be struck. I accept that free speech has its limitations, and we have accepted that in the context of what already exists. The question is whether the law that the Government propose puts the balance in the right place and that is the only matter under debate—how best we achieve the objectives that we share in providing protection for those religious groups that may be the subject of incitement to hatred on the basis of their religion, which, as I said earlier, is used as a cipher or a proxy for their race.

The hon. Gentleman's argument is relevant in another way, because if we are to extend this to religion, why not other systems of belief? What is the difference between incitement to religious hatred intrinsically and incitement to hatred on the basis of political belief, for instance? I am against hatred. I believe that he is against hatred and incitement to hatred against any group of individuals on an arbitrary basis. But there is clearly a spectrum that we have to consider when we are dealing with such offences.

**Mrs. Barbara Roche** (Hornsey and Wood Green) (Lab): If the new clause is put to a vote and the vote is lost, will the hon. Gentleman then seek to reverse the case law that protects the Jewish and the Sikh communities?

**Mr. Heath:** Certainly not. I make it clear that I am trying to achieve a satisfactory law that deals with the problem that the Government have identified. Let no one be under any illusions about that. We are all, I hope, trying to provide satisfactory law that does not have some of the potential pitfalls of this legislation.

Let me deal with what the Government propose, because it is important and, although it may seem odd in the context, I want to defend what they are doing. I know exactly their intention. We have discussed it away from the Chamber and we know where they are coming from and they know, if they are honest with us and with the House, where we are coming from as well.

First, the Government say that the law is framed in incitement to hatred and that hatred in itself is a high threshold, and I agree. It is a difficult thing to define, but it is not a light consideration for the courts. Incitement to hatred is a relatively high threshold. The second and much more important point is that the Government have framed their proposition in the context of hatred against a group of people defined by religion, rather than the religion itself, or any of the practices of that religion. That is an important point that people have failed to understand in some of the debate on the matter. I was brought up as a west country Liberal nonconformist and was always taught to love the sinner and hate the sin. That is the distinction that the Government have rightly identified in the framing of their proposal—that it is the hatred against the "sinner" that is deprecated, not their belief system. The third part of the Government's contention is that the Attorney-General, as a lock on proceedings, prevents the inappropriate suit from being put.

Let me put, I hope soberly and sensibly, the alternative view about why the measure will not work as the Government intend at the moment. First, there are difficulties of definition. They are not, I say straight away, completely avoided by the alternative formulation that I and my hon. Friend the Member for Oxford, West and Abingdon (Dr. Harris) propose today. There is a particular issue in the fact that the Government's present proposition goes with either intention, which we all understand, or likelihood, rather than recklessness or anything of that kind. Likelihood, on an objective test, is difficult to assess, as it can only be

taken in the context in which the remarks are made. That is potentially difficult. We must recognise that we already have laws against incitement to crimes—that poses no difficulty. The difficulty is posed only when the subject of incitement is hatred without a crime.

Secondly, there is a question of trust. If is not a strong point, but it is one that I need to put, as it is held by many people outside the House. They understand that the Attorney-General will make the decision about whether a prosecution should be mounted, but they say, "Who is the Attorney-General? The Attorney-General is a Minister of the Crown, a politician, and irrespective of his legal merits, somebody who can be tested by public opinion." That is a matter of concern to them.

**Ms Diane Abbott** (Hackney, North and Stoke Newington) (Lab): On the agreement of the Attorney-General being a lock on the legislation, those of us who remember the furore over "The Satanic Verses" recall that persons who were upset because a criminal case was not taken against Salman Rushdie went to court to try to overturn the Attorney-General's ruling. The idea of the Attorney-General's lock will not avoid vexatious litigation.

**Mr. Heath:** I am grateful to the hon. Lady for that observation. I will come to that in a moment, because the expectation of what the law will provide is the most difficult part of what we are considering.

**Mr. Edward Garnier** (Harborough) (Con): The hon. Gentleman mentioned the fears that some people had put to him about the nature of the Attorney-General as a Member of Parliament and a politician. I dare say that he will have explained to them that, in that role, the Attorney-General forswears all political allegiance and does not allow himself to be influenced either by Government policy or public opinion of a political nature. He is concerned about ensuring that the law is properly applied.

**Mr. Heath:** Not only am I fully aware of that, but I have made that point. It does not alter the perception of those outside.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): What about Iraq?

**Mr. Heath:** The right hon. and learned Gentleman makes a valid point from a sedentary position.

Thirdly, on the human rights position, the Joint Committee on Human Rights has produced a report that is critical of this part of the Bill and raises reservations about it. I know that the Government have answered that, and I will not therefore rehearse the Government's answer but simply say in passing that there are genuine concerns about the compatibility of what is proposed with human rights legislation.

My biggest concern is the huge burden of expectation put on this clause. Many people in this country have argued cogently and coherently that all faith groups, particularly their own, should be protected from what is, in any normal sense of the term, incitement to racial hatred expressed through religious means. They have been led to believe that not only will this proposition from the Government deal with that mischief, but that it will effectively provide them with a blasphemy law of their own—[HON. MEMBERS: "No."] Hon. Gentlemen can say no, but that is what people believe is being proposed in the House today—not only do they believe it but they expect it from the House.

**Mr. Dominic Grieve** (Beaconsfield) (Con): I agree entirely with the hon. Gentleman. The point made to me again and again has been the expectation that prosecutions would be brought in such circumstances. As we have plainly seen, for instance, in the case of the gurdwara in Birmingham, there was never any prospect of a prosecution being brought against that theatrical performance, even though, under the current state of the law, it could have happened.

**Mr. Heath:** The hon. Gentleman is right about the incident in Birmingham.

Part of the confusion has arisen as a direct result of what the Home Office has said. At one stage, the previous Home Secretary found it difficult to identify exactly what the new law would catch, but the statement that he eventually produced included this suggestion:

"an extreme racist organisation widely distributing materials setting out a range of insulting and highly inflammatory reasons for hating Islam".

Note the use of, "Islam", as a faith, rather than "people who are Muslim", which is the sort of thing that creates confusion in the minds of those who are listening.

I would not suggest that the highly respected chairman of the Muslim Council of Britain, Iqbal Sacranie, is confused. On the Radio 4 programme, "The Moral Maze" on 14 July 2004, however, he said that, under the new law, any "insult" or "outrageous comments" about Islam or the Muslim community would be illegal, as would any

"defamation in the character of the Prophet Mohammed".

The Minister has said that that is not what the proposal will do, but that is what people believe that it will do.

**Mr. Hogg:** The hon. Gentleman is right that there is confusion, and new clause 4, which would abolish the law of blasphemy so far as Christianity is concerned, is one way in which to dispel it, because it would mean that people could not urge a counterpart offence.

**Mr. Heath:** The right hon. and learned Gentleman may have an opportunity to discuss the proposal to remove the outdated law of blasphemy and blasphemous libel later.

My great concern is how the law will operate in practice. The Attorney-General will not bring people to court, other than in a few cases in which prosecutions should clearly be brought. However, there will be a huge number of complaints that people have, in exercising their proper right to criticise or to speak freely, contravened the law in some way. Every one of those complaints will require investigation by the police and consideration by the Crown Prosecution Service of whether to pass it to the Attorney-General for a decision on prosecution.

We will find ourselves in a dangerous situation in which people expect court action to proceed, but it will not, which will have two effects. First, large sections of

*[Mr. Heath]*

the community who believe that they have been given protection will be greatly disappointed. Secondly, many organisations' activities will be impeded. Some of those organisations will consist of evangelical Christians, who are concerned about the new law, and some of them will consist of those who take an interest in arguing the relative merits of different faiths. For example, I have received valuable briefing material from the Barnabas Trust.

I suspect that the major group who will be disadvantaged by the legislation includes the people who think that they will obtain the greatest benefit from it, namely the Muslim community. Some hon. Members may be aware of the Victorian state law, and the experience in Australia allows us to know what will happen. Amir Butler, the executive director of the Australian Muslim Public Affairs Committee, was one of the main advocates of an analogous law in the Victorian state legislature, but he is now against it because he says:

"At every major Islamic lecture I have attended since litigation began there have been small groups of evangelical Christians, with notepads and pens, jotting down any comment that might later be used as evidence in the present case or presumably future cases."

I fear that this will have an enormously divisive effect unless we are extremely careful.

5 pm

**Mrs. Lorna Fitzsimons** (Rochdale) (Lab): Surely we all agree that, if somebody is preaching hatred of an individual, whether from a pulpit of any religion or no religion, they should rightfully be brought to justice, for preaching hatred.

**Mr. Heath:** I hope that the hon. Lady can make that distinction—I believe that she can and that the Government can—between hatred of the individual and hatred of the faith. However, I fear that there are many people who will not make that distinction and see any criticism of their faith system as criticism of themselves, and any incitement in others to consider as less valuable the belief system of another to be incitement to hatred of themselves. That is the difficulty in which the Government find themselves with this proposal.

**Mr. Paul Goodman** (Wycombe) (Con): Is this not the problem that the hon. Gentleman is trying to get at: under the terms of what the Government are proposing, an imam in my constituency could open himself to prosecution merely by quoting verses from a religious text? That is possible, whereas under the terms of the hon. Gentleman's excellent amendment, it would not.

**Mr. Heath:** I am grateful to the hon. Gentleman. I hope that the whole House is seriously engaged, including those Government Members who have been kind enough to support the amendment, in trying to find a satisfactory conclusion to a difficult problem that we want solved. We want to ensure that evil racist people are prevented from spreading their hatred. At the same time, we want to be absolutely clear that professing one's faith, even if that faith involves, as many faiths do, criticism of other faiths—it is inherent in a faith system that it excludes as well as includes—is not an incitement to hatred but exercising the rights to religious freedoms that we have long held dear.

I know that other Members wish to speak, so I shall conclude. I believe that our formulation satisfies the needs of the communities that feel under threat without creating new difficulties for both themselves and others and raising expectations. If the Government are not prepared to accept that, they should seriously consider something alone the lines of amendment No. 182, which stands in my name and that of my hon. Friend the Member for Oxford, West and Abingdon (Dr. Harris), and which provides clear exceptions. It reads:

"Nothing in this Part applies to activity which consists of—

(a) criticising beliefs, teachings or practices of a religion or its followers . . . that . . . are false or harmful . . . proselytising one's . . . religion . . . expressing irreverent comedic comments . . . or expressing antipathy towards."

Again, that would put the proposal clearly in context.

I wish that we had the opportunity—it is not open to us because of the construction of the Bill—to debate the other new clauses that we have tabled, which would have introduced proper legislation for discrimination on religious grounds. That would have an enormously greater effect on the day-to-day activities of people in the faith communities. I would have liked to debate the prospect of an harassment clause. Again, that would have had a much greater effect on the day-to-day activities of those in the faith communities.

We do not have the opportunity to do that. Instead, we have a Government proposal that I believe is flawed but not of bad intent. I want to support what the Government are doing but I want also to find a way of expressing that which, I believe, will achieve their intent and not the opposite.

**Mr. Frank Dobson** (Holborn and St. Pancras) (Lab): I believe that all of us are entitled to the quiet enjoyment of our homes and to feel safe, and be safe, on the streets where we live and work and find our pleasure, and so are all our children. The general law tries to protect us all. However, some of our fellow citizens are subject to additional hazards, and in those instances we must take special measures to protect them against those hazards. In the past, and even now, some people have been attacked because of their race and colour. In the 1980s, to help protect people against that additional hazard, this Parliament decided to make incitement to racial hatred an offence. These days some of our fellow citizens—women, children and men, particularly Muslims—are subject to abuse and assault because of their religion. That is why I have been pressing for some years for us to legislate to outlaw inciting hatred on religious grounds. I therefore welcome what the Government are doing, because such incitement is a cause not of all, but of some, of the assaults and abuse suffered by our Muslim fellow citizens, and by others from other religious groups.

I emphasise that the Government are simply trying to outlaw incitement to such hatred, and their amendment No. 106, which does not outlaw criticism, offensive remarks or jokes, brings that about. Who needs the freedom of speech to incite hatred of anyone for any reason? I should also emphasise that the amendment is not an extension of the outdated and ridiculous

blasphemy law—which, contrary to popular belief, protects only the Church of England and not any other Christian grouping. I have long advocated the abolition of that law, and it logically follows that if we are to outlaw incitement to hatred on the ground of religion, we should get rid of it. I hope that the Government will agree to doing so, even if they will not so agree today.

I recognise that there are concerns about possible limitations on freedom of speech. There is also a possibility—when the law first comes into operation, at least—of tit-for-tat complaints by various religious groups against others, or of accusations that the Attorney-General, in deciding to proceed or not to proceed with a particular case, is subject to religious prejudice. Even those in favour of this change in the law must recognise that there are reservations and disadvantages, but none of those outweighs our duty to provide special protection for our especially vulnerable fellow citizens. This proposal does that, so I hope that it will be adopted.

**Mr. Grieve:** New clause 3, to which my name and those of some of my colleagues have been added, follows closely an amendment that I tabled in Committee that sought to achieve the same ends. I therefore have no hesitation in welcoming the intention behind the proposal that the hon. Member for Somerton and Frome (Mr. Heath) has put to the House.

This is a very difficult issue, and I am the first to accept the good intention behind the Government's proposals. It is of course important that we all seek to express ourselves moderately in society. Those who seek to do so immoderately, and certainly those who seek to inspire hatred of other people, should do so with great caution. In many cases, of course, they will transgress existing criminal law.

However, we must face the fact that there are occasions when we do express, and try to inspire, intense dislike of others. Members of this House do so regularly—and in my view not improperly—when, for instance, dealing with and expressing hatred of members of the British National party. Indeed, we take steps at all manner of levels to discriminate against them—for example, by barring them from holding meetings in public rooms. To say that there is never a time when it is legitimate to express intense dislike of others appears to me to miss the point.

This law will not apply, as the Government propose, just to mainstream religions but to every religious sect that worships a deity, be it God or the devil. I am bound to say that if the provision goes through, and if I were a member of the British National party, I would be thinking rapidly about worshipping Wotan as a devotee, thereby gaining the protection of the Bill. The House has to face up to the fact that if we pass such legislation, that could happen all too readily, however far-fetched it sounds. The law does not discriminate in any way between what constitutes a good or a bad religion.

In that light, I have to tell the Minister that, while I fully understand the sentiments that have inspired the Government and those who back the Bill, particularly within the Muslim community—they may understandably have wanted to quieten the tone of the discourse—we will be making a grave and serious error if we proceed with the Bill in its current form. It will raise expectations at every level, which will, in fact, never be fulfilled. I have no doubt that although the number of prosecutions per annum will be minute, the number of times that prosecution is demanded will be massive, as each group seeks to use the legislation as a weapon with which to get at another group.

**Mr. Tony McWalter** (Hemel Hempstead) (Lab/Co-op): Does the hon. Gentleman agree that some individuals will court prosecution because they want their arguments advanced in open court in order to give maximum publicity to their vile claims?

**Mr. Grieve:** I do agree, and that example suggests another real risk. That is why I ask the Government to listen carefully to what is said on both sides of the House this afternoon.

The problem remains that as we become an increasingly pluralistic society, that requires greater degrees of tolerance from us. The House should be sending out a message that tolerance of the expression of others' views, so long as it does not offend the criminal law, is something that we all have to put up with. Let me provide another example, in the form of a recent book called "The Da Vinci Code". I have not had the chance to read the whole book, but I have looked at parts of it and I have to say that it is a blasphemous work. There cannot be the slightest doubt about that in respect of the theological principles on which it is based. I have not wasted one second in sleepless nights over this work, but I suspect that if similar theological mumbo-jumbo were written about other faiths, the demands for the prosecution of the author and the banning of the work would be considerable.

It is for that sort of reason that I cannot support the Government, and I urge them to accept the amending provisions that have been suggested. I fully acknowledge that new clause 3 may not be perfect, but it is designed to provide a balance that offers a degree of extra statutory protection, by building on existing case law, for those affected when people seek to use religion to incite hatred against racial groups.

**Ms Abbott:** Many members of the Muslim community passionately support the Bill because they believe that it will protect Islam from insult. However, does the hon. Gentleman agree that in a free society it is not possible to protect any religion from insult, and that the Bill will raise expectations in the community that cannot be satisfied?

**Mr. Grieve:** I agree. That is my concern, and it should be the Government's concern.

**Several hon. Members** *rose—*

**Mr. Grieve:** I am aware that many hon. Members want to participate. I shall give way briefly.

**Mike Gapes** (Ilford, South) (Lab/Co-op): What would the hon. Gentleman say to my Muslim constituents who tell me that in the present climate, someone who is Jewish or Sikh is protected, but a Muslim is not?

**Mr. Grieve:** I believe that Muslims are protected—but because they are identified as part of a particular racial group, rather than on the basis of their religious faith. The merit of new clause 3 is that it would extend exactly the same degree of protection to racial groups who are being attacked through their religion. I have already acknowledged that new clause 3 may not be perfect, but it is as close to perfection as possible. That is why I commend it to the hon. Gentleman—but failing that, he should reject the Government's provision.

5.15 pm

**Simon Hughes:** Does the hon. Gentleman agree that—contrary to the initial arguments from Labour Members—new clause 3 would deal with the inequality of the present position, in which Sikhs and Jews are protected but other faiths are not? It would also protect people against the consequence of hatred—attack—and would do so gradually, which should deal with the problem without unintended extra consequences.

**Mr. Grieve:** I agree with the hon. Gentleman, which is why I put my name to the new clause.

**Mr. John Redwood** (Wokingham) (Con): Is my hon. Friend, like me, swayed by the number of people with sincere religious beliefs of various sorts who have written to their Members of Parliament, including me, to say that this measure is not helpful, and that they hope that it will be amended along the lines that he suggests?

**Mr. Grieve:** My right hon. Friend is right. The broad expression of views, including those of secularists, people in the theatrical world and those with strong religious beliefs, suggests that the Government's proposals are seriously flawed. The Government should take that into account, and I hope that they will change their mind.

The Conservative position is that any vote on the blasphemy laws would be a free vote. My view as a lawyer has always been that the blasphemy laws are, if not obsolete, certainly obsolescent, and most unlikely ever to be used to bring a prosecution. Hon. Members can make up their own minds whether they wish those laws to be preserved.

On the main point, I encourage all hon. Members on both sides of the House to give new clause 3 serious consideration, because it is the best way forward. Despite their good intentions, the Government have made a great mistake in this aspect of the Bill.

**David Winnick:** This matter has caused a good deal of concern, and the dilemma is whether it is right to go ahead with it. My right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) made a strong case, with which I largely concur. I understand the concern that expectations will be raised, and the feeling that religions are being protected, which in many respects is undesirable.

On the radio today I heard Rowan Atkinson, who, like the hon. Member for Somerton and Frome (Mr. Heath), made a reasoned case. I listened carefully to Mr. Atkinson and he accepted that in practice there are unlikely to be many prosecutions, but he went on to say that the pressure on the Attorney-General would be very great indeed. We must wait and see—if the provision is introduced.

**Dr. Evan Harris** (Oxford, West and Abingdon) (LD): A further point that Rowan Atkinson makes is that while the Attorney-General may rule out prosecution of comedians, he would do so after a complaint, after questioning, perhaps after an arrest and perhaps even after a charge. Why should people have to go through all those stages, in the climate they are likely to produce, before the Attorney-General's protection is invoked?

**David Winnick:** I hope that that is unlikely to occur in practice, but because I have reservations, I accept the possibility.

As I said during an earlier intervention, we may compare the objections that are now being made with the objections that were made to the provision that outlawed incitement to race hatred, which is now accepted. Hardly anyone would say that that law should be changed, but nearly 35 years ago, almost to the week, Lord Deedes—he obviously was not in the House of Lords at the time—argued that that section of the Race Relations Act 1965 should be repealed. He said that he was totally opposed to racism, but that the provision was an infringement of free speech.

Those of us who took a different view put our case, and because there was a Labour majority in February 1970, we won the day—but it is interesting to look at the Division list for Lord Deedes' ten-minute Bill: almost every Conservative Back Bencher voted for the repeal of that section, which is now accepted.

It is also now fully accepted that Jews and Sikhs should be protected in law. Despite my reservations and the fears that have been expressed, I must ask myself this question: if Jews and Sikhs are protected in law, why not Muslims? If Muslims are not protected, as they clearly are not under present law, and if they are subject to a great deal of abuse—the sort of abuse that every Member of this House opposes—as we know they are, the question inevitably arises: are the Government right in doing as they are? I believe that they are right—despite all the drawbacks, the reservations and the possibility that things will go wrong.

The hon. Member for Somerton and Frome quoted a Muslim spokesman in Australia. It is interesting to see that in the letter sent to us by the Muslim Council of Britain, which argues in favour of the Government's proposal, under the heading "Could the proposed new law raise unrealistic expectations?", the secretary-general says:

> "It is sometimes argued that certain people, for example people in Muslim communities, believe that the proposed amendment to the Public Order Act will protect them against being offended. But since the prevention of offence is not the purpose of the amendment, such people will be disappointed."

Therefore, although expectations will be raised and demands will be made of the Attorney-General, whether by Muslims or by Sikhs—the latter are protected by existing law to some extent, but some demonstrated in Birmingham—it does not follow that those who take the view that their religion will be protected will ultimately

find that it is. We are dealing with a wholly different issue. We are dealing with abuse—the sort of abuse that we acted against in the racial sphere 40 years ago.

**Simon Hughes:** Does the hon. Gentleman accept my assurance, as one who has a strong commitment to one faith but who does not think that it should have particular protection, that I would not support the new clause if I did not think it would give my Muslim constituents the same protection as my Sikh constituents and my Jewish constituents have and deserve? I want them to have equality, which is why the new clause is the best way forward.

**David Winnick:** I accept entirely the hon. Gentleman's sincerity. Not wishing to be patronising, I accept that he wants to protect his Muslim constituents, as he does others. I do not question that, but I believe that Government amendment No. 106 makes a substantial improvement on the wording by replacing "RACIAL AND RELIGIOUS HATRED" with "HATRED AGAINST PERSONS ON RACIAL OR RELIGIOUS GROUNDS". I cannot see why that should be unacceptable.

I realise that the Government's proposal might face difficulties in the other place and might not come into law before the general election. None the less, despite my reservations and my desire to protect free speech—which I hope that we succeeded in protecting when my Labour colleagues and I supported the law on incitement to racial violence; I am not aware that our country is less free as a result of what we did 35 or 40 years ago—I believe that, on balance, the Government are right to try to protect those who are not currently protected by the Race Relations Act 1976, and I shall vote accordingly.

**Mr. John Gummer** (Suffolk, Coastal) (Con): We are discussing a delicate but crucial difference. I hope that the whole House recognises that we are trying to achieve the same end and that the argument is about how to achieve it effectively.

The new clause is designed not to remove the protection that Jews and Sikhs have, but to extend as far as is proper that protection to other religions without getting into the position in which, in trying to close a manifest gap, we create serious problems—first, of over-expectation, and then of people using the law for nefarious reasons such as their own aggrandisement or for the harassment of others, and without the disadvantage of recognising that religious views are held with considerable strength, that in stating belief it is difficult not to cast doubt on the claims of others, and that some religions, by their nature, are more sensitive about such things than others.

As someone who has experienced a different point of view as a convert, even within the Christian Church, I know that people can be extremely offensive. The hon. Member for North Antrim (Rev. Ian Paisley) is certainly robust in his opposition to the Catholic Church. Sometimes he crosses the line, and has been found to go beyond what can reasonably be done under the present law. I have witnessed occasions on which he has caused considerable pain, and has sought to heap ridicule, contempt and, frankly, hatred on the faith that I hold. However painful and hurtful, we have to accept such behaviour in a free society. We may have to seek to ask people to be more reticent in a tolerant society, and it is perfectly reasonable to argue that it would be better not to show "Popetown". However—this is an important difference—we are saying that it should not be banned.

Some religions have more difficulty with that than others, especially when challenged by people within as well as outside their faith. I shall choose my words carefully, because I do not wish to cause any offence. One of the advantages of the free society in which we live is that some faiths can open themselves up. That is more difficult in countries where a faith is entrenched, and many of us have seen various instances of that. With reference not only to the Muslim faith but to the recent argument over a theatrical performance written by someone of the Sikh faith, I believe that some faiths will benefit enormously from a lively and virile discussion within those faiths.

**Lynne Jones** (Birmingham, Selly Oak) (Lab): Is not the right hon. Gentleman reassured, as I am, by Government amendment No. 106, which makes it clear that the proposals on religious incitement are designed not to protect religions from criticism, but to protect people from the activities of extremist organisations that wish to stir up hatred against them? He cited the Sikh play "Behzti". The law already prevents incitement of hatred against Sikhs, but it did not result in any prosecution involving that play.

**Mr. Gummer:** I am reassured that it is better this way than it was before. As the Government have found it difficult to get the balance right, I urge the House to go a stage further and introduce a better formulation that meets the need more effectively. Expectations are crucial.

I have heard programmes in which Members of Parliament have explained what they hope that this change will mean. In their minds it means, for example, the opportunity to prosecute the author of "The Satanic Verses". They may now recognise that the Government are not prepared to go that far, but that shows the nature of the demand.

5.30 pm

Many others wish to speak, so I shall say only one more thing. For those of us whose faith is the most important thing in our lives—that is true of members of a range of faiths in the House—there is little more painful than hearing the founder of one's religion, whom one believes to be divine, blasphemed. But I do not believe that in a secular society people should be prevented from doing that. Similarly, if I feel, as I do, that the claims of Islam are based upon facts that I dispute, I hope that I would say so in a polite and proper way—but I must not feel in any way inhibited from expressing that, because it is too important for its expression to be restrained.

That is why this matter is so crucial. I do not treat my faith, or other faiths, lightly—precisely the opposite. Because faith is the most important thing in life, it should be able to stand on its own feet and be looked at properly, and be able to live in an increasingly, and properly, much more various world.

**Mr. John Bercow** (Buckingham) (Con): Surely what my right hon. Friend is describing is the importance of tolerance. Does he recall saying on 28 November 1997, in a different context but very validly, that tolerance is not about putting up with things about which one does not greatly care one way or another, but about putting up with and allowing to continue statements and activities of which one personally profoundly disapproves?

**Mr. Gummer:** I am immensely flattered by my hon. Friend's memory of such a thing. I hope the fact that that was said about something wholly different will underline the strength of my feeling on the present issue. No man is tolerant if he is not prepared to tolerate the deepest, toughest criticism of that which he believes most strongly. That criticism cannot easily be distinguished from incitement to hatred in the terms of the Government's clause and amendment. That is why I commend the alternative reading to the House.

**Mr. Khalid Mahmood** (Birmingham, Perry Barr) (Lab): The hon. Member for Somerton and Frome (Mr. Heath) tried to make provision for all religions and all communities, but fell at the first hurdle when my hon. Friend the Member for Hornsey and Wood Green (Mrs. Roche) questioned him on the protection afforded to the Jewish and the Sikh communities. The hon. Gentleman must realise that the Muslim community, like the Buddhist, Hindu and other religious communities, are not formed from the base of a single race. People must understand that. The Sikh community was brought under the Race Relations Act 1996, following the case of a Mr. Mandla. The ruling by Lord Scarman included the Jewish community because they were a race.

We are not discussing the Blasphemy Act, through which hon. Members have tried to attack the Government's proposal on incitement to racial hatred. The debate is not about people being unable to defend their religion or expose what they believe to be the faults in other religions. The hon. Member for Somerton and Frome referred to the secretary general of the Muslim Council of Britain, and my hon. Friend the Member for Walsall, North (David Winnick) cited a document that we all received, which argues the contrary. Iqbal Sacranie made that clear.

**Mr. Heath:** I am most grateful to the hon. Gentleman for giving way. I understand the point about Sikhs and Jews, but that provision would not be removed by our new clause. The letter from the Muslim Council of Britain quoted by the hon. Member for Walsall, North (Mr. Winnick) was extremely helpful. I was trying to explain that the earlier confusion will be shared by many people who have not had the benefit of reading that advice.

**Mr. Mahmood:** The hon. Gentleman makes an issue of the confusion. That was before the proposals were printed, put to the House and explained to people. The Muslim Council of Britain and other organisations, such as the Forum Against Islamophobia and Racism, which looks at issues of Islamophobia—

**Mr. Mohammad Sarwar** (Glasgow, Govan) (Lab): Does my hon. Friend accept that all Muslim organisations in the United Kingdom, including the Muslim Council of Britain, support the Government's proposals, which also have the support of the Association of Chief Police Officers and the Commission for Racial Equality?

**Mr. Mahmood:** I agree with my hon. Friend and thank him for making that point.

I was trying to make the point that organisations such as FAIR that deal with Islamophobia consider not people's ability to tell jokes about a religion, or criticise it, but the day-to-day effect on Muslim people living in this country. In the light of the recent events that we have all experienced, there is an effect on particular communities. There is also an effect on a small number of people in the Muslim community who actually incite religious hatred against other people, which is also recognised. It is a question of protecting not just the Muslim community, but people of all religions who need to be protected.

**Mr. Desmond Swayne** (New Forest, West) (Con): Let us say that a Christian preacher pursues explicitly the exclusive claims of Jesus Christ and the necessary implications that has for the claims made by the Prophet Mohammed. He adds to that explosive criticisms of elements of sharia law: death for apostasy, stoning for various crimes, amputation and so on. My understanding is that none of that would result in a prosecution in accordance with the provisions.

Can the hon. Gentleman assure me that there is not a large number of people in the Muslim community who do not precisely expect that that would give rise to prosecutions? That is the point. We are raising—

**Madam Deputy Speaker (Sylvia Heal):** Order. That is a very lengthy intervention.

**Mr. Mahmood:** Thank you, Madam Deputy Speaker. I do not know where the hon. Gentleman's point was going, but, as far as the Muslim community is concerned, if a preacher from the Christian faith, or any other, wants to make valid criticism as they see it, they are entitled to do that. We are talking about inciting hatred and abuse against people. That is the point we are making: it is a serious issue that has to be dealt with. People of other religions, other than the Sikh community and the Jewish community, feel that there is no protection in this area.

**Ms Abbott:** My hon. Friend says that nobody in the Muslim community denies that people should be able to make valid criticisms of the religion, but I was a Member of Parliament at the time of "The Satanic Verses", and there were thousands and thousands of Muslims who believed emphatically that people were not entitled to criticise their religion.

**Mr. Mahmood:** I am sorry, but I take issue with that. It was not a question of making a valid criticism of the religion. In the context of Salman Rushdie, the issue was

the abusive words that he deliberately used, which were written in phonetic Urdu, criticising—*[Interruption.]* Actual swear words were used within that text.

**Mrs. Alice Mahon** (Halifax) (Lab): Who decides?

**Mr. Mahmood:** The decision is taken in the courts, if it comes to that. As my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) said, there will be an opportunity for some of those cases and issues to be tested. In a sense, that is what the judicial system is about and what this democracy is about: giving people that opportunity.

**Mr. Adrian Bailey** (West Bromwich, West) (Lab/Co-op): I agree with the thrust of my hon. Friend's argument. Does he agree that in addition to giving the Muslim community a degree of protection, the provisions will help the great majority of moderate Muslims, who want to live in a tolerant society at peace with other religions, to take action against that tiny minority in their midst who may incite hatred against other religions?

**Mr. Mahmood:** I thank my hon. Friend for that intervention.

Other hon. Members want to contribute, so I shall quickly bring my remarks to a close. I conclude by saying that the Bill is not about the curtailment of freedom of speech, but protection for people from abuse and incitement to it.

**Mr. Garnier:** I am grateful to the hon. Member for Hackney, North and Stoke Newington (Ms Abbott) for her intervention on the hon. Member for Birmingham, Perry Barr (Mr. Mahmood), because his response was consistent with one that he gave in an interview that he and I took part in for a BBC political programme shortly after he became a Member of this House. When we discussed these provisions previously, I was worried that the effect of his words, whether he meant it or not, was that he wanted the suppression of free speech.

Whether one agrees that nasty things should be said about other people's religion is not the point. It is no good pretending that the Government's provisions will do anything other than repress free speech. As a general rule, and I shall no doubt be told if there are exceptions to this, criminal law should be there to inhibit and to punish those who do injury to the person—the body—and to property. It should not be there to inhibit or repress the exchange of views, however disagreeable you, Madam Deputy Speaker, or I may find them.

**Mr. Gummer:** Did my hon. Friend notice that the hon. Member for Birmingham, Perry Barr (Mr. Mahmood), who put forward his case so moderately and reasonably, was willing to accept that the words of a preacher from some other religion would not be affected in this way, but much less willing to say that it would be unreasonable to use this law against someone of his own religion who spoke in what he felt was too extreme a manner? That is a serious distinction.

**Mr. Garnier:** I am grateful to my right hon. Friend. I pointed out the service that the hon. Member for Hackney, North and Stoke Newington did in opening up a line of consistency in the speech of the hon. Member for Birmingham, Perry Barr, but it puzzled me that later parts of his speech tended to get a little confused. It may well be that a closer study of *Hansard* tomorrow will enable us to give a more charitable view of what he said.

**Mike Gapes:** The hon. and learned Gentleman seems to be making the case that there is some kind of absolute free speech. Does he accept that we already have laws in this country that constrain free speech? People can be prosecuted for incitement to racial hatred, and there are libel laws, so there is no such thing as total, absolute free speech.

**Mr. Garnier:** The hon. Gentleman is perfectly right, and I never said such a thing. I happen to know a little bit about the law of defamation, but I was not going to bore him or other hon. Members with that. However, since he provokes me, the civil law of defamation provides liberal scope for free speech, and for the expression of deeply disagreeable opinions. I am sure that he, just as much as I, would deprecate any attempt to prevent the free expression of opinion. He is right that there are already laws that inhibit free speech, because incitement to racial hatred is a criminal offence.

**Mrs. Mahon:** Will the hon. and learned Gentleman give way?

**Mr. Garnier:** May I just finish this point? I do not want to take too long, because I know that other important subjects need to be discussed.

The short point is that incitement to racial hatred tends to lead to the physical injury of victims of the racial hatred. If the hon. Member for Birmingham, Perry Barr and those who support the Government's proposals can demonstrate that incitement to religious hatred would lead to injury to the victims, not just inconvenience through bad behaviour, he might be getting somewhere, but Government amendment No. 106 does not deal with that point.

5.45 pm

**Mrs. Mahon:** I am sure that the hon. and learned Gentleman knows that Nick Griffin was arrested in Halifax and is being charged under race relations legislation.

**Mr. Garnier:** I do not want to comment on that specific case, but if he has done something that offends against current criminal law, I am pleased that he is to be acted against. There is no room for that sort of behaviour; the BNP and those who think like it want to cause physical harm to those from racial minorities. We all deprecate that.

We are conducting a short debate in a crowded timetable and I hope that others can catch your eye, Madam Deputy Speaker, before it is concluded.

**Mike Gapes:** Will the hon. and learned Gentleman give way?

**Mr. Garnier:** I shall not give way because the hon. Gentleman has had one go already and he may wish to catch your eye, Madam Deputy Speaker.

*[Mr. Garnier]*

I want to endorse the opening remarks of the hon. Member for Somerton and Frome (Mr. Heath), those of my hon. Friend the shadow Attorney-General and those of my right hon. Friend the Member for Suffolk, Coastal (Mr. Gummer). Those three speeches encapsulate our anxiety that nothing should be done to encourage the inhibition of free speech. I also include the remarks of the hon. Member for Southwark, North and Bermondsey (Simon Hughes). The Bill should do nothing to inhibit free speech and robust criticism of other people's thoughts and religious views. The place for religion to answer is on the page and in the pulpit. The law should allow that to happen.

**Mr. Brian Sedgemore** (Hackney, South and Shoreditch) (Lab): I declare an interest as the vice-president of the National Secular Society. For those of us who believe that religion is the backward march of history and the enemy of rational discourse, the greater is the need to support the free speech of those who wish to expose the metaphysical nonsense in which the adherents of religion indulge.

Even before I became a cantankerous and cynical politician, I could not stand the actions of religious bigots and fanatics on the prowl, looking for converts and trying to proselytise even though that meant ending up with murderous crusades and aeroplanes being flown into occupied buildings. It is unbelievable that we meet here today at the invitation of a Home Secretary who asks us to respond with repressive legislation, which is calculated if not designed to protect those same people and their faiths from being subjected to hatred, ridicule and contempt. That may not be the Home Secretary's intention, but it will surely be a consequence of following that tortuous, contradictory and oxymoronic road.

I want to be nice to the Home Secretary because I read in the paper today that he has upset the Chancellor of the Duchy of Lancaster and we all want to do that. However, I cannot help seeing the Home Secretary as a big baby. Why cannot he grow tall like the great figures of history? Let us take Byron. When on his deathbed, he was asked to return to God and he replied, "Let's not be silly at this late stage." When Voltaire was asked the similar question, "Will you renounce the devil and all his works?", he replied "This is surely no time to be making powerful enemies." Why cannot the Home Secretary say no in a similar fashion to those mullahs and priests about the proposed changes in the law?

Let us consider the problem in another way and eschew satire and ridicule for enlightenment, reason and fact. What would happen under the Bill? Let us suppose that the Vicar of Christ, the Pope, died, and amid the orations, oratorios and requiem masses, someone went on television and said, "Come on, let's admit that the Pope was a bad man. He knowingly let the bodies in the killing fields of Africa multiply because of his insistence that condoms should not be used to protect against AIDS. He recently beatified Charles I, Emperor of Austria from 1914–18, saying that he was 'a model for us all', passing lightly over the fact that he presided over mass killings through the use of poison gas by his troops. Let us admit that he cared more for the souls of the cells of an embryo in a Petri dish than he did for the souls of the afflicted, the poor and the dispossessed among the living."

Hon. Members might not agree with that, but if I or anyone else were to say such a thing on the day on which the Pope died—remember, context is everything—they could be sure that the massed ranks of Opus Dei would rise up as one and demand that every piece of punitive legislation be used against the person who had said it. That is always assuming that they had not stoned him to death straight away. The people of Opus Dei would claim that that person had stirred up hatred against the Catholic people and against a whole class of religious people. They would argue in the courts—as happened in a case in Australia—that neither the person's intentions, nor the truth of what he said, was relevant. What would matter would be the effect of the words on such dear, sensitive souls as themselves.

Then along would come the Home Secretary with the reply that the Attorney-General would not allow the prosecution to go ahead. However, the Attorney-General is a political figure who may decide for emotive or political reasons that a trial would be no bad thing, and that it might cool the anger of Opus Dei. Certainly, an Attorney-General who could authorise Christian soldiers to fight and kill in an unlawful war in Iraq might do that. In short, we should live to regret this legislation.

I have spent a lot of my lifetime trying to be charged with blasphemy. However, even when we invited the police along and blasphemed, blasphemed and blasphemed again, no charges were ever brought. All that the police have ever done on these occasions is to protect us—the blasphemers, the law-breakers—from being attacked by crazy Christians foaming at the mouth who were seemingly, and I hope temporarily, possessed of devils. The Home Secretary wants to keep this law. It is pathetic. I support new clauses 3 and 4.

**Dr. Evan Harris:** I understand that we have very little time left in this debate. I want to speak to new clause 4, which has been tabled in my name and those of other distinguished hon. Members on both sides not only of the House but of the argument on the main question of incitement to religious hatred. I see the right hon. Member for Holborn and St. Pancras (Mr. Dobson) nodding at that. I note that the Conservatives have a free vote on this question, and I commend them for that. They will obviously note that their admirable defence of freedom of expression on new clause 3 might not be entirely consistent with voting against new clause 4, but that is a matter for each individual.

There are all sorts of reasons for seeking to repeal the blasphemy law, not least that it is practically obsolete and that it has not been used since 1972. It is also wrong in principle, and it has had very few friends since the Law Commission argued strongly back in 1985 that it should be repealed. Secular people, of whom I am one, do not feel that they should be constrained by the criminal law, because they believe that it is acceptable, on occasion, to say vicious things about other's religious beliefs. Indeed, sometimes, in today's world, it is necessary to do so.

As the right hon. Member for Suffolk, Coastal (Mr. Gummer) so eloquently said, religious people also believe that such a law is unnecessary. It is patronising

to their God, their almighty, to suggest that he needs an obsolete and dubious piece of criminal law to protect his position.

**Mr. David Wilshire** (Spelthorne) (Con): If we were to get rid of the blasphemy law, the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore) would not be able to carry on trying to get arrested for it. I am sorry to disappoint the hon. Gentleman, but there are those of us who, because of a deep faith, do not want protection for what we believe. That is why some of us, unlike the hon. Gentleman will probably vote with the hon. Member for Oxford, West and Abingdon, (Dr. Harris), which might surprise him.

**Dr. Harris:** I know that my hon. Friend the Member for Southwark, North and Bermondsey (Simon Hughes) shares that view entirely. It has been clearly established that the blasphemy law is not compliant with the European convention on human rights. In so far as it is not obsolete, it is restrictive and lacks the certainty in criminal law that people need so that they know when they are going to offend. It is discriminatory, as was argued very clearly by the House of Lords Religious Offences Committee, which otherwise recommended very little that was specific following its deliberations.

The main point, however, is that the blasphemy law is confusing. The fact that we have such a law leads people to believe that their beliefs will be protected under the new law, and, for that reason, it has to go. What are the Government up to, in not taking this opportunity to send a message in support of their own measure by repealing it? In answer to a parliamentary question they said that they

"have no immediate plans to amend the laws on blasphemy. We acknowledge that there was a wide variety of views on whether the blasphemy laws should be retained, repealed or . . . "—[*Official Report*, 31 January 2005; Vol. 430, c. 685W]

even "extended".

I question whether that is really what is behind the Government's move. I intend to test the opinion of the House on this matter. The blasphemy law is obsolete, friendless, discriminatory, censoring, non-human-rights-compliant, and confusing. There is not much in its favour and it should be put out of its misery this evening.

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** In the few minutes available, I want to try to deal with the issues that hon. Members have raised. The hon. Member for Somerton and Frome (Mr. Heath) was right to say that this is an important debate. We had a very good and lengthy debate in Committee on these issues, and many of the same points have been raised today by the Liberal Democrats and the Conservatives. The hon. Gentleman is right to say that there is a degree of consensus between us on what we are trying to achieve, but there are also significant differences, which we explored in Committee. It is clear from new clause 3, and from the fact that the Conservatives support it, that there is a desire that, where religion is used as a pretext or a cipher for racial hatred, such a situation should be covered. It is a matter of common agreement between us that there is mischief going on in this country, and that people are being attacked. Sometimes, those attacks are expressed in religious terms, but they are often connected to racial discrimination, and we all agree that that should not happen.

Many of the provisions in new clause 3 are, however, already covered by the existing law. If hon. Members look carefully at the law, they will see that the words used in insulting, threatening or abusive behaviour do not have to be racist words; they can also be religious words. Because Jews and Sikhs are protected as racial groups, they are protected from religious discrimination and hatred, as well as from racial hatred. The new clause would create a bigger gap, because people who were not part of a specific racial group would not have the protection of the law. We believe that there should be a level playing field for people in this country. Even under new clause 3, there would continue to be a gap. For example, Muslims, who do not form part of a specific racial group, would not have the protection of the law. They would not be protected from having hatred stirred up against them on the ground of their religion.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): If the purpose of the measure is to protect Muslims, why has it been universalised so that it also applies to a whole host of other groups in society?

**Ms Blears:** The measure is not there simply to protect Muslims; I used them as an illustration. The measure is also to protect Christians and people from a wide range of other religions, as well as people of no religious belief at all. The hon. Member for Oxford, West and Abingdon (Dr. Harris) advanced the case that people of no religious belief should also have protection, and we think that that is a perfectly proper position.

**Mr. Sarwar:** Does the Minister agree that the vast majority of the people in this country are peaceful and law-abiding, including British Muslims? This extension of the law is to protect all the communities of the United Kingdom, not just the Muslims.

**Ms Blears:** I am delighted to be able to confirm that. Indeed, my hon. Friend the Member for Birmingham, Perry Barr (Mr. Mahmood) made the point that the provisions will also cover a situation in which some people in the Muslim community who hold extreme views used language that could well be an incitement to hatred of other people on religious grounds. This is an even-handed piece of legislation that seeks to provide a level playing field for the people of this country, and to protect them.

**Mrs. Fitzsimons:** Does my hon. Friend agree that we are united in the pursuit of that level playing field for more than 20,000 of my constituents, if not nearly all of them, and that the excuse that there would be an over-expectation in that regard could be used against every law that the House has ever passed?

6 pm

**Ms Blears:** My hon. Friend makes an important point.

My hon. Friend the Member for Hackney, South and Shoreditch (Mr. Sedgemore) described himself as a cynical and cantankerous politician. He also said that he

*[Ms Blears]*

had tried to get himself arrested for blasphemy. However, the police took a good, pragmatic approach in those circumstances. I think that that is evidence that the police will take a similarly pragmatic view, as will the Attorney-General, in relation to expectations that may have been raised here.

**Several hon. Members** *rose—*

**Ms Blears:** I am dealing with a substantive point: the difference between Labour and the Liberal Democrat Opposition. In Committee, the hon. Member for Oxford, West and Abingdon said:

"We decided that if the law went any wider than dealing with the problem as attacks on Muslims as a proxy for racial attacks it would pose too great a problem for freedom of speech to make it worthwhile."—[*Official Report, Standing Committee D*, 20 January 2005, c. 430.]

That is an important division between the two sides of the House.

The hon. and learned Member for Harborough (Mr. Garnier) said that the right to free speech would be infringed. It is a matter of judgment for Members whether such an infringement would be appropriate. It was my hon. Friend the Member for Walsall, North (David Winnick) who said, 35 years ago,

"I deeply regret any restriction of freedom of speech, but any legislation passed by this House is an infringement on some people's freedom. Any law we pass restricts the freedom of action of some people. I believe that we are justified in taking action against those who want to abuse freedom of speech."—[*Official Report*, 17 February 1970; Vol. 796, c. 221–2.]

That is a difficult balance to strike, but I think we have struck it in the right place and the Opposition have struck it in the wrong place.

**Lynne Jones:** Will my hon. Friend assure those of us who want to support the Government that the "incitement to religious hatred" clause would not, as the hon. Member for Birmingham, Perry Barr (Mr. Mahmood) implied, give carte blanche to anyone who wanted to prosecute Salman Rushdie?

**Ms Blears:** Let me say to my hon. Friend, who welcomed amendment No 106, that we have sought to make clear that this is about protecting groups of people against whom hatred is incited, not the beliefs themselves. Many Members have said that religion should be strong enough to defend itself, and does not need the protection of the law. Indeed, that is the purpose of new clause 4, tabled by the hon. Member for Oxford, West and Abingdon. This is about protecting people. It is not about the ability to criticise, ridicule or lampoon, or to have fundamental disagreements about the beliefs themselves. It is absolutely right in a modern democracy, for people to be able to engage in robust and vigorous debate. The Government do not seek to outlaw that.

**Tony Wright** (Cannock Chase) (Lab): I know that this is late in the day, but why is it not perfectly proper for me or anyone else to say "I hate religious bigots"?

**Ms Blears:** I think that that is very different from inciting hatred against people and all that flows from that—the extremist material that we have seen that is capable of inciting such hatred. I think it perfectly permissible to express those views, although I would not necessarily want to do it myself, but I do not think that it is right for us to be able to incite hatred against individuals.

People have talked about unrealistic expectations. They have said that we shall see a huge range of vexatious and litigious activity. Safeguards already exist. I do not just mean the reference to the Attorney-General, although he will have to consider the public interest. Guidance will be issued by the Crown Prosecution Service, which will be followed by guidance from the Home Office itself. I want to make absolutely sure that there is no misunderstanding in any group about how the legislation might be used.

Let me say this to the Liberal Democrats. It is important for people not to misunderstand what this law is about. I am sure that the Liberal Democrats would acknowledge that Iqbal Sacranie, in particular, has now clarified comments made before the Bill was published in July last year. He is now perfectly clear about the fact that this is about protecting people, not beliefs. It is vital for that to be understood.

I think that amendment No. 106 makes the position much clearer. I oppose amendments Nos. 11 and 12. I also oppose new clause 3, because it takes us no further than the law as it stands, and new clause 4, because I do not think that this is the right time for us to repeal the blasphemy laws. We have said that we will keep the matter under review. There is no consensus in the country on the issue. I believe that 48 per cent. of people polled thought that the blasphemy laws should be repealed, while 38 per cent. thought they should remain or be extended. I do not think that a condition of passing this legislation should be the repeal of the blasphemy laws, although it is right for us to examine the issue regularly.

There is a difference between us and the Opposition. We feel that it is wrong to stir up hatred against people on the grounds of their religion. Clearly Opposition Members do not feel that that is wrong, and simply want to limit it to racial hatred. We do not think that that goes far enough. I ask the House to resist the new clause and amendments, and to support amendment No. 106.

*It being one and a half hours after the commencement of proceedings,* MR DEPUTY SPEAKER *put the Question already proposed from the Chair, pursuant to Order [3 February].*

*Question put.* That the clause be read a Second time:—

*The House divided:* Ayes 191, Noes 291.

**Division No. 69]** **[6.05 pm**

**AYES**

| | |
|---|---|
| Ainsworth, Peter *(E Surrey)* | Baron, John *(Billericay)* |
| Allan, Richard | Barrett, John |
| Amess, David | Beith, rh A. J. |
| Ancram, rh Michael | Bellingham, Henry |
| Arbuthnot, rh James | Bercow, John |
| Atkinson, Peter *(Hexham)* | Beresford, Sir Paul |
| Bacon, Richard | Best, Harold |
| Baker, Norman | Boswell, Tim |
| Barker, Gregory | Bottomley, Peter *(Worthing W)* |
| Barnes, Harry | Brady, Graham |

Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cran, James *(Beverley)*
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cunry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Grogan, John
Gummer, rh John
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
MacDonald, Calum
McDonnell, John
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
McWalter, Tony
Mahon, Mrs Alice
Malins, Humfrey
Marshall-Andrews, Robert
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Murrison, Dr. Andrew
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Prentice, Gordon *(Pendle)*
Prisk, Mark *(Hertford)*
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Ruffley, David
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Llew *(Blaenau Gwent)*
Smyth, Rev. Martin *(Belfast S)*
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tredinnick, David
Trickett, Jon
Tyler, Paul *(N Cornwall)*
Viggers, Peter
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wright, Tony *(Cannock)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Bob Russell and**
**Sir Robert Smith**

**NOES**

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bell, Sir Stuart
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corston, rh Jean
Cousins, Jim
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*

Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morley, Elliot
Morris, rh Estelle
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearson, Ian
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pond, Chris *(Gravesham)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*

**Tellers for the Noes:**
**Mr. Tom Watson and James Purnell**

*Question accordingly negatived.*

MR DEPUTY SPEAKER *then proceeded to put the Questions necessary to dispose of the business to be concluded at that hour.*

## Schedule 10

RACIAL AND RELIGIOUS HATRED

*Amendment made:* No. 106, in page 187, line 38, leave out 'RACIAL AND RELIGIOUS HATRED' and insert

'HATRED AGAINST PERSONS ON RACIAL OR RELIGIOUS GROUNDS'.—*[Mr. Heppell.]*

## New Clause 4

BLASPHEMY

'The offences of blasphemy and blasphemous libel are abolished.'.—*[Dr. Evan Harris.]*

*Brought up, and read the First time.*

*Motion made, and Question put,* That the clause be read a Second time:—

*The House divided:* Ayes 80, Noes 339.

**Division No. 70]** **[6.19 pm**

AYES

Abbott, Ms Diane
Allan, Richard
Baker, Norman
Barnes, Harry
Barrett, John
Berry, Roger
Best, Harold
Bottomley, Peter *(Worthing W)*
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Challen, Colin
Chapman, Sir Sydney *(Chipping Barnet)*
Clarke, rh Kenneth *(Rushcliffe)*
Conway, Derek
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Cran, James *(Beverley)*
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Curry, rh David
Davey, Edward *(Kingston)*
Dobson, rh Frank
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Foster, Don *(Bath)*
Gerrard, Neil
Greve, Dominic
Gummer, rh John
Heath, David
Heyes, David
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin

Hughes, Simon *(Southwark N)*
Jackson, Glenda *(Hampstead & Highgate)*
Jones, Lynne *(Selly Oak)*
Keen, Alan *(Feltham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Liddell-Grainger, Ian
Lidington, David
Luff, Peter *(M-Worcs)*
MacDonald, Calum
McDonnell, John
McWalter, Tony
Mahon, Mrs Alice
Marshall-Andrews, Robert
Mitchell, Andrew *(Sutton Coldfield)*
Oaten, Mark *(Winchester)*
Osborne, George *(Tatton)*
Picking, Anne
Prentice, Gordon *(Pendle)*
Reid, Alan *(Argyll & Bute)*
Robertson, Laurence *(Tewk'b'ry)*
Rooney, Terry
Russell, Bob *(Colchester)*
Salter, Martin
Sedgemore, Brian
Simpson, Alan *(Nottingham S)*
Skinner, Dennis
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Stunell, Andrew
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Thurso, John
Trickett, Jon
Tyler, Paul *(N Cornwall)*
Walter, Robert
Wareing, Robert N.
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Wood, Mike *(Batley)*
Wright, Tony *(Cannock)*

**Tellers for the Ayes:**
**Mr. John Bercow and**
**Dr. Evan Harris**

**NOES**

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Ainsworth, Peter *(E Surrey)*
Alexander, Douglas
Allen, Graham
Amess, David
Ancram, rh Michael
Armstrong, rh Ms Hilary
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barker, Gregory
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bell, Sir Stuart
Bellingham, Henry
Bennett, Andrew
Benton, Joe *(Bootle)*
Beresford, Sir Paul
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Bottomley, rh Virginia *(SW Surrey)*
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brazier, Julian
Brennan, Kevin
Brown, Russell *(Dumfries)*
Browne, Desmond
Browning, Mrs Angela
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Burt, Alistair
Butterfill, Sir John
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Chapman, Ben *(Wirral S)*
Chaytor, David
Chope, Christopher
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clifton-Brown, Geoffrey
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Cormack, Sir Patrick
Corston, rh Jean
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Davis, rh David *(Haltemprice & Howden)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dodds, Nigel
Donaldson, Jeffrey M.
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Fabricant, Michael
Fallon, Michael
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flook, Adrian
Flynn, Paul *(Newport W)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Francois, Mark
Gale, Roger *(N Thanet)*
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Green, Damian *(Ashford)*
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hammond, Philip
Hancock, Mike
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Hayes, John *(S Holland)*
Heald, Oliver
Healey, John
Heathcoat-Amory, rh David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Hill, rh Keith *(Streatham)*
Hoban, Mark *(Fareham)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Horam, John *(Orpington)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howarth, Gerald *(Aldershot)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hunter, Andrew
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jack, rh Michael
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkin, Bernard
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lait, Mrs Jacqui
Lammy, David
Lansley, Andrew
Lazarowicz, Mark
Leigh, Edward
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Loughton, Tim
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIntosh, Miss Anne
McIsaac, Shona
McKenna, Rosemary
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Malins, Humfrey
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Maude, rh Francis
Mawhinney, rh Sir Brian
Meale, Alan *(Mansfield)*
Mercer, Patrick
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret

Morley, Elliot
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murrison, Dr. Andrew
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Page, Richard
Paice, James
Palmer, Dr. Nick
Paterson, Owen
Pearson, Ian
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pond, Chris *(Gravesham)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Redwood, rh John
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robinson, Geoffrey *(Coventry NW)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ryan, Joan *(Enfield N)*
Sarwar, Mohammad
Selous, Andrew
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smyth, Rev. Martin *(Belfast S)*
Soley, Clive
Spink, Bob *(Castle Point)*
Stanley, rh Sir John
Starkey, Dr. Phyllis
Steen, Anthony
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Sutcliffe, Gerry
Swayne, Desmond
Syms, Robert
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Viggers, Peter
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Waterson, Nigel
Watkinson, Angela
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Wiggin, Bill
Willetts, David
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Yeo, Tim *(S Suffolk)*

**Tellers for the Noes:**
**Mr. Tom Watson and James Purnell**

*Question accordingly negatived.*

## New Clause 6

INTERCEPTION OF COMMUNICATIONS

'Sections 17 and 18 of the Regulation of Investigatory Powers Act 2000 (c. 23) (exclusion of matters from legal proceedings) shall cease to have effect.'.—*[Mr. Andrew Mitchell.]*

*Brought up, and read the First time.*

**Mr. Andrew Mitchell** (Sutton Coldfield) (Con): I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker (Sir Michael Lord):** With this it will be convenient to discuss amendment No. 10, in page 219, line 10 [Schedule 17], at end insert—

'Regulation of Investigatory Powers Act 2000 (c. 23) — Sections 17 and 18'.

**Mr. Mitchell:** The purpose of the new clause, which is in my name, those of my hon. Friends, and that of the hon. Member for Somerton and Frome (Mr. Heath), who leads for the Liberal party on this Bill, is to abolish the restriction on the use of intercept evidence in the criminal courts. My right hon. and learned Friend the Leader of the Opposition announced last week that we would move the new clause today. Of course, it has a wider application than just this Bill, and might help to bring back within the criminal justice system those currently outside it, which would be greatly welcomed.

We argue that the present restriction is anachronistic and illogical, and its abolition has been recommended repeatedly to the Government in recent years. Our amendment does not alter the circumstances in which an interception warrant can be issued or renewed under the Regulation of Investigatory Powers Act 2000. Britain finds itself isolated, since with the exception of Ireland intercept evidence may be used to support criminal prosecutions in every other major country. The Government's argument that the use of intercept evidence could undermine the public interest by revealing to terrorists and organised criminals vital operational details deployed by the police and intelligence service, is, I submit, complete nonsense, since a well established and refined system already operates in the criminal courts to ensure the withholding of operational details in circumstances in which disclosure would be detrimental to the public interest.

**Mr. Hogg:** That is a powerful argument against the Government's position, but there is a yet more powerful argument: it is for the Crown Prosecution Service, taking the advice of the Attorney-General where necessary, to decide whether to proceed with the prosecution. If the class of evidence is such as to be prejudicial in the matter outlined, it would not be adduced.

**Mr. Mitchell:** My right hon. and learned Friend is absolutely right. I will come to that point in due course.

At this early stage in the debate, it is important to point out that the new clause does not require the prosecution to use intercept evidence during a criminal trial. Instead, the new clause is permissive, in the sense that it would afford the prosecution the opportunity to adduce intercept evidence in a case in which the prosecution lawyers believe that it is appropriate to do so. At present, apart from in a small number of eclectic and in some cases random exceptions, that course of action is not open to them.

**Vera Baird** (Redcar) (Lab): The hon. Gentleman says that the clause is permissive, but in truth it would not be, because the defence would be entitled, in our adversarial system, to raise the query, "Was there any phone tapping?" It therefore becomes incumbent on the prosecution, whenever it has occurred, once it is lawful, to disclose that it has occurred.

**Mr. Mitchell:** Yes, I will come to that point , too.

Shutting out telephone tapping evidence is contrary, as I understand it, to the basic principles of evidence—if it is relevant, it is admissible. Therefore its inadmissibility, in my view, is a carbuncle on the face of the law of evidence. The consequences of the Government's unbending refusal to contemplate the use of intercept evidence in a criminal court led them to propose two weeks ago a course of action which many argue is inimical to the rule of law in this country. The merits of the Government's proposals to introduce detention through a control order—less euphemistically known as house arrest—will be debated at another time in the near future.

**Sir Brian Mawhinney** (North-West Cambridgeshire) (Con): Before my hon. Friend leaves his first point, may I declare a history as one of the five Members of the House who served on the Privy Councillor committee that reviewed the terrorism legislation? Two of my distinguished colleagues from both sides of the House are also currently present. We were led to believe without equivocation that this was an anachronism—we cannot, for reasons that the House will understand, reveal what was said to us. We were unanimous in our view that if the Americans can use intercept evidence from this country and we can use French intercept evidence in this country, and if we now know that the Metropolitan Police Commissioner is in favour of using intercept evidence, the argument has moved on. As gently as possible, I hope that he will help the Government to understand that, for the sake of the security of the nation, this new clause ought to be adopted.

**Mr. Mitchell:** I am most grateful to my right hon. Friend. He did indeed serve on that committee, and I will refer to some of the conclusions that it reached.

For the purposes of this debate, however, the argument that the proposals represent a disproportionate derogation from the liberty of the individual enshrined in article 5 of the European convention on human rights is wrong. This derogation would not be necessary were the Government to yield to the overwhelming merits of using intercept evidence in a criminal trial. In the view of the proponents of this argument, the long-term interests of this country's citizens are better served by the use of intercept evidence in terrorist trials than by the indefinite perpetuation of a system of house arrest. The European Court of Human Rights has long recognised that the use of intercept evidence in a criminal trial is compatible with the provisions of the European convention on human rights, while house arrest is not.

The recent House of Lords ruling against the Government concerning the Belmarsh detainees, which has left the Government's domestic policy on handling terrorist suspects in tatters, compels the Government to make changes in the law. By repealing sections 17 and 18 of RIPA, one very sensible change would lead to more terrorist cases being brought to court.

**Mr. Heath:** The hon. Gentleman was kind enough to point out that we support him on this new clause. Does he agree that even if, as the Government say, the use of intercept evidence would not be of assistance in bringing precisely those who were detained in Belmarsh to a trial—despite the fact that many of us feel that it is most appropriate that they be brought to trial—the argument still holds good for any number of future suspects who might be held in exactly the same circumstances?

**Mr. Mitchell:** The hon. Gentleman is absolutely right. He reinforces the key point that these people are currently outside the criminal justice system. Were the Government to concede the new clause, there is at least a chance that they could be brought back into the criminal justice system, which we all want to see.

**Rev. Martin Smyth** (Belfast, South) (UUP): Would not the hon. Gentleman also accept that it is a waste of money and time to intercept and do nothing with it when folk could be brought before the court on the evidence, of which some of us have been aware for many years, relating not just to international terrorism but to homespun terrorism and gangsterism?

**Mr. Mitchell:** The hon. Gentleman has made a fair point.

**Peter Bottomley** (Worthing, West) (Con): Intercept evidence sometimes shows that suspicions are not well founded, especially when intercepts are conducted under warrant. I hope that there will be ways to make sure that investigating authorities, including, where necessary, the police, bear that point in mind, because in a number of well documented cases warrants for intercepts and for examining papers were obtained, but the accusations turned out to be wrong.

**Mr. Mitchell:** My hon. Friend has made an important point, which I shall address, and the justice system should clearly provide the balance that he has described.

Those who know about the workings of the criminal justice system generally agree that intercept evidence is valuable in cases involving serious and organised crime. Indeed, the Government's written ministerial statement made that very point last week. The attraction of new clause 6 is that it is simple and easy to understand. It permits intercept evidence to be used in a case brought by the new Serious Organised Crime Agency and affords this House an opportunity to demonstrate to SOCA at the first opportunity that it supports SOCA's important work and is willing to put weapons into its armoury to enable SOCA effectively to fight organised criminals.

**Mr. A. J. Beith** (Berwick-upon-Tweed) (LD): I was a member of the Newton committee. Will the hon. Gentleman bear in mind the fact that the primary use of intercept material is the acquisition of intelligence, not prosecution? As long as that point is recognised and people realise that the number of occasions on which intercept evidence can be used for prosecution may be few and limited, I accept his case that the law should allow its use.

**Mr. Mitchell:** Yes; I accept the right hon. Gentleman's point about how such evidence is gathered.

Turning to how intercept evidence is used in other countries throughout the world, hon. Members will appreciate that it is routinely deployed by prosecuting authorities in the United States and European countries with the exception, as I have already mentioned, of ourselves and southern Ireland.

*[Mr. Mitchell]*

As I said in Committee, Lord Lloyd of Berwick explained foreign countries' position on the use of intercept evidence in his inquiry into anti-terrorism legislation, which was published in 1996:

"The first and most obvious argument is that evidence of intercepted material is admissible to prove guilt in each of the countries which I have visited, and in every other country of which I have knowledge. The United Kingdom stands alone in excluding such material. Thus in the United States the use of intercept material in evidence is regarded as essential. In many instances, including high-profile cases involving the New York Mafia, convictions otherwise unobtainable have been secured by the use of intercept material. I put to officers of the FBI the suggestion that they were having second thoughts about the use of intercept material. I could find no support for this suggestion."

**The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint):** The hon. Gentleman is quoting Lord Lloyd's report from 1996. The then Home Secretary, who is currently Leader of the Opposition, decided that Lord Lloyd's recommendation on intercept evidence should not be taken forward without a wider review. What has changed since then?

**Mr. Mitchell:** At least my right hon. and learned Friend the Leader of the Opposition responded, which is more than the Government have done. The Government took more than a year to respond to the publication of three separate reports.

I shall continue with the quotation from Lord Lloyd:

"In France I was told that intercept material has proved very valuable in terrorist cases. Thus, some 80 per cent. of the evidence against those suspected of involvement in the 1995 bombings is derived from intercept. Similarly, in Australia interception is regarded as an 'extremely valuable aid to criminal prosecution' ... 664 prosecutions for offences ranging from murder to serious fraud were based on intercepted material, nearly 500 of those prosecutions being for drug offences. Convictions were obtained in 87 per cent. of the cases. Often, when presented with the evidence of an intercept, the defendant pleads guilty."

That is Lord Lloyd's considered opinion.

In Canada, the use of lawful interception evidence in court has been highly successful, with a conviction rate of more than 90 per cent. In 2001, lawful interception access helped to arrest approximately 100 organised criminals and solved 13 murder cases involving those individuals. In 2000, lawful interception access resulted in the seizure of more than $100 million in drugs and the conviction of several criminals for importing or producing drugs.

6.45 pm

In America, Congress passed the Omnibus Crime Control and Safe Streets Act in 1968. Title 3 of that Act contained the first comprehensive federal legislative framework governing electronic surveillance for use in criminal investigations. Between 1987 and 1997, electronic surveillance conducted pursuant to title 3 assisted in the conviction of more than 21,000 criminals. In evidence to the Federal Communications Committee in Washington in 1999, Louis Freeh, director general of the FBI from 1993 to 2001, said:

"As demonstrated by the lives saved and the important investigations and prosecutions successfully completed, the use of electronic surveillance has served the public extremely well ... Indeed, law enforcement agencies at all levels of government have uniformly found electronic surveillance to be one of the most important—if not the most important—sophisticated investigative tools available to them in the prevention, investigation and prosecution of many types of serious crimes. This tool has been critical in fighting terrorism, organised crime, kidnapping, drug trafficking, public corruption, fraud, and violent crime, and in saving numerous innocent lives. In many of those cases, the criminal activity under investigation could never have been detected, prevented, investigated, or successfully prosecuted without the use of evidence derived from court-authorised electronic surveillance."

In Britain, a chorus of heavyweight, authoritative and expert opinion—most recently, Metropolitan Police Commissioner Sir Ian Blair—favours lifting that ban. As I have said, Lord Lloyd recommended lifting the ban on the use of intercept evidence in his review of anti-terrorist legislation in 1996. The recommendation was made again in the debate on the Regulation of Investigatory Powers Act 2000, section 17 of which maintains the ban on the use of intercept evidence in court that was previously contained in the Interception of Communications Act 1985.

As my right hon. Friend the Member for North-West Cambridgeshire (Sir Brian Mawhinney) has said, most recently the Newton committee, which was composed of senior Privy Councillors led by Lord Newton, published a report into the Anti-terrorism, Crime and Security Act 2001 on 18 December 2003. That report recommended that the blanket ban on the use of intercepted communications in court should be relaxed. Lord Newton and his highly experienced colleagues concluded:

"In our view, one way of making it possible to prosecute in more cases would be to remove the UK's self-imposed blanket ban on the use of intercepted communications in court. This was also the view reached by Lord Lloyd ... to which we have seen no convincing response and by Lord Carlile when giving evidence to the Home Affairs Select Committee on his review of the Operation of Part 4 (of the Anti-terrorism, Crime and Security Act 2001)."

The Government did not accept the case for removing the ban on the use of intercepted communications as evidence when the Regulation of Investigatory Powers Act 2000 replaced the Interception of Communications Act 1985. The reasons given were, essentially, that allowing the use of intercepted communications as evidence would reveal the authorities' capabilities, prompting criminals to take more effective evasive action.

The Regulation of Investigatory Powers Act 2000 forbids the use of domestic intercepts in UK court proceedings, but no such bar exists to the use of foreign intercepts obtained in accordance with foreign laws. Bugged, as opposed to intercepted, communications or the products of surveillance or eavesdropping are also not barred, even if they were not authorised and were an interference with privacy. There is no bar on foreign courts using British intercept evidence, if the intelligence and security services are prepared to provide it.

**Mr. Hogg:** My hon. Friend has made the point that one of the Government's positions is a fear that the use of intercept evidence will persuade prospective terrorists not to use particular methods of communication. However, mast evidence—where a mobile telephone was receiving—is used in many criminal cases, but that

has not persuaded criminals to desist from using mobile phones. Offenders go on using mobile phones, although mast evidence has proved critical in many cases.

**Mr. Mitchell:** My right hon. and learned Friend is right, and I shall come to the confusion about general intercepts of mobile phones in a moment.

I want briefly to discuss the compatibility between the use of intercept evidence and the European convention on human rights, which I mentioned earlier. Intercept evidence does not infringe the ECHR, whereas house arrest does. The ECHR is clear: intercepted communications do not infringe human rights and liberties provided that they are used proportionately. In other words, intercepted communications must serve a pressing need and be utilised in accordance with the law and in pursuit of one of the legitimate objectives spelled out in article 8(2). Article 8(2) refers to acting

"in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

In respect of article 6, the Khan *v.* United Kingdom case clarified the legitimacy of using intercept-type surveillance evidence. In respect of article 8, the case which was listed in the court report of *The Times* on 27 May 2004 verified the fact that the use of intercept communications complies with UK law and is compatible with the article.

There has been overwhelming support for a change in the prohibition on using intercept evidence from all quarters of society. Commentating on the Home Secretary's statement in response to the House of Lords's decision on the Belmarsh detainees, the director of Liberty, Shami Chakrabarti, said as follows:

"The Home Secretary is right to show respect for the House of Lords damning ruling. However, temporary restrictions upon a suspect's liberty are only legitimate as long as a criminal charge and trial are in prospect. We urge the removal of the legal bar on intercepted material being used in trials. Adherence to the rule of law should not be a game of cat and mouse. The Government should not swap one human rights 'opt out' for another."

Why are the Government so set against the use of intercept evidence in court? That is the next question that we must consider. The Government's argument for non-disclosure of this evidence has been based on the following rationale: first and foremost, technology is changing so fast that any regime put in place would soon be outdated; secondly, the fear that allowing intercept evidence heard in court could compromise national security, damage relationships with foreign powers or the intelligence services, or threaten the lives of sources; thirdly, they are also of the opinion that there is a widespread misconception that the making of intercept evidence admissible would increase the chances of convicting detainees; fourthly, the final argument is that once intercept evidence has been disclosed there may be a requirement to disclose the whole of the tapped conversation. That could be a passage of 10 minutes but one that had been tapped for a number of years.

These arguments have not persuaded many. Justice, the all-party law reform group, has also addressed the arguments advanced by the Government. It states:

"If the intelligence services of the United States, France, Israel, Canada and Australia can survive the use of such evidence in their courts, then British spies are surely equal to the challenge."

The Director of Public Prosecutions, Ken Macdonald, has made it clear that he backed the idea, and anti-terrorist sources stated that MI5 and MI6 have no objection in principle to such a move, but that the time and resources required to allow the product of telephone taps to be used as evidence in court would far outweigh the potential disadvantages.

What is the problem? The Government did not accept the case for removing the ban on the use of intercepted communications as evidence when the Regulation of Investigatory Powers Act 2000 was before the House, which replaced the Interception of Communications Act 1985. That was because they felt that allowing the use of intercepted communications as evidence would expose the authorities' capabilities, allowing criminals to take more effective evasive action. That, with the greatest respect, is complete nonsense. To begin with, it is not the impression that one gains from reading Lord Lloyd's recommendations on the matter. It also assumes that British serious criminals are a peculiarly insular lot whose information gathering does not penetrate far overseas.

In international operations, such as those against al-Qaeda, the US has published details of its intercept capacity in respect of landlines, mobile phones, satellite phones, diplomatic correspondence and satellite intercept of foreign communications. While the concerns of the intelligence and security services are understandable, it is clear that a balance needs to be struck between the public interest in prosecuting cases and the public interest in maintaining the effectiveness of intelligence-gathering procedures and capabilities. By excluding the use of potentially critical intercept evidence in the courts, this balance has not been struck.

Lord Newton's report put it very well:

"We understand the concerns of the intelligence and security services, which include not only the protection of sources and methods but also the need to ensure that interception for intelligence purposes is not impeded by the imposition of complex procedures to meet evidential requirements. We recognise that a balance has to be struck between the public interest in prosecuting particular cases and the public interest in maintaining the effectiveness of intelligence gathering techniques and capabilities. We consider, however, that the balance has not been struck in the right place if intercepted communications can never be used evidentially."

I remind the House that, under the new clause, relaxing the ban would not place an obligation on the prosecution to use intercept evidence. It would simply allow the submission of intercept evidence in court and stand on a par with what is available to other agencies dealing with serious crime and terrorism. What is more, there are already eclectic and disparate cases in which intercept evidence is used in criminal courts, albeit as an exception to the general rule, and there has not been any damage to police or intelligence service operational capabilities and methodology. I submit that these experiences puncture the Government's objections to the use of intercept evidence and render the present state of the law in this area quite ludicrous.

I turn to some examples of why the present law on the non-disclosure of intercepts is ridiculous—

**Rob Marris** (Wolverhampton, South-West) (Lab): I point out to the hon. Gentleman that with a time limit on this debate—some of us have some sympathy with what he says—if we cannot hear the Government's position, we shall surely have to abstain.

**Mr. Mitchell:** The hon. Gentleman is absolutely right. It is outrageous that the Government have curtailed this debate to half an hour. The fault rests exclusively with the Government. I will give way to any Member who wishes to intervene on me apart from the Minister, who is responsible for the guillotine.

As things stand, a taped phone conversation between a suspect and a third party on a landline or a mobile phone, as part of a public network, is inadmissible. It can be used only for intelligence purposes. That contrasts significantly with intercept evidence that is obtained using other methods. Telephone conversations on an internal network can be used, and so can material where one of the people on the line is an undercover officer. There is no prohibition on the use in a criminal court of interceptions that have occurred within an internal network. Equally, if a listening device is placed in a person's house and a conversation is tape recorded or transmitted by a wireless device somewhere else and recorded at that location, that intercepted conversation provides admissible evidence in a court of law. Individuals can be wired up with recording devices attached to their body. Again, the conversations that they have with other people are admissible.

Taps from conventional bugs not attached to phones can also be used in court. A decision in 2004 by the courts held that a recording of what a person said on a telephone picked up by a surveillance device placed in his car, which did not record any speech by the other party, was not an interception of a communication in the course of its transmission. The recording was made at the same time as being transmitted, but the transmission was not recorded. There was just the voice from the sound waves in the car. Accordingly, evidence from the tap could be used in court. The case clearly highlights the absurdity of the current law.

These examples, and there are many others—the case of Ian Huntley comes to mind—show what a mess the law is on the admissibility of intercept evidence. In any event, the exceptional categories in section 18 of RIPA show that intercept evidence can be introduced in a criminal trial by the prosecution in cases involving what is currently defined as a relevant offence, which includes not only offences under RIPA—for example, making an unauthorised disclosure where an intercept warrant has been issued or renewed under the Official Secrets Act 1911—but cases that are before the Special Immigration Appeals Commission and the Proscribed Organisations Appeal Commission.

I turn briefly to the proper procedures and safeguards for non-disclosure that are already in place—

**Paul Farrelly** (Newcastle-under-Lyme) (Lab): As the hon. Gentleman knows, I have some sympathy with his argument because I served on the Committee that considered the admissibility of wiretap evidence. Will he explain why in Committee he advanced a narrow and tightly drawn amendment, whereas he is now introducing a coach-and-horse amendment without any of the safeguards that he and other Opposition Members proposed in Committee?

**Mr. Mitchell:** The hon. Gentleman makes a fair point. In Committee, I was seeking to take a narrow view and test the opinion of the Committee. Since then I have talked to right hon. and hon. Members on both sides of the House and to lawyers outside the House. I have decided that a more permissive amendment would be appropriate. That is why I am speaking to the amendment.

7 pm

I was explaining that proper procedures and safeguards for non-disclosure are already in place. The House will know that, as a general rule, the prosecution has to disclose all material that it possesses—for and against its case. However, under the Criminal Procedure and Investigations Act 1996, applications can be made to the court when there is a dispute about whether the prosecution should disclose certain material in the public interest. When the prosecution prepares its list of materials to hand over to the defence, it can indicate which material it considers it need not disclose because of public interest immunity. It must also consider the relevance of the material. Where vast quantities of intercept are not relevant to any issue relating to the case, the disclosure rules do not require that this material be disclosed, irrespective of any question of public interest immunity.

To protect against any compromise in national security or to protect sources' lives, the prosecution's duty to disclose evidence is limited, so it need not disclose material where the public interest so dictates. In some cases, the prosecution will take the view that the material should be withheld—for example, where it is so sensitive that it is subject to public interest immunity. The prosecution must have genuine arguments for not disclosing material on public interest immunity grounds, which provide added protection for the defendant.

Public interest immunity also helps the UK to co-operate with other countries, because it allows the police and other prosecuting bodies to keep out of court sensitive material that other countries do not want published. So contrary to the Government's claim, the use of intercept material would not have a negative effect on the relationship between British and foreign security agencies.

**Mr. Heath:** The intervention from the hon. Member for Newcastle-under-Lyme (Paul Farrelly), who asked why the hon. Gentleman decided to extend the new clause to cover a wider range of offences, was a relevant one. But surely the answer is that there is no logic in restricting such a provision to terrorist offences, as the hon. Gentleman did in Committee—indeed, originally I shared his view—if one has the twin locks of the warrant concerning the acquisition of such information, and immunity from disclosure on public interest grounds.

**Mr. Mitchell:** The hon. Gentleman makes a very fair point.

The withholding of sensitive information is an uncontroversial and unexceptional daily occurrence in the criminal courts. There is a clear public interest in preserving the anonymity of informers; of the identity of a person who has allowed his premises to be used for surveillance, and of anything that would reveal his identity or the location of his premises; of other police observation techniques; and of police and intelligence service reports, manuals and methods. The police order manual, for example, is protected from disclosure. Techniques relating to intercept systems, procedures, technology and methodology fall into the same category.

**Mr. Chris Smith** (Islington, South and Finsbury) (Lab): As a member of Lord Newton's Privy Councillor review committee, I should tell the hon. Gentleman that, with great respect, I believe that he has not got this new clause completely right and I shall not support it in the Division Lobby. However, many Labour Members are concerned about this issue and hope that the Home Secretary will give it very careful consideration in the coming months. Anything that gives us an alternative to the draconian method of locking people up without proper trial and charge—be it in Belmarsh or in their own home—is devoutly to be desired.

**Mr. Mitchell:** I am grateful to the right hon. Gentleman for his intervention in support of my case. I understand why he feels unable to join us in the Lobby tonight, but that is a pity, because he would have brought with him a very large number of his Labour colleagues who agree with the case that I am putting.

To summarise my case, almost every other country, including the US, allows the use of intercept evidence in court. Such evidence is deployed in those countries with significant success in cases involving organised crime and terrorism. Independent reports by Lords Lloyd and Newton, and 1999's consultation paper on the intercept of communications, recommended the use of intercept material as evidence. The use of such evidence is consistent with the principles of the European convention on human rights, and the law already permits its use.

**Caroline Flint:** There have been five Home Office reviews of this issue, some of which were overseen by the Leader of the Opposition when he was Home Secretary, and if we felt that there was an easy answer to it, we would want to pursue it. All of us want measures that enable us to convict criminals. We have offered the Leader of the Opposition and the leader of the Liberal Democrats, under Privy Council rules, the opportunity to meet the Prime Minister to discuss these issues. The fact is that we already use intercept evidence to convict criminals, and without prejudicing the close relationship between our intelligence services and the police. Indeed, no other country has such a close relationship, and not all countries make use of the European convention on human rights—

*It being two and a half hours after the commencement of proceedings,* MR. DEPUTY SPEAKER *put the Question already proposed from the Chair, pursuant to Order [3 February].*

*Question put,* That the clause be read a Second time:—

*The House divided:* Ayes 175, Noes 288.

**Division No. 71]** **[7.05 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flook, Adrian
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Jones, Lynne *(Selly Oak)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Pugh, Dr. John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*

Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tyler, Paul *(N Cornwall)*
Viggers, Peter
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. Peter Atkinson and Mr. Mark Prisk**

**NOES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corston, rh Jean
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Ewing, Annabelle
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKenna, Rosemary
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mann, John *(Bassetlaw)*
Marshall, David *(Glasgow Shettleston)*
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morley, Elliot
Morris, rh Estelle
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearson, Ian
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pond, Chris *(Gravesham)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, Angus *(Moray)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Salmond, Alex
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm

Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Wills, Michael
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wishart, Pete
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Mr. Tom Watson and James Purnell**

*Question accordingly negatived.*

**Mrs. Gwyneth Dunwoody** (Crewe and Nantwich) (Lab): On a point of order, Mr. Deputy Speaker. Have not the last 35 minutes clearly demonstrated that we are in danger of destroying the rights of the House of Commons, since a matter of considerable importance—intercepting material in cases of terrorism—has simply not been debated? Although one Conservative Member referred to the issue, not a single other Member from any party was able to participate in the debate. Is it not time that we reconsidered our views about the brutal guillotining of legislation?

**Mr. Andrew Mitchell:** Further to that point of order, Mr. Deputy Speaker. I strongly agree with what the hon. Lady has just said. This is an extremely important and topical issue and a matter of great concern to the legal profession and all who care about civil liberties and civil rights. As a result of the draconian programme motion that the Government put before the House last Thursday, we have been deprived of the opportunity to debate these crucial matters. The blame rests squarely on the Government who tabled that programme motion.

**Mr. Deputy Speaker:** This particular debate is taking place under the rules of the programme motion, which the House itself agreed. It is not a matter for the Chair and the length of the contributions of individual hon. Members is entirely a matter for them.

## New Clause 10

INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS SO AS TO HARM ANIMAL RESEARCH ORGANISATION

'(1) A person (A) commits an offence if, with the intention of harming an animal research organisation, he—

(a) does a relevant act, or

(b) threatens that he or somebody else will do a relevant act,

in circumstances in which that act or threat is intended or likely to cause a second person (B) to take any of the steps in subsection (2).

(2) The steps are—

(a) not to perform any contractual obligation owed by B to a third person (C) (whether or not such non-performance amounts to a breach of contract);

(b) to terminate any contract B has with C;

(c) not to enter into a contract with C.

(3) For the purposes of this section, a "relevant act" is—

(a) an act amounting to a criminal offence, or

(b) a tortious act causing B to suffer loss or damage of any description.

(4) For the purposes of this section, "contract" includes any other arrangement (and "contractual" is to be read accordingly).

(5) For the purposes of this section, to "harm" an animal research organisation means—

(a) to cause the organisation to suffer loss or damage of any description, or

(b) to prevent or hinder the carrying out by the organisation of any of its activities.

(6) This section does not apply to any act done wholly or mainly in contemplation or furtherance of a trade dispute.

(7) In subsection (6) "trade dispute" has the same meaning as in Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), except that section 218 of that Act shall be read as if—

(a) it made provision corresponding to section 244(4) of that Act, and

(b) in subsection (5), the definition of "worker" included any person falling within paragraph (b) of the definition of "worker" in section 244(5).'.—*[Caroline Flint.]*

*Brought up, and read the First time.*

**Caroline Flint:** I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker:** With this we may take the following amendment (b) to new clause 10, after second 'to' insert

'an animal research organisation or'.——

Amendment (a) to new clause 10, in line 15, leave out

'loss or damage of any description'

and insert 'significant loss or damage'.

Government new clause 11—*Intimidation of persons connected with animal research organisation*—

'(1) A person (A) commits an offence if, with the intention of causing a second person (B) to abstain from doing something which B is entitled to do (or to do something which B is entitled to abstain from doing)—

(a) A threatens B that A or somebody else will do a relevant act, and

(b) A does so wholly or mainly because B is a person falling within subsection (2).

(2) A person falls within this subsection if he is—

(a) an employee or officer of an animal research organisation;

(b) a student at an educational establishment that is an animal research organisation;

(c) a lessor or licensor of any premises occupied by an animal research organisation;

(d) a person with a financial interest in an animal research organisation;

*[Mr. Deputy Speaker]*

(e) a customer or supplier of an animal research organisation;

(f) a person who is contemplating becoming someone within paragraph (c), (d) or (e);

(g) a person who is, or is contemplating becoming, a customer or supplier of someone within paragraph (c), (d), (e) or (f);

(h) an employee or officer of someone within paragraph (c), (d), (e), (f) or (g);

(i) a person with a financial interest in someone within paragraph (c), (d), (e), (f) or (g);

(j) a spouse, civil partner, friend or relative of, or a person who is known personally to, someone within any of paragraphs (a) to (i);

(k) a person who is, or is contemplating becoming, a customer or supplier of someone within paragraph (a), (b), (h), (i) or (j); or

(l) an employer of someone within paragraph (j).

(3) For the purposes of this section an "officer" of an animal research organisation or a person includes—

(a) where the organisation or person is a body corporate, a director, manager or secretary;

(b) where the organisation or person is a charity, a charity trustee (within the meaning of the Charities Act 1993);

(c) where the organisation or person is a partnership, a partner.

(4) For the purposes of this section—

(a) a person is a customer or supplier of another person if he purchases goods, services or facilities from, or (as the case may be) supplies goods, services or facilities to, that other; and

(b) "supplier" includes a person who supplies services in pursuance of any enactment that requires or authorises such services to be provided.

(5) For the purposes of this section, a "relevant act" is—

(a) an act amounting to a criminal offence, or

(b) a tortious act causing B or another person to suffer loss or damage of any description.

(6) The Secretary of State may by order amend this section so as to include within subsection (2) any description of persons framed by reference to their connection with—

(a) an animal research organisation, or

(b) any description of persons for the time being mentioned in that subsection.

(7) This section does not apply to any act done wholly or mainly in contemplation or furtherance of a trade dispute.

(8) In subsection (7) "trade dispute" has the meaning given by section (Interference with contractual relations so as to harm animal research organisation).'.

Amendment (b) to new clause 11, after 'act' in subsection (1)(a), insert

'or A or someone at the instigation of A does a relevant act,'.

Amendment (c) to new clause 11, at end, insert

'(c) "a person with a financial interest" includes a person undertaking any regulated activity or who is an authorised person within the meaning of the Financial Services and Markets Act 2000 (c. 8).'.

Amendment (a) to new clause 11, in subsection (5)(b), leave out

'loss or damage of any description'

and insert 'significant loss or damage'.

Government new clause 12—*Penalty for offences under sections (interference with contractual relations so as to harm animal research organisation) and (intimidation of persons connected with animal research organisation).*

Government new clause 13—*Animal research organisations.*

Government new clause 14—*Extension of sections (interference with contractual relations so as to harm animal research organisation) and (intimidation of persons connected with animal research organisation).*

New clause 5—*Economic damage to companies—*

'(1) A person ("person A") commits an offence under this section if by acting in accordance with subsection (2) he causes financial damage to another person ("person B"), with the purpose of representing to person B, or persuading person B—

(i) that he should not do something that he is legally entitled to do; or

(ii) that he should do something that he is not under any legal obligation to do.

(2) A person acts in accordance with this subsection if those actions—

(a) involve the harassment of or violence against person B or a connected person, or

(b) involve damage to property of person B or a connected person.

(3) A connected person, for the purposes of subsection (2) above, means—

(a) a customer of person B;

(b) a shareholder of person B;

(c) an employee of person B;

(d) a director of person B;

(e) where person B is a partnership, its partners;

(f) a supplier of goods or services to person B;

(g) a supplier of goods or services to persons within paragraph (f) above;

(h) an individual normally residing with any individual falling within paragraphs (a) to (g) above.

(4) A constable may arrest without warrant anyone whom he reasonably suspects to be committing an offence within subsection (1) above.

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding three years or to a fine, or to both.'.

Government amendments Nos. 99 and 100

Amendment No. 8, in title, line 8, after 'orders;', insert

'to make provision in connection with economic damage to companies;'.

Government amendment No. 110.

**Caroline Flint:** As with the previous group of amendments, we had extensive discussions in Committee on animal rights extremists and I said that the Government would table amendments on Report to tackle more effectively unlawful campaigns by animal rights extremists that are aimed at causing economic damage to organisations involved in animal research through pressure on third parties to break commercial or other links. I hope that hon. Members on both sides of the House will recognise that these amendments fulfil that commitment. I have met Opposition Front-Bench spokesmen to discuss them in more detail.

We believe that properly regulated research on animals is essential to make progress in treating disease—for example, Alzheimer's disease, which affects more than half of those aged over 85. The abnormalities of Alzheimer's disease have been shown in primates and

certain strains of mice, and animal studies provide opportunities for understanding Alzheimer's disease and studying potential new treatments. We need animal research if we are ever to discover a cure for Alzheimer's disease.

We have perhaps the most rigorous system of regulation of animal experiments of any country. Licences may be granted only when experts in the animals scientific procedures inspectorate are persuaded that the likely benefits of an experiment outweigh the likely harm to the animals concerned and that no alternatives can replace the use of animals, reduce the number of animals used or refine the procedures to minimise suffering.

Many people believe that animals should not be used for research and I respect that view. They have every right to express it and the great majority of them do so wholly peacefully and properly to try to persuade people to change their minds and to change the law. However, some of those who are opposed to research on animals have not used lawful methods of persuasion. They have sought to impose their views on others through harassment, threats and physical attacks. The purpose of the Government amendments is to tackle those campaigns.

The amendments introduce five new clauses which create two new offences. New clause 10 creates a new offence of a criminal or tortious act against a person that causes loss or damage with the intention of harming an animal research organisation, when the act is likely or intended to cause the person not to perform a contract or similar arrangement, to end a contract or not enter into one.

**Mrs. Janet Dean** (Burton) (Lab): Can my hon. Friend assure me that "animal research organisation" includes establishments where animals are bred for experimentation? She will know of the problems in my constituency and that of the hon. Member for Lichfield (Michael Fabricant) concerning a guinea pig farm. Many of our constituents have been severely affected. I thank the Minister for this legislation and her hard work, but I would like the assurance that I have requested.

**Caroline Flint:** I can assure my hon. Friend that the provision extends to breeding establishments. I commend her and others who supported the Hall family at Darley Oaks during many years of terrifying attacks and protests against them. Many hon. Members are aware of the attack on the grave of a family member not so long ago.

**Mr. Heath:** I would like to associate myself and my hon. Friends with the hon. Lady's comments.

We broadly welcome the new clauses, but new clause 10(3)(a) contains the slightly curious phrase "amounting to a criminal offence", instead of an act which is a criminal offence. There is no such qualification in paragraph (b) in which a tortious act is apparently self-explanatory. Why was that form of words used in paragraph (a)?

**Caroline Flint:** One of the areas that we have tried to cover is when there is a criminal or tortious act. A tortious act is one against civil law. Usually, the remedy for a victim of a tort is to sue the alleged perpetrator in the civil courts. We are considering how to extend that so that an offence that could amount to a criminal offence can be covered by this clause in the criminal courts. We are including tortious acts that cause loss or damage because we believe that people who suffer nuisance campaigns designed to disturb or frighten them should be able to look to law enforcement to pursue their case. A court would have to be convinced that a tort had caused or, if threatened, would cause loss or damage for an offence to be committed. However, I will consider what the hon. Gentleman said and return to the matter a little later.

New clause 10 creates a new offence of committing a criminal or tortious act against a person which causes loss or damage. The offence is committed when the intention is to harm an animal research organisation and that includes those who breed animals for research. That is to ensure that it effectively tackles the evolving extremist tactic of targeting people who supply goods or services, such as courier companies, insurance companies and so on, making it increasingly difficult for an animal research organisation to function as its commercial partners are frightened off.

Turning to Opposition amendment (b) to new clause 10, I agree with the hon. Member for Huntingdon (Mr. Djanogly) that the provision should catch cases when the criminal or tortious act is done to pressurise a supplier to or customer of an animal research organisation to end their dealings with the organisation. I assure him that the provision already has that effect. He wants to add the words "animal research organisation or" before "a third person", but third person already covers every person or body other than the person doing the criminal or tortious act and the person they are pressurising. We believe that it covers animal research organisations extensively and, therefore, that the amendment is unnecessary.

New clause 11 creates a second offence of threatening someone with an unlawful act because they are connected to an animal research organisation, whether as a supplier, customer or other associate, at up to two, and in some cases more, removes. That is aimed at giving prosecutors an effective tool for prosecuting threats made against people because of their direct or indirect connection with an animal research activity. In Committee, we heard various examples of how wide a net animal rights extremists throw to attack indirectly the organisation that is the source of its protest and concern.

Hon. Members will see that both offences can be committed as the result of the commission of a tortious act as well as a criminal act. That is an important aspect of our proposals. We all know that animal rights extremists have used a range of tactics that have caused real loss and damage to their victims. Some have been tortious rather than criminal—for example, fly-posting leaflets on lamp posts in a neighbourhood that falsely assert that a victim is a paedophile is libellous. As a result, it has been for the affected individual to seek redress for the damage caused, but we believe that the state should be able to come to the help of victims of a campaign of unlawful acts aimed at intimidating or coercing them.

*[Caroline Flint]*

Amendments (a) to new clauses 10 and 11 are concerned with that issue, but I do not believe that introducing a test of significance to the loss or harm required to be caused by a relevant tortious act would be sensible in relation to either offence. It would make the scope of the offences entirely uncertain. With our formulation, any tortious act causing loss or damage can form the basis of an offence with the seriousness of the loss or damage forming part of the court's consideration of a penalty in the event of a conviction.

**Dr. Evan Harris:** I hope that the Minister understands that both amendments (a) are probing amendments. There could be concern that the provisions are widely drafted, in that nuisance and trespass are tortious acts. Is it her intention that the provision should catch people who are, for example, demonstrating by handing out leaflets outside an organisation? That could be considered a nuisance and might involve a trespass without significant loss or damage and might be seen to be part of what we would encourage as lawful protest.

**Caroline Flint:** To capture legitimate protests is not the purpose of our new clauses: an unlawful act has to be committed to trigger an offence under the provisions. We do not intend to make leafleting against an organisation unlawful. However, the example I gave was of leaflets alleging that someone is a paedophile being distributed around a neighbourhood as a means of intimidation and of getting that person to stop supplying a company that is involved in animal research. We do not intend those who legitimately leaflet against an organisation or the use of animals in experiments to be caught under the new offence.

7.30 pm

**Dr. Harris:** Although I am conscious of the time, this is our only opportunity to debate these new clauses. I accept that the Minister's intention is to catch the serious defamation that she described, not lawful protest. My question is whether the wording provides for that distinction.

Also, the Minister did not answer the question asked by my hon. Friend the Member for Somerton and Frome (Mr. Heath) about why the words "an act amounting to" precede "a criminal offence" in new clause 10(3)(a) and new clause 11(5)(a).

**Caroline Flint:** I said that I would come back to the point raised by the hon. Member for Somerton and Frome, and I shall.

If leaflets contain material deemed threatening or offensive, the threatening limb of the intimidation offence may be engaged, but most people involved in peaceful legitimate protest make their argument against an activity without threatening or intimidating the people involved. I hope that that clarifies the provision.

Opposition amendment (b) to new clause 11 proposes to extend the offence in the new clause. The amendment would not extend the offence significantly, since the words it inserts would still be governed by the preamble to subsection (1), namely

"with the intention of causing a second person (B) to abstain from doing something which B is entitled to do (or to do something which B is entitled to abstain from doing)".

The amendment would expressly catch a case where an unlawful act was accompanied by the threat of further unlawful acts unless the victim yielded. That situation is more than adequately covered by new clause 11. Furthermore, our definition of a person with a financial interest for the purpose of new clause 11 is simple and straightforward and I am not convinced that it needs to be changed as proposed in amendment (c).

New clause 12 proposes a maximum five year sentence for both the offences. We do not propose such a long maximum sentence lightly. We do so because we think that the campaigns of the extremists are very serious and designed to disturb peoples' peace of mind and coerce them. New clause 13 defines an animal research organisation for the purposes of the amendment. It includes the employers of those who hold individual or project licences for research under the Animals (Scientific Procedures) Act 1986 or are specified in certificates issued in respect of places that may be used for breeding and supplying animals for research, and the owners or lessors of the places where they work.

We believe that the tactics being used by animal rights extremists are so serious that tough new measures are needed to address them. There is a pattern of behaviour and an organised network of people carrying out well planned unlawful acts. That is why we are restricting the scope of the clause to persons connected to animal research organisations. Various views on that were expressed during our debate in Standing Committee. We recognise that, in future, there might be other, similar campaigns by extremists affecting organisations working in other fields. New clause 14 therefore proposes that the offences be capable of extension by means of an order subject to the affirmative procedure, if it can be shown that there has been a series of incidents that would have been offences under the new provisions had they been committed against someone connected to an animal experimenting company. We believe that that will provide adequate safeguards to ensure that the new offences are extended only where necessary and appropriate.

We are mindful that the provisions of the new clauses are historic in that they tackle certain types of protest. We realise that many people outside the House are concerned that they will affect peaceful and legitimate debate and protest. I hope that they will accept my assurances that the provisions will not do so. We are responding to a specific problem that has emerged: we are faced with a group of people who have developed cowardly tactics of attacking vulnerable third parties to put pressure on organisations carrying out research involving animals. Our new clauses are a targeted and proportionate response to their campaign. The penalties provided reflect the appalling consequences of the campaign on the commercial partners, customers and suppliers of animal research organisations, and the relatives and friends of those associated with research organisations.

Government amendments Nos. 99, 100 and 110 are consequential on new clauses 10 to 14.

I fully understand the concern and thinking that lie behind new clause 5 and I am sympathetic to them. The new clause is clearly designed to protect any company or other undertaking that is the target of harassment, violence or criminal damage that then results in it being caused financial damage. However, we have a major concern about the new clause: it is clear that it would be triggered only when financial damage had actually been suffered. The offences in our own new clauses are triggered by threats to take unlawful action—that is a crime or a tort causing damage—aimed at specified persons connected with an animal research organisation; there is therefore no requirement for the person to have suffered damage. We are trying to prevent the damage from taking hold. The measure that we propose does not rest, as new clause 5 does, upon being able to show that damage has been caused.

In addition, I am not convinced that the list of connected persons set out in new clause 5 is comprehensive enough. We are concerned that it could be exploited by those seeking to target particular companies. I therefore oppose new clause 5 and amendment No. 8, which would amend the long title of the Bill. I am sympathetic to the thinking that lies behind the proposals, which is why the Government have introduced their own measures to protect companies. I hope that hon. Members will discern the similarities between new clause 5 and Government new clause 10.

The Government new clauses will provide significant additional protection for animal research organisations so that they can continue their vital service to the health of the nation. I hope that they will have the full support of the House.

**Mr. Jonathan Djanogly** (Huntingdon) (Con): I welcome the progress made both during and after the Committee stage on issues relating to animal rights extremism. We will now have in the Bill provisions that, if it is enacted, should provide extra assistance in protecting the public from the campaigns of violence and intimidation being waged by animal rights extremists. The measures will make it an offence to harass two or more people on separate occasions; they should also help to prevent the harassment of a person in his home, although the Bill as it stands does not extend that protection to a person's workplace, where many such incidents occur.

I thank the Minister for having taken the time to meet me last week to discuss the new clauses that the Government have now tabled. In normal circumstances, we would have hoped for a far more substantial period of consultation—not least to consider the legal language and concepts in the new clauses, which are both novel and complicated. None the less, my hon. Friends and I welcome the Government's decision to table the additional measures to combat animal rights terrorism. They seem finally to have realised the need to tackle a disturbing trend in the activities of animal rights terrorists.

I know from my constituency and elsewhere that the last few years have brought increasing numbers of attacks on so-called secondary and tertiary targets. Primary targets—the animal research organisations themselves, such as Huntingdon Life Sciences—have been able to make progress, albeit at great cost, in the fight against the criminals. By increasing the use of injunctions against known terror groups, they have been able significantly to reduce the incidence of attacks on their facilities and their staff.

However, the result of those successes has been a switch in the tactics used by those desperate groups and individuals. Before, they attacked the animal researchers in their laboratories; now, the easier option for the terrorists, which enables them to avoid the injunctions, is to unleash violence and intimidation on people away from their place of business—for instance, in their homes, furtively and in the middle of night—or against anyone seen to be in any way connected to the research organisations. Such secondary targets could include a building contractor working on the primary research facility. Even more tenuously, a tertiary target could be as distant as a fund manager maintaining a shareholding in that building company, or even, as was the case in Staffordshire, a pub frequented by workers at the secondary target.

I was recently made aware of an example involving Fidelity, one of the world's largest fund management companies. In the UK, Fidelity was targeted by animal rights extremists who disrupted a key part of its business activities—a roadshow event, in which it marketed its products to independent financial advisers. The so-called justification for that action was Fidelity's investment activity. It was enough that it had invested in BOC, which in turn had a business relationship with Huntingdon Life Sciences. BOC, of course, has since withdrawn its custom from HLS. Unsurprisingly, individuals and businesses in that chain are struggling to cope with the barrage of violence that is unleashed against them because they are perceived to be connected with the main target. As I pointed out on Second Reading, many targeted companies have agreed to sever their links with animal research organisations.

Few organisations can afford the effort and the tens of thousands of pounds required to obtain injunctions. Indeed, many companies that could afford injunctions are reluctant to obtain them as they regard it as the role of the state to defend them and their employees. Accordingly, many companies have been forced, often with great reluctance, to abandon perfectly legal business operations—out of necessity, they believe—so that they can safeguard their employees and their premises. Along with a number of individuals and groups I have, for a number of years, highlighted the urgent need to extend the law to protect these wider victims of animal rights terrorism. Groups representing city institutions, such as the National Association of Pension Funds, are waiting to take their lead from Government, so naturally I am delighted that the Government have finally decided to heed the calls for action. To put it simply: better late than never.

Government new clause 10, entitled "Interference with contractual relationships so as to harm animal research organisation", would make it a criminal offence for someone to carry out or threaten to carry out a criminal or tortious act intended to cause, or likely to cause, the victim not to enter into a contract with a third party, or to breach an existing contract. A tortious act is a non-criminal act, for which damages are usually claimed in a civil court. For someone to be liable for the offence they must act with the intention of harming an animal research organisation. Harming in this context means causing any type of loss or damage to

*[Mr. Jonathan Djanogly]*

the organisation or, alternatively, hindering that organisation in carrying out any of its activities. I am pleased that the Government have come round to the idea of introducing a measure to protect the economic interests of those affected by extremists. It is those very economic interests that animal rights terror groups unjustly seek to destroy.

The clause clearly springs from the foundations provided by various people in recent months. The Minister mentioned new clause 5, which my hon. Friends and I tabled and which is in many respects similar to Government new clause 10. Overall, we support the Government new clause as well as the other Government new clauses, but there are a number of areas on which we would be grateful for clarification. First, can the Minister confirm that the definition of a person in Government new clauses 10 and 11 is intended to cover legal as well as natural persons—in other words, companies? If not, the Government will not have gone as far as I aimed to go in new clause 5, which would have provided protection for companies.

On the other hand, if companies are covered, would the drafting of new clause 10 mean that the perpetrator of the offence, person A, could be a company or a non-registered group such as Stop Huntingdon Animal Cruelty—SHAC? That is important, because SHAC has often claimed that it cannot be prosecuted because it is not an organisation as such. We welcome the step-by-step requirements that apply to the offence in Government new clauses 10 and 11, including the carrying out or threatening of a wrongful act, the resulting damage to a contractual relationship or intended relationship, and the necessary intention on the part of the perpetrator.

The need for all those requirements to be met should protect against wrongful convictions, but has the Minister considered the practical difficulties in establishing all those steps satisfactorily so that convictions can be secured? There is no point in having available new offences with which to charge people if it proves too difficult to secure convictions. I should be grateful for clarification about whom the new clause is intended to protect.

The drafting of subsection (2) is entirely free of ambiguity—

**Dr. Evan Harris:** The hon. Gentleman is making the point, as he has done before, that it may be difficult to catch people under the provision because of the lack of police intelligence. There is a need to beef up police activity. The problem is not the width of the provision, although it is rather wide. "Hinder", for example, is a wide term, and extends beyond harm.

**Mr. Djanogly:** The hon. Gentleman makes a fair point, and I shall come on to deal with the width of the provision. None the less, it sets out a series of steps, and the Minister should consider whether the process will be satisfactory in securing convictions.

7.45 pm

Our amendment (b) aims to maximise the protection afforded by Government new clause 10. I accept what the Minister said, but the new clause may require further review. We will not, however, push the matter to a vote. In the scenario envisaged in subsection (2) the actions or threats of the perpetrator—person A—would have to damage the contractual arrangements between the victim, known as person B, and a third person known as person C. A tertiary target would appear to be covered by that drafting.

Take, for example, a company supplying building materials to a building contractor working at an animal research facility. If the supplier were forced to terminate the contract to supply the builders, they would be protected as person B. What is the position of secondary targets? I cannot imagine that the Government have deliberately sought to exclude them, but the drafting may leave room for that possibility, because the term "animal research organisation" is specifically used in the provision. The question is whether those research organisations would fall within the definition of "a third person". In my example, would the contractual relationship between the building contractor and the animal research facility be protected? We would be grateful if the Minister addressed that point.

We have another query about Government new clauses 10 and 11. As an alternative to a criminal act, both clauses would allow for the offending act to be a tortious act that causes the victim to suffer loss or damage of any description. Could the Minister explain whether the intention is to catch the many and varied torts that exist under English law? Perhaps what was originally envisaged was trespass against the person, such as assault, or trespass on land. Defamation is also a tort—was the intention that threatening to libel someone would be enough to form the basis of the offence? The Minister gave the example of neighbours being wrongfully and shamefully informed by SHAC that a targeted individual was a paedophile. I will not go into any further legal details, but I would be grateful if the Minister addressed that issue.

Liberal Democrat amendment (a) to Government new clause 10—the same wording is used in amendment (a) to new clause 11—aims to quantify loss or damage, presumably so that minor tortious acts are not caught. I sympathise with that approach, but it is rather a blunt instrument. I acknowledge, however, that the other place may wish to review the issue in greater detail. The offence created by Government new clause 11 would arise where person A intimidates person B because B is connected with an animal research organisation. A connected person would include employees and their family members, customers and suppliers. The intimidation would be a threat by person A that they, or someone else, would commit a criminal or tortious act causing loss or damage of some description. The perpetrator's intention must be to cause the victim to abstain from doing something that he is entitled to do, or to do something that he is entitled not to do.

Will the Minister clarify the meaning of

"a person with a financial interest in an animal research organisation"

in new clause 11? We took that to include shareholders. In amendment (c) to new clause 11, we propose the insertion of a new paragraph to ensure that the provision covers anyone who is undertaking any regulated activity or who is an authorised person under

the Financial Services and Markets Act 2000, including fund managers. The Minister said that that was already covered, and I am grateful for her clarification.

Amendment (b) would insert additional wording in subsection (1)(a) of Government new clause 11, and aims to equalise the protection offered by the two new clauses. It seems that in new clause 10, the carrying out of, as well as a threat to carry out, a criminal or tortious act would allow for conviction where contractual relationships were affected. Yet new clause 11 appears to contain a loophole, as it refers only to threatening, rather than carrying out, a criminal or tortious act. In theory, if an animal rights extremist carried out an act to intimidate someone, without having first threatened them, would they not be caught under the provision? If that were the case, some of the connected persons listed in new clause 11 might be protected by new clause 10. However, that would be the case only if they were involved in a contractual relationship that they had been forced to breach, abandon or not enter into as a result of intimidation. For other types of connected person, such as spouses or friends, new clause 10 with its focus on contracts would be of no use.

In new clause 12, we welcome the proposed five-year maximum sentence for offences under new clauses 10 and 11. That rightly reflects the seriousness with which those activities should be treated. Similarly, we agree with the Government's proposal to require the consent of the Director of Public Prosecutions for proceedings to commence. That seems a sensible way to address the politically contentious nature of this matter, which requires a fair balance to be struck between the right to non-violent freedom of expression, the need to protect individuals and businesses from unacceptable criminality, and the need to achieve a degree of standardisation across the country.

Subject to the issues that I have raised, it will be clear to the House that on the whole, my hon. Friends and I support the Government's proposals. However, those proposals do not go far enough. In particular, without detracting in any way from the need to protect individuals, I argue that further protection for company activity is needed. In Committee I tabled a number of amendments that would have provided that, but they did not receive Government support. Confidentiality orders should extend beyond directors to prevent the identity of threatened company shareholders from being made available to the public. The need for that cannot be better demonstrated than by citing the example of HLS, which was forced to undertake the burden of re-listing in Maryland in the USA, because that jurisdiction allowed shareholder details to be kept out of the public domain. Similarly, we sought to protect the identity of lenders to companies, as their details allow them to be singled out as secondary targets.

Most significantly, by tabling new clause 5 on Report we sought to introduce an offence of causing economic damage to companies. For the first time, that would have specifically protected all companies and connected persons from the financial damage resulting from harassment, violence and damage to the property. In new clause 14 the Government propose that their new offences could be extended by way of delegated legislation to organisations involved in areas other than animal research. Although we accept that the Government are taking legislation further down the road, we do not believe that this piecemeal approach goes far enough. There are already industries other than animal research that are suffering at the hands of extremists. Where animal research organisations are suffering today, other industries will follow. Road builders and leather manufacturers are just two examples that spring to mind.

I was recently updated about the continuing economic sabotage faced by companies in the agricultural biotechnology industry. The Government require full testing of genetically modified crops, yet with the difficulties in providing continuous security there seem to be few means of protecting their destruction by activists. Furthermore, companies and their staff have been targeted by means of the same tactics as those employed by animal rights groups. I was told that links have been uncovered between the targeting of the GM and the animal research industries by the same people. By limiting their new clause to animal research, the Government have failed to appreciate the pressing issues arising in other areas.

However, the introduction of new legislation by the Government is a positive step, and we will support the economic damage provisions. Accordingly, I shall not press our alternative new clause 5 to a Division, although in recognition of the lack of consultation and the drafting amendments required to new clause 11, I shall press amendment (b) to that new clause, keeping in mind the need for the other place to consult on those provisions during the passage of the Bill.

Finally, new laws are far from the whole answer. A much wider range of tactics must be adopted if we are to become more effective at dealing with the threats from economic extremists. A code for protesters similar to the existing picketing code could allow for legitimate protest, while freeing police and court resources. Judges and the police should have best practice guidance to ensure that there is a consistent approach to arrest, conviction and sentencing, not least in relation to new clauses 10 and 11. Two terrorists were jailed after orchestrating a campaign of thousands of telephone calls to research companies to block their lines. Imagine the industry's horror when those criminals' sentences were recently slashed on appeal.

Police forces must have adequate funding and training to make use of existing legislation, and any new measures that make it on to the statute book will need to be properly funded. Overstretched local Crown Prosecution Service lawyers can be left vulnerable in the face of experienced lawyers acting, often pro bono, on behalf of accused protesters. Almost a year ago the Government promised a team of specialist central prosecutors to deal with this issue. Where are they? I do not see them. We do not believe that the national extremism tactical co-ordination unit receives nearly enough resources to allow it to deal with such matters effectively. I do not want to state in public the number of people involved with the unit or the time that they spend on their work, but the Minister knows what those numbers are and how inadequate the situation is. All these examples are aspects that must be addressed. The actions of a tiny minority must not be allowed to

*[Mr. Djanogly]*

continue to blight the lives of individuals and the workings of companies. Leadership and further action from the Government are called for without delay.

**Mr. Heath:** I welcome the Government's engagement with the issue. We have made progress, and careful consideration has been given to points made in Committee by my hon. Friend the Member for Oxford, West and Abingdon (Dr. Harris) and myself, among others. We all want to ensure that the law is adequate to provide protection for people going about their proper business. At the same time we want to ensure that the proper ability to protest is not curtailed. There is a world of difference between somebody who is protesting in a proper way about something that they feel strongly about, and somebody who is engaged in criminal activity in order to intimidate others into doing things that they would not otherwise do.

We welcome the provisions of the new clauses, but because they were not tabled in Committee—this is not a criticism—we must now ask some of the questions that we would otherwise have asked at an earlier stage. I want some small clarifications of the drafting. That will be relevant when the matter is discussed in another place, where I am sure it will be examined more carefully.

In new clause 10(1) there is a slightly novel approach in the reference to an act or threat that is

"intended or likely to cause a second person (B) to take any of the steps in subsection (2)."

The mens rea is deferred, so to speak. Somebody has committed what is considered to be a criminal offence or a tortious act, but they may not have the intention ascribed to the initiator, nor may the person who initiated the act, in the case of another person. There is a slight legal quandary there which needs further explanation and exploration.

I queried the difference in subsection (3)(a) and (b) between

"an act amounting to a criminal offence"

and

"a tortious act",

which is not described as an act amounting to a tortious act. We have not received an answer to that, but we will get one in due course.

I am worried about the rather wide definition of a tortious act and what is included in it. When the Minister was trying to explain, she mentioned a serious libel—in fact I think it was a criminal libel, but I am not enough of a lawyer to remember which categories constitute criminal libel. I thought that accusing someone of an indictable offence was one of those categories. Clearly, the provision will catch simple defamation. Perhaps the hon. Lady will confirm that. My hon. Friend the Member for Oxford, West and Abingdon made the point that tort could include simple trespass, which would be unlikely to cause significant loss or damage. Hence our probing amendment to establish what otherwise was intended to fall into that category.

Subsection (5)(b) contains a very wide definition:

"to prevent or hinder the carrying out by the organisation of any of its activities."

I want the measure to be an effective tool to fight a particular abuse. I do not want it to be infinitely extendable to inappropriate purposes. Preventing or hindering the carrying out of any activity is an extremely wide provision, and I expect those in another place to examine it closely.

I shall close now because, sadly, we are running out of time, as has been the case during all our debates today, which I regret. The hon. Member for Huntingdon (Mr. Djanogly) said that he would press his amendment (b) to new clause 11 to a Division. My understanding is that he intends to ensure that it is an offence under new clause 11 for a tortious act to be committed—in other words, one of the two categories, but not that which amounts to a criminal offence, because it clearly is a criminal offence by definition—rather than threatened. Will the Minister explain whether she believes that that is covered elsewhere, and if so, how? Otherwise, I shall support the hon. Gentleman's amendment.

8 pm

**Caroline Flint:** We have had a useful debate exploring the nature of people engaged in acts against those working directly for animal research organisations and those associated with them. There is common agreement that we have got to the point where we have to do something about that issue.

I remind the House that during the past year there has been a step change in how the police, the prosecution services and others have been working together to deal with one of the points raised by the hon. Member for Huntingdon (Mr. Djanogly), which is that we can have the laws, but we also have to have enforcement. When we are dealing with people who come in the dead of night to vandalise other people's property and throw acid on their cars, trying to build the evidence base to bring successful prosecutions to court is not easy. It has been particularly difficult when they have taken action against people in supply companies in different parts of the country.

We have made huge progress in this area with the establishment of the national extremist tactical unit in Cambridge, which is not considering the issue piecemeal, but is connecting the intelligence from a variety of activities and actions involving those people throughout the country. That is why we are starting to see better use of court time to prosecute. There has also been the use of antisocial behaviour orders by communities to see what justice they can get. Let us not forget that other measures were agreed in Committee to tackle harassment and protests outside people's homes, which should be seen as part of the package. I wanted to say that because I did not think it was right to let it pass, considering some of the comments about inactivity.

I shall try to deal with some of the points that have been made. In the short time I have, I shall probably not do them justice, but I am sure the issue will come back in another place. I am happy to continue to discuss matters with Opposition spokespeople afterwards as well. I was asked whether building contractors working for animal research organisations would be caught, and the answer is yes. The issue was raised as to whether new clause

11 covers unlawful acts or only threats of them. The proposal is specifically aimed at tackling intimidation, but we shall further consider the points made this evening to ensure that we have got that right.

I was also asked what the term "person" covers. It refers to any person who can be identified in law, including companies, other corporate bodies and unincorporated associations. It should be remembered that some crimes and torts can be committed only by real people.

A question was raised as to whether the Government intend to catch all tortious acts. The answer is no, only tortious acts that cause loss or damage. As was mentioned, some torts such as trespass may or may not result in loss or damage. We have tried to confine what can be a broad area of actions in terms of law.

The term,

"a person with a financial interest",

which appears in new clause 11, means anyone with a financial interest, including an owner, a shareholder, a bond holder and so on. I hope that clarifies the matter.

The hon. Member for Somerton and Frome (Mr. Heath) asked about the wording of new clause 10, which refers to

"an act amounting to a criminal offence".

The words have been chosen to make the language precise, because the provisions refer to "a relevant act"; we wanted to give some more detail on that. The definition is of a relevant act, so both subsections 3(a) and 3(b) refer to an act that amounts to a criminal offence and a tortious act. There is nothing unusual in that wording, which is intended to make the clause more precise.

The hon. Gentleman also asked whether "tortious act" catches defamation. It does, provided that loss or damage has been caused. That is the key issue. He asked another question on the same point: what amounts to a criminal offence? It means doing something in circumstances that make it a criminal offence—

*It being three and a half hours after the commencement of proceedings,* MADAM DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [3 February].*

*Question agreed to.*

*Clause read a Second time, and added to the Bill.*

### New Clause 11

INTIMIDATION OF PERSONS CONNECTED WITH ANIMAL RESEARCH ORGANISATION

'(1) A person (A) commits an offence if, with the intention of causing a second person (B) to abstain from doing something which B is entitled to do (or to do something which B is entitled to abstain from doing)—

(a) A threatens B that A or somebody else will do a relevant act, and

(b) A does so wholly or mainly because B is a person falling within subsection (2).

(2) A person falls within this subsection if he is—

(a) an employee or officer of an animal research organisation;

(b) a student at an educational establishment that is an animal research organisation;

(c) a lessor or licensor of any premises occupied by an animal research organisation;

(d) a person with a financial interest in an animal research organisation;

(e) a customer or supplier of an animal research organisation;

(f) a person who is contemplating becoming someone within paragraph (c), (d) or (e);

(g) a person who is, or is contemplating becoming, a customer or supplier of someone within paragraph (c), (d), (e) or (f);

(h) an employee or officer of someone within paragraph (c), (d), (e), (f) or (g);

(i) a person with a financial interest in someone within paragraph (c), (d), (e), (f) or (g);

(j) a spouse, civil partner, friend or relative of, or a person who is known personally to, someone within any of paragraphs (a) to (i);

(k) a person who is, or is contemplating becoming, a customer or supplier of someone within paragraph (a), (b), (h), (i) or (j); or

(l) an employer of someone within paragraph (j).

(3) For the purposes of this section an "officer" of an animal research organisation or a person includes—

(a) where the organisation or person is a body corporate, a director, manager or secretary;

(b) where the organisation or person is a charity, a charity trustee (within the meaning of the Charities Act 1993);

(c) where the organisation or person is a partnership, a partner.

(4) For the purposes of this section—

(a) a person is a customer or supplier of another person if he purchases goods, services or facilities from, or (as the case may be) supplies goods, services or facilities to, that other; and

(b) "supplier" includes a person who supplies services in pursuance of any enactment that requires or authorises such services to be provided.

(5) For the purposes of this section, a "relevant act" is—

(a) an act amounting to a criminal offence, or

(b) a tortious act causing B or another person to suffer loss or damage of any description.

(6) The Secretary of State may by order amend this section so as to include within subsection (2) any description of persons framed by reference to their connection with—

(a) an animal research organisation, or

(b) any description of persons for the time being mentioned in that subsection.

(7) This section does not apply to any act done wholly or mainly in contemplation or furtherance of a trade dispute.

(8) In subsection (7) "trade dispute" has the meaning given by section *(Interference with contractual relations so as to harm animal research organisation).*'.—*[Caroline Flint.]*

*Brought up, and read the First and Second time.*

*Amendment proposed to the proposed new clause:* (b), in line 4, after "act", insert

"or A or someone at the instigation of A does a relevant act,".—*[Mr. Djanogly.]*

*Question put,* That the amendment be made:—

*The House divided:* Ayes 95, Noes 313.

**Division No. 72]** **[8.6pm**

**AYES**

| | |
|---|---|
| Ainsworth, Peter *(E Surrey)* | Browning, Mrs Angela |
| Amess, David | Burns, Simon |
| Atkinson, Peter *(Hexham)* | Burt, Alistair |
| Bacon, Richard | Campbell, Gregory *(E Lond'y)* |
| Baron, John *(Billericay)* | Chapman, Sir Sydney *(Chipping Barnet)* |
| Bellingham, Henry | Chope, Christopher |
| Bercow, John | Clappison, James |
| Beresford, Sir Paul | Conway, Derek |
| Boswell, Tim | Cormack, Sir Patrick |
| Brazier, Julian | |

Cran, James *(Beverley)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Gale, Roger *(N Thanet)*
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Grieve, Dominic
Hancock, Mike
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
McIntosh, Miss Anne
McLoughlin, Patrick
Malins, Humfrey
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Murrison, Dr. Andrew
Norman, Archie
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simpson, Keith *(M-Norfolk)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Viggers, Peter
Walter, Robert
Waterson, Nigel
Wiggin, Bill
Wilshire, David
Young, rh Sir George

**Tellers for the Ayes:**
**Andrew Selous and**
**Mr. Geoffrey Clifton-Brown**

**NOES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barnes, Harry
Barrett, John
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Begg, Miss Anne
Beith, rh A. J.
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Breed, Colin
Brennan, Kevin
Brooke, Mrs Annette L.
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bruce, Malcolm
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Burstow, Paul
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corston, rh Jean
Cotter, Brian
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Ewing, Annabelle
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Heath, David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Kirkwood, Sir Archy
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKenna, Rosemary
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahon, Mrs Alice

Mann, John *(Bassetlaw)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Moffatt, Laura
Mole, Chris
Moran, Margaret
Morris, rh Estelle
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Opik, Lembit
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearson, Ian
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Pugh, Dr. John
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, Angus *(Moray)*
Roche, Mrs. Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Ryan, Joan *(Enfield N)*
Salmond, Alex
Salter, Martin
Sanders, Adrian
Savidge, Malcolm
Sedgemore, Brian
Shaw, Jonathan
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stunell, Andrew
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Thomas, Gareth *(Harrow W)*
Thurso, John
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Roger *(Brecon)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wishart, Pete
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Vernon Coaker and Paul Clark**

*Question accordingly negatived.*

*Clause added to the Bill.*

## New Clause 12

PENALTY FOR OFFENCES UNDER SECTIONS (INTERFERENCE WITH CONTRACTUAL RELATIONS SO AS TO HARM ANIMAL RESEARCH ORGANISATION) AND (INTIMIDATION OF PERSONS CONNECTED WITH ANIMAL RESEARCH ORGANISATION)

'(1) A person guilty of an offence under section (Interference with contractual relations so as to harm animal research organisation) or (Intimidation of persons connected with animal research organisation) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

(2) No proceedings for an offence under either of those sections may be instituted except by or with the consent of the Director of Public Prosecutions.'.—*[Caroline Flint.]*

*Brought up, read the First and Second time, and added to the Bill.*

## New Clause 13

ANIMAL RESEARCH ORGANISATIONS

'(1) For the purposes of sections (Interference with contractual relations so as to harm animal research organisation) and (Intimidation of persons connected with animal research organisation) "animal research organisation" means any person or organisation falling within subsection (2) or (3).

(2) A person or organisation falls within this subsection if he or it is the owner, lessee or licensee of premises constituting or including—

(a) a place specified in a licence granted under section 4 or 5 of the 1986 Act,

(b) a scientific procedure establishment designated under section 6 of that Act, or

(c) a breeding or supplying establishment designated under section 7 of that Act.

(3) A person or organisation falls within this subsection if he or it employs, or engages under a contract for services, any of the following in his capacity as such—

(a) the holder of a personal licence granted under section 4 of the 1986 Act,

(b) the holder of a project licence granted under section 5 of that Act,

(c) a person specified under section 6(5) of that Act, or

(d) a person specified under section 7(5) of that Act.

(4) The Secretary of State may by order amend this section so as to include a reference to any description of persons whom he considers to be involved in, or to have a direct connection with persons who are involved in, the application of regulated procedures.

(5) In this section—

"the 1986 Act" means the Animals (Scientific Procedures) Act 1986 (c. 14);

"organisation" includes any institution, trust, undertaking or association of persons;

"premises" includes any place within the meaning of the 1986 Act;

"regulated procedures" has the meaning given by section 2 of the 1986 Act.'. —*[Caroline Flint.]*

*Brought up, read the First and Second time, and added to the Bill.*

## New Clause 14

EXTENSION OF SECTIONS (INTERFERENCE WITH CONTRACTUAL RELATIONS SO AS TO HARM ANIMAL RESEARCH ORGANISATION) AND (INTIMIDATION OF PERSONS CONNECTED WITH ANIMAL RESEARCH ORGANISATION)

'(1) The Secretary of State may by order provide for sections (Interference with contractual relations so as to harm animal research organisation), (Intimidation of persons connected with animal research organisation) and (Penalty for offences under

sections (Interference with contractual relations so as to harm animal research organisation) and (Intimidation of persons connected with animal research organisation)) to apply in relation to persons or organisations of a description specified in the order as they apply in relation to animal research organisations.

(2) The Secretary of State may, however, only make an order under this section if satisfied that a series of acts has taken place and—

(a) that those acts were directed at persons or organisations of the description specified in the order or at persons having a connection with them, and

(b) that, if those persons or organisations had been animal research organisations, those acts would have constituted offences under section (Interference with contractual relations so as to harm animal research organisation) or (Intimidation of persons connected with animal research organisation).

(3) In this section "organisation" and "animal research organisation" have the same meanings as in section (Animal research organisations).'. .—*[Caroline Flint.]*

*Brought up, read the First and Second time, and added to the Bill.*

### Clause 154

ORDERS AND REGULATIONS

*Amendment made:* No. 99, in page 119, line 1, at end insert—

'( ) any order under section (Intimidation of persons connected with animal research organisation)(6), (Animal research organisations)(4) or (Extension of sections (Interference with contractual relations so as to harm animal research organisation) and (Intimidation of persons connected with animal research organisation);'.—*[Caroline Flint.]*

### Clause 157

PENALTIES FOR OFFENCES: TRANSITIONAL MODIFICATION FOR ENGLAND AND WALES

*Amendment made:* No. 100, in page 120, line 14, at end insert—

'( ) section (Penalty for offences under sections (Interference with contractual relations so as to harm animal research organisation) and (Intimidation of persons connected with animal research organisation))(1)(a).'.—*[Caroline Flint.]*

### Title

*Amendment made:* No. 110, in title, line 9, after 'police;', insert

'to make provision for protecting certain organisations from interference with their activities;'. —*[Caroline Flint.]*

### New Clause 7

POLICE MEMBERS OF SOCA TO HAVE POWERS OF CONSTABLE ETC.

'(1) A police member of SOCA—

(a) shall have the powers of a constable;

(b) subject to subsection (2) below, may have the customs powers of an officer of Revenue and Customs;

(c) subject to subsection (3) below, may have the immigration powers of an immigration officer.

(2) A police member of SOCA may exercise the customs powers of an officer of Revenue and Customs only if he has previously exercised those powers or has received such training as would otherwise entitle him to exercise those powers.

(3) A police member of SOCA may exercise the immigration powers of an immigration officer only if he has previously exercised those powers or has received such training as would otherwise entitle him to exercise those powers.

(4) In this section "police member" means a police member of SOCA appointed in accordance with paragraph 13A of Schedule 1.'.—*[Mr. Mitchell.]*

*Brought up, and read the First time.*

**Mr. Mitchell:** I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker (Sylvia Heal):** With this we may take the following: Amendment No. 37, in page 23, line 19, leave out clauses 41 to 43.

Government amendment No. 67.

Amendment No. 111, in clause 41, page 24, line 1, leave out

'to be treated as suspended'

and insert 'maintained'.

Amendment No. 112, page 24, line 2, leave out

'revives if (and only if)'

and insert 'if'.

Government amendment No. 68.

Amendment No. 15, in clause 44, page 24, line 26, leave out from 'a' to end of line 27 and insert 'police member of SOCA'.

Amendment No. 16, page 24, line 28, leave out 'The designated person' and insert 'A police member'.

Amendment No. 17, page 24, line 29, leave out 'the designated person' and insert 'a police member'.

Amendment No. 18, page 24, line 36, leave out 'the designated person' and insert 'a police member'.

Amendment No. 19, page 24, line 39, leave out 'the designated person' and insert 'a police member'.

Amendment No. 20, page 24, line 40, leave out 'The designated person' and insert 'A police member'.

Amendment No. 21, page 25, line 3, leave out 'the designated person' and insert 'a police member'.

Amendment No. 22, page 25, line 5, leave out subsection (8).

Amendment No. 23, in clause 45, page 25, line 11, leave out 'persons designated' and insert 'police members'.

Amendment No. 24, in clause 49, page 27, line 26, leave out 'designated person' and insert 'police member'.

Amendment No. 25, page 27, line 27, leave out 'designated person' and insert 'police member'.

Amendment No. 26, page 27, line 30, leave out 'designated person' and insert 'police member'.

Amendment No. 27, page 27, line 31, leave out 'designated person' and insert 'police member'.

Amendment No. 28, page 27, line 34, leave out 'designated person' and insert 'police member'.

Amendment No. 29, page 27, line 36, leave out 'designated person' and insert 'police member'.

Amendment No. 30, page 27, line 38, leave out 'designated person' and insert 'police member'.

Amendment No. 31, page 28, line 7, leave out 'designated person' and insert 'police member'.

Amendment No. 32, page 28, line 8, leave out 'virtue of the designation' and insert

'reason of holding the powers'.

Amendment No. 33, in clause 50, page 28, line 22, leave out 'designated persons' and insert 'police members'.

Amendment No. 34, page 28, line 33, leave out 'designated persons' and insert 'police members'.

Amendment No. 35, in clause 52, page 29, leave out lines 21 and 22.

Amendment No. 36, page 29, line 25, leave out subsection (2).

Amendment No. 13, in schedule 1, page 126, line 28, after '9)', insert—

'(aa) such persons appointed by SOCA under this paragraph as police members of SOCA,'.

Amendment No. 14, page 126, line 36, after first 'SOCA', insert

'or police members of SOCA'.

Amendment No. 38, page 128, line 33, at end insert—

'Police members of SOCA <qc>

13A A person may be appointed as a police member of SOCA if he is attested or sworn as a constable and—

(i) he is a member of a police force maintained under section 2 of the Police Act 1996;

(ii) he is a member of the Metropolitan Police Force or City of London Police Force;

(iii) he is a regular constable within the meaning of the Police (Scotland) Act 1967;

(iv) he is a member of the Police Service of Northern Ireland;

(v) he is a member of the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987;

(vi) he is a member of the British Transport Police Force;

(vii) he is a member of the States of Jersey Police Force;

(viii) he is a member of the salaried Police Force of the Island of Guernsey; or

(ix) he is a member of the Isle of Man Constabulary.

13B(1) Subject to the provisions of this paragraph, the Secretary of State may make regulations as to the government and administration of SOCA and conditions of service within SOCA.

(2) Without prejudice to the generality of sub-paragraph (1), regulations under this paragraph may make provision with respect to—

(a) the ranks to be held by police members of SOCA;

(b) the promotion of police members of SOCA;

(c) voluntary retirement of the police members of SOCA;

(d) the efficiency and effectiveness of police members of SOCA;

(e) the suspension of police members of SOCA from membership of it and from their office as constables;

(f) the maintenance of personal records as members of SOCA;

(g) the duties which are or are not to be performed by the police members of SOCA;

(h) the treatment of occasions of police duty of attendance at meetings of the Police Federations and of anybody recognised by the Secretary of State for the purposes of sections 64 of the Police Act 1996;

(i) the hours of duty, leave, pay and allowances of police members of SOCA; and

(j) the issue, use and return of

(i) personal equipment and accoutrements; and

(ii) police clothing.

(3) Regulations under this paragraph for regulating pay and allowances may be made retrospective to any date specified in the Regulations, but nothing in this sub-paragraph shall be construed as authorising the pay or allowances payable to any person to be reduced retrospectively.

(4) SOCA may—

(a) pay, or make payments in respect of pensions or gratuities to or in respect of any persons who are or have been police members;

(b) provide and maintain schemes (whether contributory or not) for the payment of pensions or gratuities to or in respect of any such persons.

(5) Before exercising its powers under sub-paragraph (4), SOCA shall have regard to any provision made under the Pensions Act 1976.'.

**Mr. Andrew Mitchell:** The purpose of the amendments is to create a category of front-line officers of SOCA, classed as police members. Under our new clause and amendments, police members would have the powers that police officers, Revenue officers, Customs officers and immigration officers currently exercise. The amendments would remove the confusion that the mix-and-match designations of part 1, chapter 2 anticipate.

The amendments revert to issues that my hon. Friends and I raised in Standing Committee on 11 January. We listened carefully to the Under-Secretary's response to those amendments. We took her comments into account and our amendments are now a little different from those that we tabled previously. We were encouraged when she told us on Second Reading and in Committee that she would consider drafting amendments on training.

Some of the Under-Secretary's comments in Committee seemed to us to arise from a misapprehension about the intent and effect of our amendments, and I therefore wish to deal with that misconception at the outset. I believe that the Under-Secretary may have understood our amendments to have the effect that all SOCA staff would have to be police constables. That was a misunderstanding on her part.

SOCA will have many members of staff, including accountants, forensic scientists and staff who have come from the Crown Prosecution Service. Some staff will come from Customs. Others might come from the Financial Services Authority. No doubt there will be

*[Mr. Andrew Mitchell]*

lawyers—probably many lawyers. There will be support staff—secretaries, chiefs of staff and so on. Nobody in their right mind would suggest that they should all be required to hold the post of constable.

The debate deals with front-line staff. By that I mean those who will exercise powers of entry, investigation, seizure and arrest. The thrust of our amendments is that those front-line staff should hold the office of constable. We do not mean the tea boy, the backroom staff or the lawyers, but those who exercise police powers. They should be constables.

Lying behind those amendments are some points of fundamental difference between us and the Government. The Under-Secretary said in Committee:

"SOCA will not be a police force and, consequently, should not be staffed by police officers."

She also said:

"I strongly refute the argument that only police officers can be entrusted with police powers."—[*Official Report, Standing Committee D*, 11 January 2005; c. 38, 37.]

We disagree with both assertions.

Let me deal with two crucial matters that need to be understood and fully appreciated before our amendments can be considered. The first is the historical significance and importance of the office of constable. The second is an understanding of the way in which the Bill, as presented, proposes to give what might broadly be described as "police powers" to SOCA staff.

Although today's police forces are the creation of statute and the police have numerous statutory powers and duties, from a legal point of view, a police force is essentially neither more nor less than several individual constables, whose status derives from the common law. The office of constable dates back to the parish constable, who, by the beginning of the 17th century, was responsible for the preservation of the peace in his bailiwick and for the execution of the orders and warrants of the justices of the peace. The constable's oath and close relationship with the justices of the peace characterised him as a ministerial officer of the Crown, like a sheriff or the JPs themselves, rather than as a local administrative officer. In short, constables have never been civil servants.

Various enactments were passed in the 19th and 20th centuries, providing for the establishment of police forces. Powers were not conferred on members of police forces as such, but a member of a police force on appointment had to be attested as a constable by making a declaration. A member of a police force now has all the powers and privileges of a constable throughout England and Wales.

The hallmark of the present day constable therefore remains, as it was in the 17th century, his attestation. Until so attested, constables have neither the authority nor the status of a constable. Once attested, the constable holds that office. That applies equally to members of police forces, special constables, and, of special note, the director general and police members of the National Crime Intelligence Service and the National Crime Squad.

I draw attention to the fact that, when Parliament created NCIS and the NCS, it wisely saw fit to maintain the significance of the office of constable by creating a category of police members of those organisations. The Bill will abolish NCIS and the NCS and absorb those organisations into SOCA. What, then, is the precise status of a police constable?

When carrying out his duties as a constable, a member of a police force—of whatever rank—acts as an officer of the Crown and a public servant. Constables' powers are exercised by virtue of their office, and unless they are executing a warrant, the powers can be exercised only on their own responsibility. A police constable who deliberately fails to carry out his duties by wilfully omitting to take steps to preserve the Queen's peace or to protect a person under attack commits a criminal offence—the common law offence of misconduct of an officer of justice.

The Crown is not liable for the wrongful acts of a member of a police force. Although a constable is an officer of the Crown and a public servant, his or her relationship with the Crown is not that of master and servant, nor that of principal and agent. He or she is a servant of the Crown only in the sense that any holder of a public office may be called a servant of the Crown or the state.

Why does that matter in 2005? The answer is that it has important consequences for the nature of policing and the independence of our police force. Police officers cannot be dismissed on notice; they cannot take industrial action; they have a duty to act and report both on and off duty; and they are completely politically impartial. Those have all been characteristics of our police for at least the past 175 years. They derive from the office of constable. That is of great importance to the nature of policing in Britain.

Many years ago, it was simple to become a constable. All one had to do was go before a magistrate and take an oath. Today, however, those who exercise police powers undergo extensive training. On being recruited to a police force, constables are appointed on a two-year probationary period. It allows a mix of intensive training at residential centres and training on the beat with a tutor constable. Every new recruit goes through exactly the same basic training programme, which lasts 15 weeks at a national police training centre, followed by further training on the job. Recruits are then on probation for two years before they become fully fledged police officers.

8.30 pm

Training is in four stages. Recruits spend two weeks at their local force training centre familiarising themselves with police procedures and with the law. They then receive their uniform and make an official declaration as a police constable before a local magistrate. There then follows a 15-week intensive residential course, with continuous assessment and exams, strenuous physical activity, self-defence training and teaching of the law. Trainees are taught how to understand the criminal mind, and how to treat people fairly; that is all part of the course. After this, they return to their home force and are allocated an experienced tutor constable who guides them through the routines of police work. Trainees are then considered suitable for independent control, and progress to more advanced training. After two years' probation, they are required to attend further training locally before being appointed to the rank of constable.

Is that training appropriate? We think that it is. Is it necessary? We think so. However, the Minister seems to think that it is unnecessary. The Bill, as it stands, will allow the director general of SOCA to confer police powers on someone who is not a constable, and who has had none of the training that I have just described. Hon. Members might find that scarcely credible.

Let me turn to my second point. How does the Bill propose to grant SOCA staff police and other powers? Once we understand the present proposals for equipping SOCA staff with police powers, we immediately see that the Bill will create a deeply unsatisfactory regime, and that a radical rethink is clearly required.

Clause 41 gives the director general the power to designate a member of staff as a person with the powers of a constable, a customs officer or an immigration officer. Who can be designated in such a way? A safeguard that the person should already have been trained and be qualified to exercise those powers would provide at least some comfort. However, the clause expressly provides that any member of SOCA's staff can be given any, or all, of those powers, whether or not he is already qualified to exercise them. That will be rather like a sheriff in the wild west riding into town and shelling out badges willy-nilly to the locals, regardless of their training.

Let us look more closely at the process of designating a member of the staff of SOCA as a person having the powers of a constable. In the case of a designated constable, there is no requirement for this second-class constable to take an oath of attestation. He will have the powers of the constable, but not, it seems, their duties and responsibilities. The effect of clause 41(5) will be that, if an employee of SOCA was a constable before he became designated by the director general, his tenure of the office of constable will be suspended. So these second-class constables would be able, it seems, to take industrial action, just as customs and immigration officers can do at present.

It might appear from clause 44 that a designation as constable brings with it all the powers and privileges of that office, but that is not so. In fact, the designation made by the director general can be made subject to limitations as to the powers exercisable, or as to the purposes for which the powers are exercised. So there will be second-class constables with second-class powers. As I said in Committee, lawyers will have a field day trying to work out whether, in any particular case, the powers exercised by a constable designate were within his authorisation or were exercised for an authorised purpose. This will certainly not help to combat serious or organised crime. Worse still, persons can be designated as constables for a fixed period under clause 41(2)(b), and the designation, even if originally given without a time limit, can always be withdrawn.

The Police Federation reports that a straw poll of NCS officers shows that an overwhelming 95 per cent. of serving NCS officers stated that they were unwilling to transfer to SOCA. That is hardly surprising. Quite apart from the wholly unsatisfactory nature of the arrangements, from the point of view of those unfortunate enough to be designated as temporary, second-class, limited-power constables, what is the position for those over whom these constables designate seek to exercise their powers? When someone is challenged by a police officer, they are surely entitled to know what the powers of that constable are. Improper exercise of police powers is rare, and the fact that anyone can discover, if they wish to, what powers a police officer has, by virtue of his or her office, is a useful way of maintaining that state of affairs.

What will be the position if someone is challenged by a constable designate? How are they to know whether the designation is still in force, and more importantly, how are they to know whether the powers that the constable designate seeks to exercise have in fact been granted to him? Should constables designate carry round with them a list of the powers that the director general has decided to grant them, together with a list of those that they have not been granted? Of course, they will also need to demonstrate not only that they have the powers, but that they are exercising them for one of the purposes for which they have been authorised. There must be a better way to equip front-line SOCA staff with the powers that they will need.

I have explained, by way of background, what it means to be a police constable, and described the proposals in the Bill for creating pale imitations to deal with serious and organised crime. Having also painted a picture of the risks inherent in the mix-and-match scheme proposed in clause 41(2), I shall now turn to our amendments. Instead of the second-class constables designate proposed in the Bill, we propose to create a single category of front-line SOCA staff, to be known as police members of SOCA. To become a police member of SOCA, a person must be a constable, and have the powers and duties of a constable.

So this is, in a sense, an all-or-nothing situation. It is simple. In Committee, the Minister said that that was a disadvantage in our proposals, and that SOCA needed flexibility. To an extent, that is right. That is why we no longer propose that all SOCA police members should have all the rights of police officers, customs officers and immigration officers. However, we do not agree that it is sensible to create half-baked policemen and women, especially for SOCA. That might indeed be flexible, but it would be most unwise.

First, such a move would lead to a bureaucratic nightmare in which everyone had a different suite of mix-and-match powers, limited as to time and purpose, and constrained as to extent. Secondly, it would lead to a defence lawyers' field day. When the bust took place, they would ask, who exactly exercised which powers? Were the relevant individuals properly authorised? Who exactly seized which evidence? Which specific powers did that person have?

Thirdly, such a measure would massively overcomplicate the training requirements. It is surely much simpler to say that, if a person is to exercise police powers, they must have had police training. As has been said, that training programme is well established. It is tried and tested, and has proved to provide a coherent approach to the training that is necessary before the powers of a constable can be exercised. Let me make the same point in another way. Our proposal avoids the need for SOCA to reinvent the wheel in terms of police training. We agree that there should be provision for front-line SOCA officers to be able to exercise customs or immigration-officer powers and we propose to enable such powers to be added to the armoury of police members of SOCA.

*[Mr. Andrew Mitchell]*

The powers of customs and immigration officers are not as extensive as the powers of a police officer, and that is reflected in the training requirements. Immigration officers receive five weeks' training in the case of passport control officers and eight weeks' training in the case of immigration enforcement officers. All entrants then serve a probationary period of one year. Customs officers have a structured, in-house, six-week pre-entry training programme that combines on-the-job training with residential courses. Following a six-week period, they are placed with a mentor for the first month of the job.

Under our proposals, a police member of SOCA may exercise the powers of an immigration officer or customs officer, but that is subject to a proviso. The proviso is, in either case, that the person has exercised those powers before or has undergone such training as would otherwise entitle him to exercise them. The advantage is, again, that it avoids the need to reinvent the wheel in terms of devising appropriate training.

Let me say something about our core proposals. Amendment No. 38 aims to provide a new definition of "police members of SOCA". I repeat that it refers to front-line staff. These men and women should be constables. There are other consequential amendments, but the gist is in that one. Under new clause 7, a police member of SOCA will have the powers of a constable. To those powers may be added the powers of a customs officer or immigration officer, provided that the person concerned has been appropriately trained or has exercised the powers before.

Let me try to put these important proposals in context. The whole purpose of SOCA, as we understand it, is to strengthen the powers available for the prevention and detection of serious organised crime. Essentially, those are policing functions, and the last thing that is required is for the SOCA front line to be staffed by second-rate policemen and policewomen. It seems to us that all front-line SOCA staff who exercise powers of investigation and arrest, and who exercise warrants and so on, ought to have the full range of powers of a police constable and be subject to the same duties. Our new clause and amendments allow those powers to be bolstered by the addition of powers that can be exercised by customs and by immigration powers, but they build in the necessary safeguards involving training or prior experience of exercising those powers.

Our proposals have the great merit of simplicity. The Government's proposals are too complex, and will lead to confusion. They will require the director general of SOCA to devise a complex bureaucracy for handing out and monitoring mix-and-match powers. They will require him to devise a series of training schemes. They will require him to start from scratch rather than building on available structures and experience. The Government say that that has the merit of flexibility; we think that a fairer description of their proposals is "a recipe for confusion".

Bold action is needed if SOCA is to have a realistic prospect of achieving its aims. Serious and organised crime calls for investigation and prevention by officers with serious and properly organised powers, and our new clause and amendments achieve that.

**Mr. Heath:** I do not want to spend too much time on the detail of my amendments. I want to deal with the wider issue of the office of constable, as the hon. Member for Sutton Coldfield (Mr. Mitchell) has done. First, however, let me record my appreciation of Government amendment No. 67, which strengthens the provisions by making it absolutely clear that a person designated under clause 41 must have not just the appropriate background and expertise but the necessary training.

In Committee, one of the matters that concerned me was the application of the agency to Scotland. Officers designated to work there would work under an entirely different jurisdiction and legal system. They would have to develop very different relationships with, for instance, the procurator fiscal. They would have to understand how the system worked, and to understand that the provisions were different from those in the Police and Criminal Evidence Act 1984. I am satisfied that the Government have at least gone some way towards satisfying my concerns in that area.

If one is not careful, it is quite easy to slip into pomposity when talking about the office of constable but it is an important issue that matters to the men and women who serve in our police forces. I have never had any doubts about that in my fairly long connection with the police service. People who are sworn in as constables recognise that that is an important, significant and historic role that carries with it not only duties and responsibilities, but protections, which are not to be lightly ignored, including protection from undue influence. They are not civil servants. They are not at the beck and call of a Minister of the Crown. They are officers of the Crown in their own right, capable of making their own decisions and not to be persuaded inappropriately against their instincts to take a wrong action.

Our police officers are extremely concerned about the Government's attitude to the definition of what constitutes a constable and an officer of the Crown. It seems to them that a top-level agency is to deal with high-level crime without anyone in it who is a constable, other than under temporary designation. They look at the role of community support officers. I support such officers, but I have concerns, which are shared widely, that a creep in their powers and responsibilities will take them more and more into normal municipal policing for many areas, and that that will not only prevent them from doing the job that they were originally intended to do but reduce the scope for police constables.

Provisions later in the Bill, which I suspect we may not have an opportunity to debate later, deal with the removal of the custody sergeant, a key element in the Police and Criminal Evidence Act, a key protection not only for the police officer but for the public and for those who are arrested. Police officers see that role being passed over to civilian officers, which is not, I understand, a particularly popular move. This week, the new Metropolitan Police Commissioner, Sir Ian Blair, told *Police Review* that he was

"waiting to be given a very persuasive argument"

over the switch

"and at the moment I have not heard one".

That is a fairly damning assessment. A similar view was expressed by West Yorkshire police, so there are doubts even at senior levels about that change. The Government's proposals have yet to allay those concerns.

Most of all, the police fear that the important role that has been assigned to them as constables is being squeezed from below and above until, if we are not careful, we will have a police service that is a gendarmerie dealing with disturbance at a major level, but not with major crime, petty misdemeanours, low-level crime, or antisocial behaviour. That is not a future that they look at with any equanimity. They are concerned that the proposals do not recognise the important role that they play.

The main thrust of the Minister's argument in Committee—I hope that I am not unfairly summarising—was that SOCA is a brand new entity, it incorporates elements from different strands of interdiction and that, therefore, it would not be appropriate for it to be a police agency, any more than it would be appropriate for it to be a Customs agency or a security service agency. In Committee on 11 January the Minister said:

"SOCA's staff will be every bit as professional and independent as police officers, but I strongly refute the argument that only police officers can be entrusted with police powers. We have long since moved away from such a position."—[*Official Report, Standing Committee D*, 11 January 2005; c. 37.]

That is the concern in a nutshell of police officers—that it is the Government's view that police powers can be operated by a wide range of individuals who need not be police constables. That begs the question why we have the sworn constable any more.

8.45 pm

I want to make it absolutely plain—again, we do not have long to debate this serious issue—that I stand four square behind the office of constable, which has served us well. It has ensured that our police service has been able to resist the blandishments of politicians or the baying of the mob, and that is right and proper. Whatever the Government say, SOCA is effectively a policing agency. It will be dealing with serious crime, it will have police officers in its ranks, it will be inspected by Her Majesty's chief inspector of constabulary, and I see no reason to divorce it from its predecessors. The National Criminal Intelligence Service, with which I had a long connection, was a hybrid organisation that successfully melded the constables within its ranks with members of other professions and none who served effectively within that organisation. I see no argument that suggests that that could not work equally well, as the hon. Member for Sutton Coldfield says in the new clause, in the new organisation.

Therefore, I shall support new clause 7 and recommend my right hon. and hon. Friends to do so too, but most of all I shall be supporting the principle that policing in this country is not a matter for paid officials of the Government, but for officers of the Crown, sworn constables, and that is something that we lose at our peril.

**Caroline Flint:** The creation of SOCA has not happened overnight; it was the result of considerable consultation, not least the White Paper produced last year, but also of considerable discussion before that between SOCA's constituent parts—the National Crime Squad, NCIS, the drug investigation side of Customs and Excise and the immigration crime side of the Home Office. For a number of years now, as we discussed in Committee, there has been a recognition that in dealing with serious organised crime, whether in terms of drugs or immigration, there have been closer working relationships between people in those four organisations.

In many respects, the development of SOCA was a result of that closer working, and the recognition that, while there has been effective partnership—and full credit to all those involved—some convincing and positive prosecutions of criminals resulting in their being brought to justice, not enough positive progress was being made. It was also recognised that, in dealing with organised crime in the 21st century, the creation of the agency and the expanded powers in the Bill on Queen's evidence and disclosure powers, will give us greater strength to deal with the serious problems in this area, which may have an impact nationally and internationally, but which, at the end of the day, also have an impact regionally and locally in our communities on the streets.

The hon. Member for Sutton Coldfield (Mr. Mitchell) says that his new clause and amendments are different from those tabled in Committee or that I did not understand him in Committee, but his explanation today is largely consistent with what was said in Committee. In effect, he is still calling for a national police agency. Clearly he, like the hon. Member for Somerton and Frome (Mr. Heath), is inspired by a sincere wish to preserve the position of constables, which he somehow sees as under threat as a result of the creation of SOCA. I have made it clear and will say again that that is absolutely not the case. It is the case, however, that many of the people whom we have consulted in relation to creating SOCA have said that change is needed. For example, the Association of Chief Police Officers has said:

"The new agency requires flexible and effective skills in its staff. ACPO does not believe that they have to be police officers and strongly supports the approach detailed in the SOCA Bill for agency officers to be designated with powers aligned to their particular investigative needs."

I welcome the comments of the hon. Member for Somerton and Frome about my additional amendment to the Bill in relation to training. An important point was raised. In drawing people to apply for jobs in SOCA, it is important that the director general is able to be mindful of their experience, as they will include those who have worked for police forces up and down the country, those who have worked in Customs and Excise, and others who may have skills and expertise in IT and intelligence and who might need limited designation of powers to be an effective part of a team.

Much has been said this evening about the interference of politics in this area. In terms of the operational front line, this is all about making sure that the director general of SOCA is given powers that can be flexibly applied to people as he sees fit, while taking into account whether extensive training is necessary for those with previous experience. That is the situation, and it is a bone of contention between us and the Opposition.

*[Caroline Flint]*

SOCA will be a national law enforcement agency dedicated to fighting serious organised crime. Its staff will be highly regarded and respected in their own right as our excellent police forces currently are around the world. They are not in competition with those police forces, however. This is not about creating an elite of police officers, which we could accuse the hon. Member for Sutton Coldfield of wanting to do with his amendments.

Under the amendments, the police agency would be distorted by a view that those people best placed to serve it are police members, being individuals who were attested or sworn as constables or were members of police or special police forces. Were the amendments passed, those members of the agency who come in as customs officers and immigration officers would be seen as second-class. We do not want to be responsible for that. That would be a lost opportunity to bring together under one roof the operational experience and expertise of customs and immigration officers with that of the police agencies of the National Criminal Intelligence Service and the National Crime Squad, to create an agency that would be more than the sum of its parts.

No doubt the hon. Member for Sutton Coldfield will say, as he has pointed out, that the amendments provide that police members may exercise the powers of a customs or immigration officer together with those of a constable if they have the training or have held them before, even if, as I suspect, few will be in that last category. I am glad that, seemingly, we agree on one thing—that an individual can in principle have and exercise the powers of a constable, customs officer and immigration officer all at the same time. I am left wondering, however, why only a police member can potentially exercise the powers of all three, but not a customs or immigration officer, or even better, as we would have it, an employee of SOCA, free from his previous institution's baggage yet with all the experience and knowledge. The hon. Gentleman wants to have his cake and eat it on this issue, and he is fundamentally misunderstanding the aims of establishing SOCA and what we hope that it will achieve in the future.

I am almost left wondering whether the hon. Gentleman has thought of the impact of his amendments. I have already said that they would effectively create a super-police force. That would leave SOCA in, arguably, a worse position than the National Crime Squad, as under his approach, it has all the powers or none. Under the Police Reform Act 2002, however, the director general of NCS could designate staff as investigating officers with a limited array of police powers. Under his proposal, I suggest that that flexibility could be lost to SOCA. I have already mentioned the risk of creating an elitist culture and the potential for real or perceived inequality is obvious.

The Bill is not about SOCA creaming off the brightest and the best from local police forces. It is about creating a new organisation to tackle certain problems. New clause 7 takes the hon. Member for Sutton Coldfield to a place that he does not want to go.

The Bill enshrines the point that SOCA's staff will be every bit as professional and independent as police officers. I strongly refute the argument that only police officers can be entrusted with police powers, and we have moved away from that position.

I take the point raised by the hon. Member for Somerton and Frome that the perception that we do not value the role of the constable is a concern. We value that role, but we also recognise—as he acknowledged earlier—that other people, who may not have the full powers of a constable, can make a contribution to law enforcement.

All the people who participate in protecting our communities—customs officers, immigration officers, community support officers, prison officers and investigating officers—discharge their duties. We value the office of constable and sworn police officers, which have their place as part of the police service. I emphasise that SOCA will not be a police force and should therefore not be seen to be staffed by police members, but it will be staffed by men and women who are every bit as professional, highly trained, dedicated and impartial in their work.

I understand the hon. Gentleman's desire to ensure that the right people only have the powers of a constable and share his desire to ensure that the powers of constables, and indeed those of customs and immigration officer, are not distributed like confetti. Again, SOCA will take operational decisions on how it defines those people who should have different powers and on how it draws on the experience that people bring from different organisations.

I disagree with the hon. Gentleman that the director general of SOCA's carrying out of those functions will cause huge problems and that people who do not know their powers will cause huge legal problems down the line. In Committee, I said that it would be ridiculous for SOCA senior management to send people out on an investigation if those people were not aware of their powers and were therefore unable to bring successful prosecutions. It is ridiculous to suggest that that is a consequence of the Bill.

We have said that the delegation of those powers will be backed by training, a commitment underlined by Government amendment No. 67, which states that the director general must be satisfied that people have experience and training before he designates the relevant powers. The three conditions on the director general are listed in the Police Reform Act 2002 and concern the delegation of powers to police authority staff. Those conditions will apply, even if an individual has already held those powers, which will ensure that training is up to date.

Government amendment No. 68 ties up some loose ends. As the Bill stands, the director general can delegate his power to designate powers. In effect, Government amendment No. 67 imposes a function on the director general, and Government amendment No. 68 simply ensures that that function can be delegated as part and parcel of the power to delegate the power to designate.

I hope that that reassures the hon. Member for Sutton Coldfield—I am not sure whether it will—that SOCA does not have to be created as a national police organisation to preserve the powers of a constable. I hope that he will withdraw new clause 7 and that the House will accept the two Government amendments.

The amendments tabled by the hon. Members for Somerton and Frome and for Oxford, West and Abingdon (Dr. Harris) also appear to have been inspired by a wish to preserve the offices of those joining SOCA, including—it is notable that this is not exclusive, however—the office of constable. As I said in Committee, those police officers who wish to return to their police force after serving with SOCA will have had their position as constable suspended during that time. If someone wants to rejoin a police force, perhaps not even the one that they came from, that is one way in which their constable status could be revived.

We are not convinced by the Liberal Democrat amendments, which might cause confusion. They would work if the person were to return to the service as the holder of their previous office, which would be treated as having been maintained by that person during their time in SOCA, but we would be none the wiser about the state of a person's office if they did not return to the service as a holder of that office.

If the hon. Member for Somerton and Frome seeks simply to ensure that an office continues to be maintained while a person is an employee of SOCA, the amendments are unworkable. By virtue of their office while they were in SOCA, whether constable, immigration or customs, a person would be able to exercise the powers attached to that office. That would undermine any designations made by the director general on reasonable grounds in order to meet SOCA's operational priorities as the person would already start with that collection of powers, which he held by virtue of maintaining his existing office. The entire process of designation would be thrown into confusion. As has been said by the hon. Member for Sutton Coldfield, the powers of constable are extensive and it is not the wish of SOCA that someone should come in with all those powers and be designated as appropriate to the work that that individual would be undertaking within SOCA.

9 pm

I will bring my remarks to an end. I have better manners than the hon. Member for Sutton Coldfield who gave me no time to respond on the issue of intercept as evidence. However, there has been much comment—there has been some tonight—that somehow what we are doing is against the wishes of those who are involved in police organisations. I do not believe that that is true.

I said in Committee and to representatives of the Police Federation that I do not believe that any member of the National Crime Squad, the National Criminal Intelligence Service or, for that matter, anyone else, will sign up to the proposed organisation until they have seen the full terms and conditions, and that is absolutely appropriate. However, we know that there is real enthusiasm on the part of those working in those organisations for the direction that SOCA will take. It will make sense in terms of good partnership working. It will be a new organisation with a new direction and a new way of bringing people together with real skills. It will make a real difference to tackling organised crime.

On that basis, I hope that the hon. Member for Sutton Coldfield will understand why creating SOCA is not only about creating another police force. It is about something that is entirely different. The effect of the agency will depend on how we organise it and on the people within it. I hope that the hon. Gentleman will withdraw the new clause.

**Mr. Andrew Mitchell:** I am cut to the quick by the hon. Lady's suggestion that I was being ill-mannered towards her earlier on. I wish to make it absolutely clear that Opposition Members hold her entirely unresponsible for the disgraceful timetabling motion that meant that we had only half an hour to discuss intercept evidence. She has always been extremely courteous to myself and to my colleagues. Let me set the record straight in that respect.

I have listened carefully to the hon. Lady and I have been willing to be persuaded by her eloquent argument. Sadly, however, she has not brought me to that view. I listened to what she said about the National Crime Squad and the National Criminal Intelligence Service, and I am not sure that she made the right comparison. No doubt that matter will be dissected in the other place when it comes to consider this part of the Bill.

The hon. Lady seemed to suggest that Opposition Members were being highly theoretical. She teased the hon. Member for Somerton and Frome and myself for taking such a response, but I do not think that that is true. If anyone's approach is theoretical, it is that of the Government. The hon. Gentleman and I are concerned with the practicalities of the approach that the hon. Lady has been taking.

The hon. Lady says that she does not think that the Bill, as it stands, undermines the position of a constable. On that point, I and my colleagues, and I believe, the hon. Member for Somerton and Frome and his colleagues, take exception. It undermines the role of the constable in precisely the way in which I have described. Therefore, we wish to press the new clause to a Division. However, I thank the Minister for bringing forward her amendment on training, having listened carefully to what we said in Committee. We are most grateful to her in that respect. We wish to press that key new clause to a vote.

*Question put*, That the clause be read a Second time:—

*The House divided:* Ayes 134, Noes 292.

**Division No. 73]** **[9.3 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Bacon, Richard
Baker, Norman
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Brazier, Julian
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Conway, Derek
Cormack, Sir Patrick
Cotter, Brian
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Ewing, Annabelle

Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Grieve, Dominic
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hoban, Mark *(Fareham)*
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
McIntosh, Miss Anne
McLoughlin, Patrick
Malins, Humfrey
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Murrison, Dr. Andrew
Norman, Archie
Opik, Lembit
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Reid, Alan *(Argyll & Bute)*
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Shephard, rh Mrs Gillian
Shepherd, Richard
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tredinnick, David
Tyler, Paul *(N Cornwall)*
Viggers, Peter
Walter, Robert
Waterson, Nigel
Webb, Steve *(Northavon)*
Wiggin, Bill
Williams, Roger *(Brecon)*
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Younger-Ross, Richard

**Tellers for the Ayes:**
**Andrew Selous and**
**Mr. Peter Atkinson**

**NOES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Begg, Miss Anne
Bell, Sir Stuart
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Cassle, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hoey, Kate *(Vauxhall)*
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lammy, David
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona

McKenna, Rosemary
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahon, Mrs Alice
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morris, rh Estelle
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearson, Ian
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Sarlar, Mart[illegible]
Savidge, Malcolm
Sedgemore, Brian
Shaw, Jonathan
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Wooles, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Vernon Coaker and**
**Paul Clark**

*Question accordingly negatived.*

## Clause 41

DESIGNATION OF SOCA STAFF AS PERSONS HAVING POWER OF CONSTABLE ETC

*Amendment made:* No. 67, in page 23, line 37, at end insert—

'(4A) But a person may not be designated as a person having the powers mentioned in any of paragraphs (a) to (c) of subsection (1) unless the Director General is satisfied that that person—

(a) is capable of effectively exercising the powers that would be exercisable by virtue of the designation,

(b) has received adequate training in respect of the exercise of those powers, and

(c) is otherwise a suitable person to exercise those powers.'—[*Caroline Flint.*]

## Clause 42

DELEGATION OF POWER TO DESIGNATE

*Amendment made:* No. 68, in page 24, line 9, leave out 'the power to make designations' and insert 'his functions'.—[*Caroline Flint.*]

## New Clause 18

DEMONSTRATING WITHOUT AUTHORISATION IN DESIGNATED AREA

'(1) Any person who—

(a) organises a demonstration in a public place in the designated area, or

(b) takes part in a demonstration in a public place in the designated area, or

(c) carries on a demonstration by himself in a public place in the designated area,

is guilty of an offence if, when the demonstration starts, authorisation for the demonstration has not been given under section (Authorisation of demonstrations in designated area)(2).

(2) It is a defence for a person accused of an offence under subsection (1) to show that he reasonably believed that authorisation had been given.

(3) Subsection (1) does not apply if the demonstration is—

(a) a public procession of which notice is required to be given under subsection (1) of section 11 of the Public Order Act 1986 (c. 64), or of which (by virtue of subsection (2) of that section) notice is not required to be given, or

(b) a public procession for the purposes of section 12 or 13 of that Act.

(4) Subsection (1) also does not apply in relation to any conduct which is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

(5) If subsection (1) does not apply by virtue of subsection (3) or (4), nothing in sections (Notice of demonstrations in designated area) to (Offences under sections (Demonstrating without authorisation in designated area) to (Supplementary directions): penalties) applies either.

(6) Section 14 of the Public Order Act 1986 (c. 64) (imposition of conditions on public assemblies) does not apply in relation to a public assembly which is also a demonstration for the purposes of this section.

(7) In this section and in sections (Notice of demonstrations in designated area) to (Loudspeakers in designated area)—

(a) "the designated area" means the area specified in an order under section (The designated area),

(b) "public place" means any highway or any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission,

(c) references to any person organising a demonstration include a person participating in its organisation,

(d) references to any person organising a demonstration do not include a person carrying on a demonstration by himself,

(e) references to any person or persons taking part in a demonstration (except in subsection (1) of this section) include a person carrying on a demonstration by himself.'—[*Caroline Flint.*]

*Brought up, and read the First time.*

**Caroline Flint:** I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker:** With this we may take the following:

Government new clause 19—*Notice of demonstrations in designated area.*

Government new clause 20—*Authorisation of demonstrations in designated area.*

Government new clause 21—*Supplementary directions.*

Government new clause 22—*Offences under sections (Demonstrating without authorisation in designated area) to (Supplementary directions): penalties.*

Government new clause 23—*Loudspeakers in designated area.*

Government new clause 24—*The designated area.*

Government amendment No. 1

Amendment No. 2, in clause 128, page 92, line 27, at end insert 'or'.

Amendment No. 3, in page 92, line 28, leave out from 'Parliament' to end of line 30.

Amendment No. 134, in page 92, line 30, at end insert—

'(d) erecting or displaying material prejudicial to security, or

(e) causing noise of an offensive or intrusive nature'.

Amendment No. 4, in page 93, line 4, after 'officers', insert

', being of or above the rank of inspector,'.

Amendment No. 5, in page 93, line 23, leave out 'one kilometre' and insert '100 metres'

Amendment No. 135, in page 93, line 23, leave out 'one kilometre' and insert '200 yards'.

Government amendment No. 6,

Government amendment No. 168.

**Caroline Flint:** These new clauses are a response to the Procedure Committee which, in its report on Sessional Orders and Resolutions, considered in detail the legislation governing protests and demonstrations in Parliament square, which have given rise to a great deal of discussion and concern among Members of the House, as well as staff.

Following the concerns expressed in Committee about clause 128, particularly subsection (2)(c), the Home Secretary and I reconsidered how best to implement the Procedure Committee's report. We need specific legislation that recognises the unique position of Parliament and its surroundings. The Government recognise that existing legislation has not provided the police with all the powers they need to control all protests and demonstrations around Parliament. That was demonstrated clearly during our debate on the ways in which local authorities, the police and others have tried unsuccessfully to use the law to deal with particular problems.

Government new clauses 18 to 22, which would replace clauses 128 and 129, require all demonstrations that are planned to take place in the designated area to be notified to the Metropolitan Police Commissioner six days in advance. That follows the requirement in the Public Order Act 1986 for all marches to be notified in advance. The precise area will be defined in secondary legislation.

Following our discussions in Committee, we decided that it was important to have a clear process in line with current precedent on processions to provide greater certainty on what we intend to achieve and greater consistency for people applying to hold demonstrations.

**Mr. Grieve:** Let me say at the outset that the Government's proposals this evening appear to be much better than those that we considered in Committee, but does the Minister understand that one of the anxieties that remain is the potential geographical scope of the order? I appreciate that it is to be dealt with by means of secondary legislation, but what we pass here becomes rather important. The Minister knows my view that 1 km is much too great a distance. Would it not be possible for her to give an assurance during the course of the debate that we can at least amend the provision in another place, so that the distance is restricted to no more than 200 m from Parliament square?

**Caroline Flint:** I shall deal with the geographical issue later in my speech, and the hon. Gentleman might wish to return to it in his.

**Jeremy Corbyn** (Islington, North) (Lab): My intervention is on the same subject. I, like many others I am sure, am concerned about restricting the right of free speech and demonstration. Why on earth should many public buildings in this area be included, as well as Trafalgar square, which is a traditional place of protest and demonstration? The Minister should think carefully about removing rights that are enshrined in our history.

**Caroline Flint:** I take my hon. Friend's point. I emphasise that our aim is not to prevent people from exercising their right of free speech. We simply believe that, in certain circumstances, certain conditions should be imposed because of the nature of the area in question. If I am allowed to make progress, I shall discuss the way in which the geographical area may be defined.

**Lembit Öpik** (Montgomeryshire) (LD): Does the Minister accept that the matter is one of profound principle for us? Is she aware that on 7 April 2002, the Prime Minister said:

"When I pass protestors every day at Downing street . . . I may not like what they call me, but I thank God they can. That's called freedom."

How can the Government justify curtailing that very freedom for 60 million British citizens simply because they feel uncomfortable about one individual citizen's determination to exercise that right?

**Caroline Flint:** Neither the hon. Gentleman nor his party has a monopoly on defending the right of free speech. I defend that right and I have protested on a number of occasions in the past—indeed, I remember a time when I was not allowed to cross the bridge because of the restrictions then in place. I repeat, we are not denying people the right to protest in the area around Parliament. We are simply saying that, while

recognising people's right to protest, we have to deal with some of the problems that Members of this House have raised in good faith.

**Mr. Alex Salmond** (Banff and Buchan) (SNP): When the Minister was protesting, did she use a loudspeaker? I am concerned about new clause 23, because a fine of £5,000 for unauthorised use of a loudspeaker seems to me—

**Sir Patrick Cormack** (South Staffordshire) (Con): You do not need one.

**Mr. Salmond:** Perhaps not, but I am certain that the Minister did when she was busy demonstrating. Does she think that a £5,000 fine is proportionate to the offence?

**Caroline Flint:** In fact, I do not recall using a loudhailer. Some would say that I had a big enough voice on me without one. However, there are issues relating to the use of equipment to amplify voice, one of which is its impact, day in, day out, minute by minute, on those who work in Parliament, whether they are elected representatives or staff of the House.

**Sir Nicholas Winterton** (Macclesfield) (Con): As the Chairman of the Procedure Committee, I made it clear in the debate we had some time ago that we are not trying to stop people protesting or making their voice heard. Will the Minister ask those who are concerned about what we are trying to do whether they have read the evidence given to our Committee by the Metropolitan Police Commissioner, the Clerk of the House, the Serjeant at Arms and Members of Parliament, who expressed grave concern—particularly the Metropolitan Police Commissioner on the ground of security? Had they done so, they would be far more sympathetic to the case she is making, which from the Opposition Benches I warmly support.

**Caroline Flint:** I thank the hon. Gentleman. It is for other Members to say whether they have read the full evidence. The Government have considered all the views expressed both by those who are concerned about measures that they believe might curtail protest and freedom of speech, and by those for whom such protests have become a real problem in terms of security and in terms of hindering the operations of the House.

**Sir Patrick Cormack:** Like my hon. Friend the Member for Macclesfield (Sir Nicholas Winterton), I support the Minister, and thank her for what she is doing. Has she talked to members of staff in Portcullis house and 1 Parliament street, as well as the police who are on duty at Members entrance day after day, as their lives are made intolerable by those people baying away, without a crowd to address, merely repeating themselves ad nauseam? The hon. Lady has the full support of every right thinking person in the House.

**Caroline Flint:** I agree with the hon. Gentleman. Individuals can make a protest, but there are genuine concerns when that protest voice is amplified, affecting people who are carrying out their jobs. In many other circumstances, hon. Members protect the health and safety rights of individuals working in certain environments. That is partly what we are trying to address, and that is why the House authorities are concerned about the problem.

**Mr. Gerald Howarth** (Aldershot) (Con): I, too, join my hon. Friends in saying that it is most unfortunate that staff in the House have had to put up with a cacophony of debilitating noise. As we are debating the issue, the noise continues. There is not an audience out there—the only audience are the staff of the House, and I am surprised that they have put up with it for so long. Does the Minister agree that if the judges had been more reasonable in their interpretation of the original measure to remove an abuse of freedom of expression, we might not have needed to pass new legislation to deal with an isolated problem and an abuse of free speech?

**Caroline Flint:** We have reached this point because there are gaps and loopholes in the law, so we could not attend to the very problem that the hon. Gentleman outlined.

**Glenda Jackson** (Hampstead and Highgate) (Lab): Has any representative of an environmental body attempted to measure the level of noise from the demonstrators in Parliament square? Does it in fact exceed the noise that exudes from Big Ben every 15 minutes? Does it exceed the noise of Division bells which, as we have heard this evening, can be frequently rung? The Bill attempts to silence one particular protester, who has been there for a considerable period. Far from attempting to silence him, every hon. Member should be extremely proud that we live in a society where he can continue to express his concerns.

**Caroline Flint:** I am very proud that we live in a society where people can express their point of view. However, I challenge my hon. Friend to spend a day out there and see how it feels listening to that noise. I wonder whether she could get on with her parliamentary work listening to it day in, day out, minute by minute. The hon. Member for Banff and Buchan (Mr. Salmond) asked about the penalty for the use of loud hailers. It is the same penalty as applies under the Control of Pollution Act 1974, which deals with the use of loud hailers at night.

**Glenda Jackson:** My hon. Friend invited me to spend a day out there. My office in 1 Parliament street is certainly open to what she and other hon. Members regard as unbearable noise—I regard it as the voice of democracy. I would point out to her that in my previous work experience one of the first things we had to learn was the ability to concentrate regardless of exterior noise or sound.

**Caroline Flint:** That is very interesting.

**Simon Hughes** *rose*—

**Caroline Flint:** I will give way to the hon. Gentleman, but then I must make progress, as other Members wish to contribute to the debate.

**Simon Hughes:** I am not persuaded by the Government's case, but may I ask the Minister about

*[Simon Hughes]*

something specific? I accept that, in general, demonstrators need to give six days' notice, but we often do things at a day's notice in the house. Where do people who want to protest about something that the Government suddenly announce or introduce in Parliament go so that we can hear and see them, and there is a relationship between the people and their Parliament?

**Caroline Flint:** I do not think that there is a shortage of opportunities for people to protest and express their point of view. Week in, week out, while the House is sitting, there are lobbies of Parliament. People have free access to the Commons, and can come to Central Lobby and demand to see their Member of Parliament. I do not believe that there is a lack of opportunity for people to express their point of view. If one person, who may have a huge amount of paraphernalia and loud hailers, wants to hold a demonstration, they should seek the authority to do so, just as people holding a procession do.

**Jeremy Corbyn:** Will the Minister give way?

9.30 pm

**Caroline Flint:** No, I shall make progress and describe how we see the provision working in relation to the Metropolitan Police Commissioner. When notice of a demonstration is given, the commissioner must authorise the demonstration. I emphasise that, in response to concerns about whether people would be allowed to make their protest and express their point of view. However, the commissioner may attach conditions for the purpose of preventing any of the following, which are listed in new clause 20: hindrance to any person wishing to enter or leave the Palace of Westminster; hindrance to the proper operation of Parliament; serious public disorder; serious damage to property; disruption to the life of the community; a security risk in any part of the designated area; or risk to the safety of members of the public, including those taking part in the demonstration.

Those conditions are more helpful than the original provisions in the Bill. Hon. Members may not know that officers from Charing Cross police station currently make regular visits to the site in Parliament square to check behind paraphernalia for devices left not by the people who are protesting, but by people who might use the protest for their own motives to cause a security problem. Some of my hon. Friends laugh at that, but these issues are taken seriously by the police. There are questions about how much police time should be spent unnecessarily checking behind placards, fixed posters and so on. Conditions attached to authorised demonstrations would make matters much easier for the police.

**Glenda Jackson:** Will my hon. Friend give way?

**Caroline Flint:** No, I shall make a little more progress.

The current Sessional Order orders the commissioner to keep access to Parliament free when Parliament is sitting. Recent demonstrations, though not hindering access to Parliament, have disrupted its work. We propose that conditions can be placed on demonstrations so that they do not hinder access to or hinder the proper operation of Parliament. For example, the police could impose a direction on demonstrators to keep the demonstration away from Carriage Gates or to limit the number of demonstrators. The senior police officer at the scene of the demonstration would be able to impose additional conditions in order to secure these aims. It would be an offence to organise or carry on a demonstration that had not been authorised by the police, or to fail to comply with a direction imposed by the commissioner or the police officer at the scene.

Someone could turn up and say that they did not know about the conditions. It would be up to the police officer at the scene to deal with that in the way he or she saw fit. The major difference between the original provisions of the Bill and what we are proposing in the new clauses relates to consistency. The first version of the Bill raised questions about the extent to which an individual officer would have to interpret what would be the appropriate conditions. The new clauses make it clear that the conditions would be provided in writing to the person who had asked to hold the protest, and they would be able to show that to a police officer at the scene if there was any question about whether they were abiding by the conditions set.

It would be an offence to organise or carry on a demonstration that had not been authorised by the police, or to fail to comply with a direction imposed by the commissioner or the police officer at the scene. I must stress that there would be no power to ban any demonstration outright. It is for the police to decide what conditions to place on any demonstration. The police are best placed to decide what action is proportionate, taking into account human rights considerations. There are exemptions for trade union disputes and for public processions, which are subject to separate controls under sections 11 and 12 of the Public Order Act 1986. We believe that the new clauses will introduce consistency in imposing conditions on demonstrations around Parliament. It is open to all those who wish to demonstrate at short notice to do so, but away from the area around Parliament. That is what we are trying to protect.

The subject of loudhailers has been raised in the debate. During the debate on the Sessional Order and resolutions, the Leader of the House announced that the Home Secretary would consider using the order-making powers in section 62 of the Control of Pollution Act 1974 to ban the use of loudhailers in the area of Parliament square. At that time we considered in good faith that we could use the Act to achieve a ban, but I must apologise to the House. Further legal advice is that the powers in the Control of Pollution Act 1974 are not flexible enough for us to achieve a complete ban around Parliament. New clauses 23 and 24 follow the provisions of the Control of Pollution Act 1974, which ban the use of loudhailers in the streets at night. The new clauses ban the use of loudhailers in the vicinity of Parliament at any time, except for certain specified purposes, such as in an emergency.

The Government agree with the point raised by the right hon. Member for Bromley and Chislehurst (Mr. Forth) in amendment No. 134: the police should be able to deal with those erecting or displaying material

prejudicial to security or causing noise of an offensive or intrusive nature. That is why the commissioner can place conditions on an assembly to prevent hindrance to the operation of Parliament, disruption to the life of community, a security risk or a risk to the safety of members of the public.

The Government also agree with the point raised by the hon. Member for Somerton and Frome (Mr. Heath) in amendments Nos. 2 and 3: that imposing conditions on demonstrators on the ground that they spoil the visual aspect of the area is a difficult judgment for police officers to make. [HON. MEMBERS: "Bonkers."] As those on the Liberal Democrat Benches say, it is absolutely bonkers. I could say the same about them, but there we go.

We thought about that issue after consideration in Committee, and about how a police officer could determine what is aesthetically pleasing, or challenging for that matter. That is why we felt it important that the new clauses deal with situations where placards or other paraphernalia could affect the conditions we have set, particularly those dealing with serious damage to property—that is an obvious one—but also disruption, security risks in any part of the designated area, or for that matter risks to the safety of members of the public. That point has been clarified, and I hope that it is helpful to our discussion.

Amendment No. 4 would ensure that the officer who gives a direction to a protestor must be at least of the rank of inspector. We believe that it would cause operational difficulties to the police if an inspector was not at the scene and they had to wait for one to impose a direction. As we said in Committee, Members of Parliament would be rather annoyed if their access was hindered and a police officer had to wait for an inspector to come to effect a direction.

By ensuring that conditions are placed on a demonstrator before the start, the Metropolitan police will be able to consider more carefully the conditions to be imposed. I can assure hon. Members that the conditions set in advance will be agreed by an officer of at least the rank of inspector. We heard about that problem in Committee, and the advanced notice deals with some problems raised in Committee about the rank of the person deciding what conditions should be set. I hope that the hon. Member for Somerton and Frome will not press his amendment.

I can reassure hon. Members that the Government intend to lay an order specifying the precise area to be covered. We intend to consult the Metropolitan police so that it will cover the area where demonstrations take place that disrupt the work of Parliament, hinder access to the House and cause a security risk. We do not want to restrict unnecessarily the area that will be covered, and we want to ensure that all parliamentary and key Government buildings are covered. In Committee, we considered the distance of 200 m, or 200 yd, and there was a question whether the entrance to the House of Lords would be covered if we were to limit ourselves to such distances.

**Mr. Salmond:** If the Secretary of State is about to consult on the designated area, why does the new clause specify 1 km either side of Parliament square? Why is a distance suggested that would go up to Trafalgar square? If there is to be a consultation, why should new clause 24 be part of the Bill?

**Caroline Flint:** As I said, we do not want unnecessarily to restrict the area that is covered, but we want to consult on what the appropriate Government and parliamentary buildings would be.

**Kate Hoey** (Vauxhall) (Lab): Will the Minister give way?

**Caroline Flint:** I am trying to answer the question of the hon. Member for Banff and Buchan (Mr. Salmond). He should remember that the Sessional Order covers an area from Vauxhall Bridge road in the west to Wellington street and Waterloo bridge in the east. The area that we are proposing—within a kilometre—is smaller than the current Sessional Order area.

We are not enlarging the area to be covered; in fact, we are decreasing and restricting it. We will be clear on consulting on which buildings will be covered, but there are issues that we have to discuss with the police relating to where demonstrations would disrupt the work of Parliament. Of course, that work takes place not just in one building, but in several. We have to discuss issues of security risk as well. I make the point again: we are not banning demonstrations, but allowing them with conditions imposed on them.

**Sir Nicholas Winterton:** I am glad that the Minister said that the work of Parliament does not just occur in one building. It occurs not only here, in this main Chamber, but in Westminster Hall, which is extremely exposed to Parliament square. As one of those who, on behalf of Mr. Speaker, chairs sittings in Westminster Hall—our alternative Chamber—I know that there have been occasions when debates have been badly inconvenienced by the level of noise from Parliament square. The Minister is right to be flexible about the area in which the Bill will apply. She has the Procedure Committee's wholehearted support.

**Caroline Flint:** I thank the hon. Gentleman for that contribution. We want some flexibility, but as I have said, the area that we have proposed to consult on, in terms of the buildings concerned, is actually smaller than that currently provided for under the Sessional Order.

**Kate Hoey:** Like other hon. Members, I am not minded to support the Minister on this point. Since when did this country start using kilometres and metres? Surely, if we are to put anything about area in the Bill, it should be in the terminology that people understand.

**Caroline Flint:** As we enter the 21st century, most children at school, including mine, are being taught in centimetres and metres. I think that those are appropriate measures to use, but we will differ on that issue, I am sure.

I believe that the matters that we have put before the House demonstrate—

**Mr. Salmond:** Will the Minister give way?

**Caroline Flint:** Let me just make this point. The clauses that we have framed show that we have listened to concerns expressed inside and outside the Committee, about what is appropriate and proportionate. I believe strongly that providing for advance notification means that we can have greater consistency in the process than if we just leave the matter to an individual police officer, because the person who gets the authority for the process will have it in writing and will be able to provide that if they are challenged by any police officer in the area around Parliament.

There is a difficult balance to be struck. There is, and will continue to be, a longstanding tradition in this country that people are free to gather together to demonstrate their views, provided that they do so within the law. Equally, access to Parliament must be maintained, and those living and working around Parliament should be able to do so in safety and free from harassment.

We believe that ensuring that those who organise demonstrations around Parliament—

**Lembit Öpik** *rose—*

**Caroline Flint:** I have taken several interventions and I am conscious of other people wanting to speak.

Those who organise demonstrations around Parliament should notify the Metropolitan police in advance, and the police should impose conditions in advance depending on the circumstances of each demonstration. That is the most effective way of achieving what we want, and of resolving the problem that has emerged. The issue is not just about one individual; it is about the fact that the problems of the past few years could be taken on by other individuals as well, and we need to deal with that. I state again that everyone is entitled to their point of view, but sometimes there have to be conditions on how that point of view is put across.

**Mr. Grieve:** I am conscious of time, so I shall endeavour to be brief.

The Minister is right when she says that what she has come up with this evening is much better than what was before the Committee. That was frankly dreadful and this is an improvement on it, but there are several issues that the House ought to consider. Conservative Members will have a free vote on the subject, as it is a matter for Parliament.

My first point is that the system requiring authorisation for demonstration is one with which I do not disagree, but I am concerned that, under the provision, one should give not less than six clear days' notice. If that is the case, it means that any rapidly organised demonstration in response to a specific political event or situation will be impossible. If, for example, in response to an emergency, Parliament was about to vote to go to war, it would not be possible for demonstrators to stand in Parliament square to express their view. I simply cannot accept that it will require six days for the police to decide on such an authorisation. I hope that the Under-Secretary will assure us this evening that that matter will be revisited in the other place and that the period can be reduced substantially.

9.45 pm

**Caroline Flint:** It will be open for people to demonstrate outside the designated area, away from Parliament square. [HON. MEMBERS: "Oh."] However, we are considering a shorter period of notice for exceptional circumstances, such as an emergency. We are looking into that but the circumstances would have to be exceptional for such a demonstration.

**Mr. Grieve:** I am grateful to the Under-Secretary but the problem remains that the House is being asked to vote this evening on something that, in stark terms, I find unacceptable.

**Mr. Salmond:** Of course it is unacceptable. Who determines the exceptional circumstances that reduce the six-day period?

**Mr. Grieve:** The hon. Gentleman makes a perfectly good point.

The second problem is that we will delegate all the responsibility to the commissioner. I accept that the commissioner has to make difficult decisions but the matter is political and I wonder whether it is fair on him to have such choices and responsibilities delegated to him. That causes me some anxiety.

**Lembit Öpik:** Does the hon. Gentleman agree that the provisions focus on one man, Brian Haw? Does he also agree that that puts political pressure on the commissioner to make a judgment on whether Brian Haw's demonstration is acceptable? The crucial point is that it shifts political judgment in the wrong direction and takes us away from it.

**Mr. Grieve:** The hon. Gentleman makes a valid point. When the measure was originally framed, I shared that view strongly. Speaking for myself, I could accept the idea of a regulatory framework to prevent excesses in Parliament square. I am focusing on my anxieties, which are about the commissioner, the ludicrous, unacceptable time for notification and the designated area, which I mentioned earlier.

There is no need for a designated area of 1 km around Parliament square. I heartily agree with the comments of the hon. Member for Vauxhall (Kate Hoey) that the distance should be expressed in miles or yards. Frankly, we do not need miles—yards are sufficient. My right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth) tabled an amendment that would provide for an area of 200 yd. That is eminently sensible.

That brings me to my final point. All the amendments that hon. Members have tabled are redundant because the moment we vote on the clauses, all possibility of further amendment falls. That shows how ludicrous it is to consider those matters on Report. I require concrete assurances. I shall either abstain or vote against the new clauses. I shall abstain if I have a concrete assurance that the deficiencies will be adequately remedied; otherwise, with regret, I shall have to vote against at least some of the new clauses.

**John McDonnell** (Hayes and Harlington) (Lab): The process that we are going through tonight is absolutely shambolic. We have tabled amendments to what we

thought were the proposals in the legislation, only to discover that the Secretary of State has signed our amendments—I thought that we had achieved a revolutionary position at one point—and other amendments have been tabled that are an absolute travesty. This is not just a question of not having time to debate these issues.

The definition in the new clause of a "public place" is

"any highway or any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission".

That could include Methodist central hall, Westminster Abbey or Trafalgar square. Spontaneous demonstrations will no longer be possible. Worse, if I get permission to hold a demonstration, having given my six days' notice, and someone sees me demonstrating and thinks, "That's a good idea. I'll go and join him", that person would be committing an offence. As the organiser of the demonstration, I would have a defence, but I might have committed the crime of incitement. So I could go down for 51 weeks or a year, not for organising the demonstration but for incitement. What is the definition of incitement? A phone call to my hon. Friend the Member for Islington, North (Jeremy Corbyn) the night before?

**Simon Hughes:** One demonstration could take place, having given notice, but there might then be no opportunity for another demonstration to take place at the same time on what could be a hugely important and divisive issue.

**John McDonnell:** So, by the sound of it, we can no longer have competing demonstrations to counterbalance each other. In addition, the powers that the measure gives to the commissioner are absolutely staggering, and there is no provision for them to be circumscribed in the future, or for setting guidelines on them. Is the commissioner really to have the opportunity to designate how many people can turn up to a demonstration, how many placards they can bring and what the design of the placards should be? Is that what we employ the Metropolitan Police Commissioner for? He is going to have a wonderful time choosing between the different designs on Brian Haw's placards.

**Jeremy Corbyn:** Will my hon. Friend help me on one point that is troubling me? What would happen in the event of the commissioner refusing permission for a demonstration in an emergency such as a potential war, and 10,000 or 20,000 people subsequently turning up in Parliament square anyway? Would there be pitched battles outside Parliament because people wanted to reach their Parliament to protest?

**John McDonnell:** Under this legislation, large numbers of people would have to be arrested. That is the only way to interpret the provisions.

Furthermore, no conditions are to be placed on the commissioner in relation to when a decision has to be made after a person has given their six days' notice. Then there is the worrying provision that any police officer, of any rank, can change the conditions at will at any time during a demonstration in Parliament square. Those powers are beyond those that the police officers themselves would wish to have. The designated area of 1 km will include vast tracts of traditional demonstrating areas. The Government will be passing power to one part of the state to control demonstrations in a way that we have never known before in the history of this country.

Tonight, we are seeing a small but significant part of our democratic tradition being chiselled away. Why? Because one person out there has the moral authority, the guts, the tenacity and the courage to stand in Parliament square for several years telling us what we did wrong in this House by authorising a war. Part of the motivation behind this legislation is that some people cannot come to terms with the illegality and immorality of their actions in this place. We should be supporting that democratic voice out there, and the right of that individual to voice his concerns in this way—near to us.

**Mr. Heath:** The hon. Member for Beaconsfield (Mr. Grieve) said that all our amendments were redundant, but he is not entirely right. My amendment No. 1 is far from redundant—in fact, it has been signed by the Secretary of State. It seeks to remove the previous clause. As I said in Committee, that clause needed to be removed because it was "bonkers". It gave the power to a police officer of no higher rank than that of constable to determine that the appearance of a person in Parliament square was to the visual detriment of the square—in other words, that he looked untidy or a bit scruffy, or looked as though he should not be there. On the basis of that decision, the police officer could apply an order to that person to leave not only Parliament square but an area of 1 km surrounding the square. That person would have no capacity to challenge that order and could be excluded from an area running from north of Trafalgar square down to Millbank—I do not know why anyone would want to demonstrate down there—and across to Buckingham palace or over to Waterloo station. If he had the misfortune to want to catch a train home from Waterloo International, Victoria or Charing Cross, he would be out of luck, because he would be excluded on the say-so of a single constable. If ever there was an overreaction to a minimal disruption, this was it. That is why the Government were entirely right to withdraw their amendment, but what they have put in its place is very little better.

**Mr. Salmond:** Equally bonkers.

**Mr. Heath:** It is not quite as bonkers, but it is just as subversive.

**Mrs. Fitzsimons:** Apart from what my grandmother would have said about looking scruffy for a capital city, am I not right in saying that the most senior officer in law is the first police officer at the scene of a crime who decides to apply the law as he or she sees fit? Has that not always been the case? We should be careful about saying that someone's junior rank makes him or her, in a specific instance, not capable of using the judgment that we put every single bobby on the beat to use.

**Mr. Heath:** I do not think that Mr. Brian Haw suddenly appeared on the scene—he was there for some time. Yet the law, as it was suggested, would have allowed a police constable to wake up one morning and think, "He looks a bit scruffy. We'll get rid of him." I do not think that that is the right approach.

*[Mr. Heath]*

It is arguable that there was a nuisance. I do not happen to agree, and not just because I agree with the cause that Mr. Haw espouses. If there was a nuisance, however, the right remedy was a civil one, not the creation of a new criminal offence. The Government threw all that away, because they recognised that it was bonkers, and presented an alternative, but the alternative has some swivel-eyed aspects. It refers to "a demonstration", but a demonstration can be a demonstration by one person. When is one person a demonstration? Presumably when he or she manifests some aspect of demonstration. Is that a leaflet? Is it a placard? Is it a double-decker bus? I do not know. One person becomes a demonstration and requires a permit but another person is simply someone standing in Parliament square. How does a police officer determine who is a demonstration and who is someone who simply does not like the look of the Government?

The point about the removal of spontaneity in demonstrations has already been made. We are no longer allowed suddenly to feel that the Government are doing the country a grave injustice and protest about it. We must give six days' notice to the commissioner before we can mount our one-man demonstration with a leaflet outside the Houses of Parliament. What criteria is the commissioner allowed to take into consideration? Is it serious hindrance to the work of Parliament? Is it serious damage or disruption to the environment? No—it is simple disruption to the life of the community. How do we define disruption to the life of the community of Parliament square? I thought that the life of Parliament square was demonstrations. I thought that Parliament square was the centre where we expressed our political differences with the Government of the day.

**Lembit Öpik:** Is this not the natural and unavoidable consequence of framing a piece of legislation with the sole aim of preventing one man, Brian Haw, from demonstrating in this way? The unintended consequences for the other 60 million of us arise because the Government have not thought this through strategically and have brushed away the issue of principle that has already been raised.

**Mr. Heath:** In fact, I do not think the Government have a clue what they are doing. They simply have a visceral dislike of someone disagreeing so obviously, and in such a prolonged way, on their doorstep. That is why we have what can only be described, although it is a cliché, as a sledgehammer to crack the proverbial nut. I do not believe that the Government should be making it a criminal offence for someone simply to express his view in Parliament square in a time-honoured way, and I do not think they should extend the area to 1 km. I find it alarming enough that the Minister has changed the Government's position since she said in Committee that the intention was to protect Parliament. Now it is Parliament and Government buildings, which is illustrative in itself.

I believe that the Government have got this wrong and I urge my colleagues to oppose their measure.

**Jeremy Corbyn:** I will be brief as we have six minutes left.

I ask all hon. Members to think of whence they came. We are all elected to the House to represent people. We have the great privilege of having the opportunity to speak in this Chamber. The people of this country have every right to protest, to march, to meet and to demand.

10 pm

Are we seriously saying that, because one person, Brian Haw, has been outside for three years, we will sweep away the right that has existed for centuries for people to come to the House, without seeking permission from anyone, to express their view? If these amendments are passed, the Metropolitan Police Commissioner will decide who is fit to demonstrate and who is not. It puts a great burden on him and it will make it impossible for any person to come here in an act of spontaneity to demonstrate against a decision that the Government or House are about to take.

**Caroline Flint:** It is not for the Metropolitan Police Commissioner to say who is fit to demonstrate or who is not. They can demonstrate but there will be certain conditions attached. That is totally different from what my hon. Friend just said.

**Jeremy Corbyn:** The Metropolitan Police Commissioner will be deciding what they can say, who they are, what they can carry, how long they can be there and how many people are involved. It will be police control of demonstrations outside our Parliament.

This is a very serious matter. I urge hon. Members to think very carefully of their privileges to speak, to vote and to talk before denying that right to others who wish to come to the House and make life uncomfortable for us. In a democracy, there is nothing wrong with people making life uncomfortable for elected politicians.

I personally admire Brian Haw but that is not the point. As I said when I gave evidence to the Procedure Committee, what he is demonstrating about is not the point. It is about his right or that of anyone else to come here and express their view, however welcome or unwelcome it is for us. That is what democracy is about.

**Sir Patrick Cormack:** The hon. Member for Islington, North (Jeremy Corbyn) speaks with great eloquence and fervour. I do not think that any individual has the right indefinitely to deface the centre of a great capital city, which is what we have seen over the past three years with Mr. Haw. Obviously, the hon. Gentleman sympathises with him and I do not sympathise with the cause that Mr. Haw is seeking to espouse, but that is not the point. What the Government are seeking to do is, basically, in line with the Procedure Committee's recommendations and it is right.

I hope that the Minister will think again about both the time and the distance. I also hope that she will think very carefully about Trafalgar square. As one who stood shoulder to shoulder with Michael Foot protesting on the subject of Bosnia—the hon. Member for Vauxhall (Kate Hoey) was there with us, too—I know the value of protests in Trafalgar square. I have spoken at a number of protests on the release of Soviet Jews, Bosnia and other causes, some of which would not endear themselves to the hon. Gentleman. Some might. Again, that is wholly irrelevant.

Trafalgar square is a time-honoured place where people can and should be able to demonstrate. It is very important that Trafalgar square be exempted from such regulation. It is important that the time is brought down to 48 hours from six days. That is entirely reasonable. It is important that we have English miles in the Bill and not kilometres and that we have English yards because, in that way, we will get a sensible solution that I hope most people could, perhaps with a degree of reluctance, support.

It is a pity that we have come to this pass but, Mr. Speaker, you know as well as anyone in the Chamber how disrupted the life of Parliament square has been over the past two years and how it has been defaced. The Government have taken a proper step in the right direction. They still need to correct themselves to a degree. I would like the Minister to respond briefly and to assure us that she will listen very carefully on those points about time and distance in particular.

**Glenda Jackson:** The hon. Member for South Staffordshire (Sir Patrick Cormack) spoke of the defacing of Parliament square. I have heard people say that no such demonstrations as we have seen for the past three years should be allowed in Parliament square because it is a world heritage site. It is a world heritage site not because of that rather scruffy square of grass or the statues at its corners, and it is certainly not surrounded by buildings of overwhelming architectural excellence, with the exception possibly of Westminster abbey. It is a centre that the whole world comes to visit because of what has happened in this Parliament, and certainly what happened in Westminster abbey.

This building is a symbol to the world of a democratic system whereby the rights of the individual were placed above those of, in the first instance, a sovereign, and, in the second instance, a state. Westminster abbey is the great symbol of Christianity with its call to all of us to have compassion for those who are the lowest in our esteem. We should be—

*It being five and a half hours after the commencement of proceedings,* MR. SPEAKER *put forthwith the question already proposed from the Chair, pursuant to Order [3 February].*

*Question put,* That the clause be read a Second time:—

*The House proceeded to a Division.*

**Mr. Salmond:** On a point of order, Mr. Speaker, the amendments that we are being asked to vote on are unusual. I am speaking from the Government Benches, because the amendments stand in the names of both Mr. Secretary Clarke and Opposition Members. The Government's last-minute changes to the legislation have coincided with Opposition amendments. In the case of amendment No. 178, for example, the Government's headlong retreat from aggravated trespass in Scotland has coincided with an amendment designed to remove powers from the Government. My point of order is simple: given the nature of the amendments, which indicates the last-minute, spatchcocked nature of the legislation, is there anything in your powers to prevent last-minute amendments making it impossible for hon. Members to submit amendments to legislation? The Government's programme motion makes it impossible for those matters even to be debated. Do you have the discretion to stop that abuse of legislation, which we are seeing this evening?

**Mr. Speaker:** I am not used to seeing the hon. Gentleman on the Government Benches. He has raised the question of the programme motion, which is a matter for the House and not for the Speaker. My clear understanding of the rules is that any hon. Member can put his name to an amendment. If that is a Minister of the Crown, the amendment becomes a Government amendment. It is just like the trade union movement—there is such a thing as custom and practice, which we are dealing with here.

*The House having divided:* Ayes 299, Noes 86.

**Division No. 74]** **[10.05 pm**

**AYES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Atkinson, Peter *(Hexham)*
Austin, John
Bailey, Adrian
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Begg, Miss Anne
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Bercow, John
Berry, Roger
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Butterfill, Sir John
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Conway, Derek
Cormack, Sir Patrick
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, John *(Hornchurch)*
Cunningham, Tony *(Workington)*
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dodds, Nigel
Donaldson, Jeffrey M.
Donohoe, Brian H.
Doran, Frank
Dorrell, rh Stephen
Dowd, Jim *(Lewisham W)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Fabricant, Michael
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna

Flint, Caroline
Flook, Adrian
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gale, Roger *(N Thanet)*
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Green, Damian *(Ashford)*
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Hayes, John *(S Holland)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hunter, Andrew
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Iranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Ker, Robert *(Salisbury)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lammy, David
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIntosh, Miss Anne
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marshall, David *(Glasgow Shettleston)*
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Mitchell, Andrew *(Sutton Coldfield)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morley, Elliot
Morris, rh Estelle
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Paice, James
Palmer, Dr. Nick
Pearson, Ian
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, Hugh *(Faversham & M-Kent)*
Robinson, Geoffrey *(Coventry NW)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roche, Mrs Barbara
Rooney, Terry
Rosindell, Andrew
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Tredinnick, David
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wiggin, Bill
Winnick, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Ayes:**
**Mr. Jim Murphy and Margaret Moran**

**NOES**

Allan, Richard
Baker, Norman
Baron, John *(Billericay)*
Barrett, John
Beresford, Sir Paul
Brooke, Mrs Annette L.
Bruce, Malcolm
Burstow, Paul
Burt, Alistair
Cable, Dr. Vincent
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Chope, Christopher
Corbyn, Jeremy
Cotter, Brian
Cummings, John
Davey, Edward *(Kingston)*
Dawson, Hilton
Ellman, Mrs Louise
Etherington, Bill
Ewing, Annabelle
Fisher, Mark
Flynn, Paul *(Newport W)*
Foster, Don *(Bath)*
George, Andrew *(St. Ives)*
Grogan, John
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Heath, David
Heathcoat-Amory, rh David
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hopkins, Kelvin
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jackson, Glenda *(Hampstead & Highgate)*
Lansley, Andrew
Liddell-Grainger, Ian
Llwyd, Elfyn
McDonnell, John
McLoughlin, Patrick
Mahon, Mrs Alice
Maude, rh Francis
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
Öpik, Lembit
Pugh, Dr. John
Reid, Alan *(Argyll & Bute)*
Robertson, Angus *(Moray)*
Robertson, Laurence *(Tewk'b'ry)*
Salmond, Alex
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shepherd, Richard
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Skinner, Dennis
Smyth, Rev. Martin *(Belfast S)*
Spink, Bob *(Castle Point)*
Steen, Anthony
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Trickett, Jon
Tyler, Paul *(N Cornwall)*
Viggers, Peter

Wareing, Robert N.
Waterson, Nigel
Webb, Steve *(Northavon)*
Whittingdale, John
Williams, rh Alan *(Swansea W)*
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Wishart, Pete
Wood, Mike *(Batley)*
Younger-Ross, Richard

**Tellers for the Noes:**
**Bob Russell and**
**Sir Robert Smith**

*Question accordingly agreed to.*

*Clause read a second time, and added to the Bill.*

MR. SPEAKER *then proceeded to put forthwith the Questions necessary for the disposal of the business to be concluded at that hour.*

*Motion made, and Question proposed, that new clauses 19 to 24, 8, 9, 15, 16 and 17 be added to the Bill.*

*The House divided:* Ayes 263, Noes 88.

**Division No. 75]** **[10.19 pm**

**AYES**

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Begg, Miss Anne
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Berry, Roger
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chaytor, David
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Corston, rh Jean
Cousins, Jim
Crausby, David
Cryer, John *(Hornchurch)*
Cunningham, Tony *(Workington)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Etherington, Bill
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lammy, David
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morley, Elliot
Morris, rh Estelle
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearson, Ian
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Shaw, Jonathan
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Sutcliffe, Gerry
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon

Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Winnick, David
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Ayes:**
**Mr. Jim Murphy and Margaret Moran**

**NOES**

Allan, Richard
Atkinson, Peter *(Hexham)*
Baker, Norman
Baron, John *(Billericay)*
Barrett, John
Bercow, John
Beresford, Sir Paul
Brazier, Julian
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burstow, Paul
Burt, Alistair
Cable, Dr. Vincent
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Chope, Christopher
Corbyn, Jeremy
Cotter, Brian
Cummings, John
Davey, Edward *(Kingston)*
Dodds, Nigel
Donaldson, Jeffrey M.
Ewing, Annabelle
Fabricant, Michael
Flook, Adrian
Foster, Don *(Bath)*
George, Andrew *(St. Ives)*
Green, Damian *(Ashford)*
Grieve, Dominic
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hayes, John *(S Holland)*
Heath, David
Holmes, Paul
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
McDonnell, John
McIntosh, Miss Anne
McLoughlin, Patrick
Mahon, Mrs Alice
May, rh Mrs Theresa
Mitchell, Andrew *(Sutton Coldfield)*
Mumson, Dr. Andrew
Opik, Lembit
Pugh, Dr. John
Reid, Alan *(Argyll & Bute)*
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Shepherd, Richard
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Taylor, John *(Solihull)*
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Tyler, Paul *(N Cornwall)*
Wareing, Robert N.
Waterson, Nigel
Webb, Steve *(Northavon)*
Whittingdale, John
Wiggin, Bill
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Wishart, Pete
Younger-Ross, Richard

**Tellers for the Noes:**
**Andrew Selous and Mr. Geoffrey Clifton-Brown**

*Question accordingly agreed to.*

*Government amendments Nos. 1, 6, 168, 63 to 66, 69 to 79, 39 to 46, 53 to 58, 80 to 88, 47 to 49, 173 to 178, 59, 89 to 98, 179, 50, 60, 180, 181, 101 to 104, 61, 62, 105, 140 to 143, 51, 52, 169 to 172, 107 to 109 and 144 to 165 agreed to.*

**New Schedule 1**

REMAINING MINOR AND CONSEQUENTIAL AMENDMENTS

SEARCH WARRANTS

*Incitement to Disaffection Act 1934 (c. 56)*

1 In section 2 of the Incitement to Disaffection Act 1934 (which makes provision about search warrants), in subsection (2), for "one month" substitute "three months".

*Public Order Act 1936 (1Edw. 8 & 1 Geo.6 c. 6)*

2 In section 2 of the Public Order Act 1936 (prohibition of quasi-military organisations), in subsection (5), for "one month" substitute "three months".

*Wireless Telegraphy Act 1949 (c. 54)*

3 In section 15 of the Wireless Telegraphy Act 1949 (entry and search of premises), in subsection (1), for "one month" substitute "three months".

*Licensing Act 1964 (c. 26)*

4 Until their repeal by the Licensing Act 2003 (c. 17), the following provisions of the Licensing Act 1964 have effect as if for "one month" there were substituted "three months"—

section 54 (search warrants relating to clubs),

section 85(1) (search warrants relating to parties organised for gain),

section 187(1) (search warrants relating to sale of alcohol).

*Biological Weapons Act 1974 (c. 6)*

5 In section 4 of the Biological Weapons Act 1974 (powers of search etc.), in subsection (1)(a), for "one month" substitute "three months".

*Copyright, Designs and Patents Act 1988 (c. 48)*

6 (1) The Copyright, Designs and Patents Act 1988 is amended as follows.

(2) In section 109 (search warrants), in subsection (3)(b), for "28 days" substitute "three months".

(3) In section 200 (search warrants), in subsection (3)(b), for "28 days" substitute "three months".

(4) In section 297B (search warrants), in subsection (3)(b), for "28 days" substitute "three months".

*Computer Misuse Act 1990 (c. 18)*

7 In section 14 of the Computer Misuse Act 1990 (search warrants), in subsection (3)(b), for "twenty-eight days" substitute "three months".

*Trade Marks Act 1994 (c. 26)*

8 In section 92A of the Trade Marks Act 1994 (search warrants), in subsection (3)(b), for "28 days" substitute "three months".'.—*[Caroline Flint.]*

*Brought up, read the First and Second time, and added to the Bill.*

*Order for Third Reading read.*

10.31 pm

**Caroline Flint:** I beg to move, That the Bill be now read the Third time.

It is a great privilege to move Third Reading, and I thank all hon. Members who served on the Committee. There was much general agreement on many of the measures that the Bill is designed to address and I am grateful to hon. Members on both sides of the House for the constructive approach that they adopted both in Committee and today on Report.

For our part, I hope that many people will acknowledge that we have responded positively to many of the points raised by Opposition Members, and I trust that the House will agree that the Bill that we are now sending to the other place has been much improved by the scrutiny process. I welcome the broad measure of cross-party support for the provisions. Indeed, on Second Reading the right hon. Member for Haltemprice and Howden (David Davis) said that of the Bill's 220 pages, he could "broadly support" all but two, which has to be regarded as an achievement.

The Bill includes a cross-section of measures to tackle crime at all levels, from fighting organised criminal gangs at the top end of the spectrum to combating the scourge of antisocial behaviour at the other end. At the heart of the Bill is a raft of proposals designed to make the United Kingdom the least attractive country for organised criminals to operate in. Organised crime costs the country a minimum of £20 billion a year, but the social and economic cost cannot be measured in monetary terms alone, as the impact of this sordid business is felt in many communities. We all know from our constituents of lives ruined or tragically lost as a result of a drugs overdose, gun crime or sex slavery. Behind each of those tragedies is the network of criminals who supply the drugs, the guns and the migrants.

The National Crime Squad, the National Criminal Intelligence Service and the investigation arms of Customs and Excise and the immigration service have all achieved notable successes. I pay due respect to all the people in those organisations, but the reality is that the challenges posed by organised crime are such that we need to move up a gear. The Serious Organised Crime Agency will not just bring together those four constituent organisations, but it will adopt a wholly new approach by having as its core objective the reduction of harm caused by organised crime. That will involve traditional investigations and prosecutions, including use of the new compulsory investigative powers in part 2 of the Bill, but SOCA will also use all other methods at its disposal to disrupt, dissipate and destroy organised criminal gangs.

In establishing SOCA, we do not seek to disown what has gone before. I have already paid tribute to the four precursor organisations, but a new approach to meeting the challenges posed by organised crime requires a new organisation with its own culture and ways of working. If we are to mesh together successfully the police officers, customs officers and immigration officers transferring to the new agency, we cannot fashion it in the image of a police force. That is accepted and supported by the NCS, NCIS, Customs and Excise, the immigration service, the Association of Chief Police Officers, the director general designate, Bill Hughes, the chairman designate, Sir Stephen Lander, and many others. I invite Opposition Members to embrace that shared vision for the new agency and to work with us to make it a success.

This is not the occasion to run through the whole of the Bill, but I want to take this opportunity to touch on the issue of incitement, which has at times dominated the debate. A little over a week ago, the nation marked the 60th anniversary of the liberation of Auschwitz at a ceremony in Westminster Hall. If the Holocaust teaches us anything, it should teach us to be acutely aware of where hatred of a religious or racial group can lead.

Hon. Members who oppose this provision have failed to address two fundamental points. First, how do they respond to their Christian, Muslim or Hindu constituents when they ask, "How can it be right that Jews and Sikhs are protected by the criminal law against those who would incite hatred against them, but we are not?"? The second point that hon. Members have failed to address is the fact that we know that far right groups, and others, use religion as a surrogate for race. Those who would seek to whip up hatred against minority ethnic communities are familiar with the provisions of the Public Order Act 1986 and are sufficiently astute to peddle their vitriol with carefully chosen words. As colleagues have rightly pointed out, religion and race are not always intermixed, and we want to protect those people for whom the issue is not their race but their beliefs. I put it to the House that it is equally right that there should be an equivalent offence of inciting hatred against religious groups, to provide protection for faith groups that do not have an association with a particular race. The targets are often—but not always—the same, and the effects are equally damaging to community cohesion.

The Government's view is shared by the broad swathe of faith groups. The new offence is supported by the Church of England, the Catholic Church, the Free Churches, the Muslim Council of Britain, the Hindu Council UK, the Network of Sikh Organisations, the Board of Deputies of British Jews, the Buddhist Society, the Network of Buddhist Organisations, Jain Samaj Europe, the National Spiritual Assembly of the Baha'is of the United Kingdom, and the Zoroastrian Trust Funds of Europe. Support comes not just from faith groups but from the Association of Chief Police Officers, Justice, the Commission for Racial Equality, the Law Society and the Attorney-General.

**Mr. Peter Lilley** (Hitchin and Harpenden) (Con): Can the Minister tell the House whether the use of anti-Semitic advertisements by political parties would fall foul of the provision?

**Caroline Flint:** If the right hon. Gentleman is referring to what I think he is referring to, I refute the allegation.

There is, therefore, a wide body of support for the new offence that cannot be ignored. Furthermore, we have seen from a recent poll in *The Guardian* that there is also strong public support. I put it to the House that there is a compelling case for the provision, and I invite hon. Members who have expressed concerns about it to think again.

*[Caroline Flint]*

Under this Government, crime has fallen by 30 per cent. We all accept that we cannot be complacent, because there is much more to do to make our communities and neighbourhoods safe and secure. The other measures in the Bill, including those on antisocial behaviour, police powers and the seizure of cars that are uninsured and unlicensed will contribute significantly to making our communities safer and ensuring that those who do not abide by the law are brought to justice.

**Lembit Öpik:** I do not know whether the Minister intends to refer to the debate we had only half an hour ago about the restrictions on people's right to demonstrate. I counsel her to recognise that although she has successfully marshalled the Bill through the House, she needs to give careful consideration to the dangers that we highlighted. She may be in government now, but that will not always be the case, and the restrictions on demonstrations may one day restrict her opportunity to protest against a future Government.

**Caroline Flint:** I believe that the measures concerning demonstrations in the area around Parliament would allow me to demonstrate in the future on any issue. The only constraint would be that I would need the foresight to seek authorisation and be willing to accept conditions. I do not have a problem with that. The Metropolitan Police Commissioner will not say whether people may or may not protest: people may protest, but conditions might be attached. We have outlined the conditions that may apply in the Bill, and they include hindering the operations of Parliament as well as the safety and security of the environment around Parliament.

The Bill will contribute significantly to the achievement of our goal of making our communities safer. I am proud to have played a part in the often exciting and constructive discussions of it in Committee. Many of the measures in the Bill will give us more tools with which to fight organised crime, as well as crime within our communities. I hope that we can all contribute to making our communities safer by ensuring that the Bill has a safe passage and becomes the legislation that we need, and I commend it to the House.

10.39 pm

**Mr. Andrew Mitchell:** We have reached the end of at least the first stage of Parliament's proceedings on the Bill—its passage through this place. As the Minister rightly said, there are aspects of the Bill with which we strongly agree. However, one of the problems is that it has become something of a Christmas tree to which many things have been added, and as it goes down the Corridor to the other place, she may well have to trim the tree if the Bill is to become law before the general election.

The passage of the Bill falls into two parts. Committee stage was extremely constructive: we managed to raise and debate a large number of very important issues. Report stage, however, was subject to the outrageous guillotine that the Government imposed on the House of Commons. In my view, it is an insult to every Member of this House, on whatever side they sit, that the programme order has curtailed our discussion on Report as it has. In Committee, the usual channels did an excellent job—I congratulate my hon. Friend the Member for Cotswold (Mr. Clifton-Brown) and the hon. Member for Nottingham, East (Mr. Heppell) on the way in which our debates were ordered in the old-fashioned way, without any form of knife being necessary.

In Committee, my hon. Friend the Member for Beaconsfield (Mr. Grieve), the shadow Attorney-General, who is a distinguished lawyer, enlivened our debates and brought his tremendous legal training to bear. My hon. Friend the Member for Huntingdon (Mr. Djanogly), who has great specialist knowledge not only as a constituency Member of Parliament but as a shadow Minister on the important subject of animal rights terrorism, genuinely managed to influence the Minister to make several changes and amendments, for which we are extremely grateful to her. My hon. Friend the Member for Hertsmere (Mr. Clappison), who serves on the Home Affairs Committee, also helped our consideration a great deal. It has been a great pleasure to debate the Bill, both in Committee and on Report, with the Under-Secretary of State for the Home Department, the hon. Member for Don Valley (Caroline Flint).

In Committee, we discussed community support officers and antisocial behaviour in a highly constructive way. There is now a large degree of agreement on the right way forward, although we continue to have reservations about the extra CSOs that are to be provided without a proper independent evaluation. We hope that the Minister will provide us with one in due course. Although, we recognise that, in terms of visibility, CSOs are a plus, not a minus, there should be no confusion about the fact that they are not proper coppers: they are not trained in the way that policemen and women are. We also discussed matters relating to the Police and Criminal Evidence Act 1984 and disclosure notices, which were very much the Cinderella issues of the Bill. I am concerned that, under this legislation, everyone will be able to arrest everyone else. Such matters will be returned to when the Bill moves to the other place.

The key part of the Bill is the Serious Organised Crime Agency, which the Conservatives strongly support. None the less, we are anxious to ensure that its place in the hierarchy of the police family is understood. We are concerned about some aspects of its financing—a subject that we raised frequently in Committee—and about the powers of the Home Secretary, which must be proportionate. If the agency is to be the diamond in the crown of our anti-crime initiatives and to make a real contribution to crime fighting as all hon. Members want, it is extremely important that it is properly established and organised.

I think that all of the issues that we have discussed today were debated, at least briefly, in Committee. Religious hatred has dominated our debate today, and I am not satisfied that the Government have got the

provisions right, which is why I voted against them. I have no doubt that it will prove to be one of the most contentious issues in the other place.

**Dr. Evan Harris:** Does the hon. Gentleman agree that when the House of Lords looks at the provision, it will consider whether we have had an adequate discussion? The fact that the provision was subject to such an unreasonable timetable will give the Lords the impression that we did not get to the bottom of the issues, and make it much more likely that they will ask us, quite rightly, to think again.

**Mr. Mitchell:** Although the hon. Gentleman is a Liberal Democrat, he is quite right. It was a disgracefully tight timetable and it had precisely the impact that he described. Even worse, I am sure he would agree, was the fact that intercepts, which are not part of the Bill, were not properly discussed today. We had only half an hour on the issue, which meant that I alone could made a speech when moving new clause 7. It is an extremely important issue, and it should have received far more discussion. I acquit the Minister of any blame—it rests exclusively with the Government Whips Office, as it did not give us enough time to discuss the matter.

As for protection against animal rights extremists, the Government and the Minister have listened to my hon. Friend the Member for Huntingdon and without doubt the Bill has been improved as a result. Together with the hon. Member for Somerton and Frome (Mr. Heath), with whom I have been in almost complete agreement throughout proceedings on the Bill—that is a little worrying, but it is true nevertheless—I raised the issue of police powers. The Government must think carefully about whether they have dealt with the issue satisfactorily.

Finally, my party had a free vote on the issue of demonstrations in Parliament square. I did not decide how to vote until I listened to the Minister and my hon. Friend the Member for Beaconsfield. The Minister was extremely persuasive, which is why I joined her in the Lobby at the end of the debate. I am concerned, however, that Parliament is abrogating its responsibility for making those decisions to the police, given the operational process to which we agreed tonight. Despite that reservation, however, I found the Minister's argument persuasive on the whole. I very much hope that the key parts of the Bill will become law.

**Mr. Bercow:** I have listened to my hon. Friend with rapt attention and a certain amount of awe at the way in which he has put Demosthenes to shame. Before he concludes an oration of the most remarkable quality, I hope that he will see fit to expatiate on the quantity of the Bill's provisions and their rather worrying implications for secondary legislation. His speech so far, although fine, has been very short—I am sure that he will want to lengthen it.

**Mr. Mitchell:** Even at my hon. Friend's behest, I hesitate to expatiate at the Dispatch Box on secondary legislation at this late hour. However, the extremely important matters that he raised will be dealt with in the other place, where they will occupy the Government a great deal.

As I was saying before my hon. Friend intervened to compare me with Demosthenes, I wish the Bill well. I very much hope that its key provisions will become law before the general election. However, we do not agree with some parts of it, and there are some provisions that the Government have fully to explore before they are passed into law. On that basis, I am content not to vote against the Bill on Third Reading.

10.48 pm

**Mrs. Fitzsimons:** It is a great privilege to speak in favour of the Bill. Nearly 20,000 of my constituents belong to the Muslim faith, and there are many more from Christian denominations. I am therefore happy to back a law that, for the first time, provides parity for Christians and Muslims, so that they can join Jewish, Sikh and other faiths, and will not fall prey to the most pernicious form of hatred because of their belief. We should not underestimate the years of quiet, unnoticed suffering endured, with noble fortitude by many thousands of the people whom we represent, because they did not have one of the most basic rights that most of us take for granted in this country and in this place—the right to practise their chosen faith quietly and individually with their family, friends and community.

In the 18th century, Rochdale was the town where the greatest number of religions were practised. Fewer religions are probably practised now in Rochdale, but it is of great importance to my constituents that we passed a law today that gives them parity to practise their chosen faith freely, without fear of hatred. They know, as does nearly every law-abiding citizen of any faith or no faith, that nearly every good book says, "Do as you would be done by". They do not expect favours or protection for inciting another person to hate somebody because of their faith or belief. All they want is for the hatred that has been directed against them to be made illegal once and for all.

I have heard many arguments in this place and in my constituency that worry me greatly. There are few perfect laws—that is why there are so many rich lawyers. Parliamentarians have claimed that the new law will create unrealistic expectations, but which law has not done that? Each of us has had in our surgeries people who believed that a law stated something specific, and then realised that it was a matter of what one could prove, the evidence that a court needed, the difficulties presented by the Crown Prosecution Service, and many other factors. It is incumbent on us to realise that we need parity written into the law. What we are doing today is therefore very important.

Members of the Muslim community in my constituency are prey to people in their own community who prey on their fears. The vast majority of law-abiding Muslims want nothing to do with such people, but there is no law to make it clear to those people that what they are saying and doing in the name of the community is wrong, and that when the same thing is done to their own community, they think it is wrong, so they should not do it unto others.

The issue goes wider than that. In this country we have a strong tradition of freedom of speech, and it is wrong for politicians to go around saying that if passed, the law would curtail freedom of speech. That is dangerous and needs to be clarified in the Chamber.

*[Mrs. Fitzsimons]*

I challenge those on the Liberal Democrat Front Bench to do that. I have had the opportunity to share a platform with several leading Liberal Democrats in my constituency—Members of the European Parliament—who try to portray the Bill as dangerous to the Muslim community, saying that it would be used to witch-hunt people with strong voices who want to stand out, oppose various parts of the law and practise their own freedom of speech. I hope Liberal Democrats will join me in nailing that lie.

The Bill is designed to protect individuals, not religions, institutions, deities or theologies. Over 50 years in my constituency, there has not been protection in law for my law-abiding citizens when they have been prey to the most pernicious hatred because of their religion. I hope the hon. Member for Somerton and Frome (Mr. Heath), whom I know to be an honourable Gentleman, will distance himself from people seeking to sow seeds of fear and confusion. After 50 years of campaigning, we have reached the milestone—under my Government, I am proud to say—of protecting in law 20,000 of my constituents, and many more of the Christian faith. I am afraid that there are not many Hindus in my constituency, but those I have will be protected. Some people come along and say, "This law is to get you." I hope that the hon. Gentleman will nail that lie.

This measure is about protecting everybody in law, which is why I am proud to stand here as a person who does not practise any faith, apart from my political beliefs, which are my faith. When I was a lot younger, I was taught a lesson. I railed against people who believed in Catholicism and what the Pope and the Vatican had done. A very wise person listened to me for a very long time as I hanged myself with a long piece of rope and said, "My, Lorna, that sounds pretty much like a belief to me." I learned the hard way that if I expect people to tolerate my beliefs, there needs to be a tolerance in the other direction.

There is a difference between enjoying something like "Life of Brian" and saying that a person has the right to incite somebody to hate another individual because of their belief. Therefore, I am very proud to support the Third Reading of a Bill that has been a long time coming.

10.55 pm

**Mr. Heath:** On the whole, this is a good Bill. It contains an awful lot of things that—we agree with the Government—needed doing. I found consideration in Committee, and even today's debate, despite the inadequacies of the timetable, usually a good experience of dialogue rather than simple confrontation. For that, I pay tribute to the Minister for Crime Reduction, Policing and Community Safety and the Under-Secretary of State for the Home Department, the hon. Member for Don Valley (Caroline Flint), both of whom are sitting on the Treasury Bench, and to the hon. Member for Sutton Coldfield (Mr. Mitchell) and my hon. Friend the Member for Oxford, West and Abingdon (Dr. Harris), as well as those who served on the Committee.

Having been involved with umpteen Home Office and Department for Constitutional Affairs Bills, I do not always feel that my arguments have been listened to, but in this instance there have been several changes to the Bill as a result of suggestions made from the Liberal Democrat Benches. We are grateful, because that indicates that we were having a constructive argument rather than a simple confrontation.

I have made it plain all along the line that we strongly support the Serious Organised Crime Agency. We want it to succeed and we think that there is a desperate need to confront organised crime effectively. We believe that such an agency is a step forward in providing the country with the mechanisms it needs to fight crime effectively, although we may quibble about some details, as we have today and no doubt will as the Bill proceeds in another place.

We have considered the issues of investigatory powers, financial reporting and witness protection. I am enormously grateful that the Under-Secretary recognised the deficiency in the provisions for witness protection for those who are connected but not in a familial relationship. I thank her for changing the Bill, apparently.

We have not yet reached agreement on the subject of custody sergeants; we did not have a chance to debate that today. I have no doubt whatever that it will be explored at length in another place.

We have made significant progress on animal rights extremism and the measures to be put in place, although I do not think that the clauses we have agreed today are the last word on the subject. There is still a case for further revision, but we are, nevertheless, finally setting up the legislative framework necessary to combat a particularly unpleasant form of bullying that can have vile or tragic results.

I do not agree with the Government about Parliament square, although I am glad that they have removed the two absurd proposals in the Bill. We simply disagree with other aspects of the legislation, but these were two bits of nonsense: the original proposals for Parliament square and the unlimited power of arrest for the citizen—citizen's arrest for any offence so that Mr. Jobsworth could arrest his next door neighbour and hold him until a police officer arrived, simply for having a defective brake light. That cannot be right, but the provision has been removed and I am pleased about that. I am particularly pleased that the Minister accepted my proposal for the power of seizure of vehicles without licence or insurance, which will be incorporated in the Bill.

The one difficult area is that to which the hon. Member for Rochdale (Mrs. Fitzsimons) referred—incitement to religious hatred. Let me be absolutely clear—I said it at the beginning of my remarks and I shall say it again—that there is no difference between us and Labour Members in terms of the result that we wish for. We want a new offence that deals effectively with the pernicious acts of hatred that the hon. Lady described. Our argument concerns how that can be framed in the most effective way. We had that debate today, and it was entered into by Members on both sides of the Chamber. Indeed, many Labour Members joined us in the Lobby to say that there is at least one better way—probably many better ways—of framing the provisions so as to provide the effective protection against wicked and evil incitement to hatred that the hon. Lady and I want for the minority communities in

our constituencies and around the country. We also want to ensure that the provisions work most effectively for all communities in achieving the parity to which the hon. Lady referred.

That is the argument that we take to the other place. I remain hopeful that we will resolve those issues and, as a result, secure a piece of legislation that we can wholeheartedly support throughout. We are not quite there yet, but I have not the slightest intention of voting against the Bill, which achieves much that is desirable.

11.1 pm

**Mr. Sarwar:** Outlawing incitement to religious hatred is long overdue. It is imperative that we extend protection to prevent hatred being stirred up against people on the basis of their religious beliefs, or lack of religious beliefs, as well as their race. An extension of the law is needed to tackle the activities of extremists who have targeted people because of their religious beliefs.

The Bill will close the unacceptable loophole whereby mono-ethnic faith groups such as Jews or Sikhs have legal redress against those who stir up religious hatred against them, but multi-ethnic faith groups such as Muslims, Christians and Hindus do not. That loophole has been exploited by far-right groups, who use religious terms to target victims whom they previously targeted using racial terms. The new provision allows the authorities to take action against such racist extremists, who have distributed material listing a range of insulting and highly inflammatory reasons for hating Muslims. For example, it was suggested that Muslims are a threat to the British people and liable to molest women, and should therefore be made to leave the UK. If those statements are not an incitement to hate Muslims, then what is?

I am pleased that the new law will allow the authorities to pursue extremists in faith groups who make repeated threatening statements stirring followers to look for ways to make trouble for unbelievers. Extremist British Muslim groups who incite religious hatred against other groups will face justice, as they should. Extremists are few in number and completely unrepresentative of the communities whom they claim to represent. The majority of the British people, including British Muslims, are peaceful and law abiding, and would not stir up hatred against others because they do not share their religious beliefs.

Critics of the provision argue that it seeks to protect people's beliefs and to restrict freedom of speech. That is simply not the case. It does not limit the freedom to criticise religious beliefs and practices or to engage in robust argument about those or to tell jokes. The new law is consistent with, and will operate in the light of, the guarantees afforded by the European convention on human rights and the Human Rights Act 1998. The convention clearly establishes the need to balance the right to freedom of speech with respect for the rights and freedoms of others. The protection of free speech afforded by the convention is an adequate safeguard over and above the tests that any action under the new law will have to fulfil.

There is a further safeguard, in that the Attorney-General's consent will be required for all prosecutions to protect against frivolous or vexatious actions. Furthermore, the proposed and existing offences carry a high threshold to protect freedom of speech. Words, behaviour or material must be threatening, abusive or insulting and intended or likely to stir up hatred. The hatred has to be targeted at a group, not at beliefs or ideologies. Hatred goes beyond ridicule, prejudice, dislike, contempt, anger or offence.

The proposal has the support of eminent equality and human rights lawyers such as Geoffrey Bindman and Robin Allen QC. It is also supported by the Law Society, the Commission for Racial Equality and the Association of Chief Police Officers.

One of the most fundamental freedoms for all of us must be—

*It being six and a half hours after the commencement of proceedings,* MR. DEPUTY SPEAKER *proceeded to put forthwith the Questions necessary for the disposal of business to be concluded at that hour, pursuant to Order [3 February].*

*Question put and agreed to.*

*Bill accordingly read the Third time, and passed.*

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),*

### POLITICAL PARTIES

That the draft Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Order 2005, which was laid before this House on 20th December, be approved.—*[Mr. Heppell.]*

*Question agreed to.*

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),*

### COMPANIES

That the draft Companies Act 1985 (Operating and Financial Review and Directors' Report etc.) Regulations 2005, which were laid before this House on 12th January, be approved.—*[Mr. Heppell.]*

*Question agreed to.*

## DELEGATED LEGISLATION

*Ordered,*

That the Licensing Act 2003 (Fees) Regulations 2005 (S.I., 2005, No. 79), dated 20th January 2005, the Financing of Maintained Schools (England) Regulations 2004 (S.I., 2004, No. 3130), dated 9th December 2004 and the LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations 2004 (S.I., 2004, No. 3131), dated 9th December 2004 be referred to Standing Committees on Delegated Legislation.—*[Mr. Heppell.]*

## Rail Services (Maidenhead and Twyford)

*Motion made, and Question proposed,* That this House do now adjourn.—*[Mr. Heppell.]*

11.5 pm

**Mrs. Theresa May** (Maidenhead) (Con): I am grateful for the opportunity to introduce a subject that is of deep concern to my constituents and others who use the major train stations of Maidenhead and Twyford and the branch line stations of Cookham, Furze Platt and Wargrave in my constituency. I said that it was a matter of great concern to my constituents but it also causes them considerable disquiet and—dare I say it—distress because of the impact that the introduction of the new timetable in December 2004 has had on the services and their lives. I shall explain that to the Minister shortly.

It is sad to have to introduce this subject. For many years, my constituents and others who use the stations have benefited from a good rail service. Many fast and semi-fast services to and from Paddington were, by and large, reliable. I shall not pretend that they were perfect. At times, passengers experienced delays and frustrations. However, the rail service was good, yet, in the past couple of months, it has deteriorated significantly. The previous service was run by Thames Trains, which was, paradoxically, one of the few train operating companies that did not require a public subsidy. First Great Western is in a rather different position.

A year ago, there was a good service. Today, the picture is different: significant delays, longer journeys, fewer trains, fewer fast and semi-fast services, fewer carriages and significant, if not dangerous overcrowding in peak hours. That applies not only to my constituents who travel from Maidenhead and Twyford to Paddington, or, indeed, Reading, but to those who travel from London to Maidenhead to work. It is not only my constituents who suffer. The subject also exercises my hon. Friend the Member for Henley (Mr. Johnson) and, as I know from an earlier conversation with her, the hon. Member for Slough (Fiona Mactaggart). There are fewer services to Slough and the journeys are taking longer. I understand that, when the hon. Member for Slough was at the station this morning, commuters were keen to make their points to her about the serious problems that they were suffering. I had the same experience at stations in my constituency. Commuters were angry, frustrated and wanted to ensure that their view was being presented because of the sharp deterioration in the service that they have suffered in recent months.

I shall not read out all of the nearly 700 e-mails that I have received about the train services to Maidenhead and Twyford, but I shall quote just a few, to show the Minister the strength of feeling on this issue. Anu Shama wrote in an e-mail to First Great Western:

"The bottom line is, we are suffering every day . . . our previous Thames Trains service was extremely reliable and I had no issues with them for the last 6–7 years. Your management team has ruined a perfectly run train service".

Mark Knight wrote:

"I have lived in Maidenhead for 20 years and this is the worst service I can remember in all that time."

Julian Thurston, from Twyford, wrote:

"The service now is without a shadow of doubt many times worse than any previous service since I started commuting 20 years ago."

Sue Cox commented:

"I used to enjoy travelling to London from Maidenhead on the train, but not any more—what happened? First Great Western took over the franchise!"

I mentioned overcrowding. In an e-mail to First Great Western, Sylvie Nobes describes how, on 3 February, there was

"standing room only on leaving Maidenhead, cattle-truck conditions from Slough onwards. Desperate customers fight to board train at Southall. I remain bitterly disappointed and stressed at the current level of service you are offering customers from Maidenhead and Slough."

Nicholas Edwards has commented:

"It simply cannot be right that so many people are expected to stand on these trains. It cannot be safe."

The train delays and the new timetable are having a real impact on people's lives. They find that they are constantly late for work, for example. My constituent, Thalia Kenton, has described the problems of those who are trying to deal with child care and suffering from the train services at the same time. She explained:

"I am a working mother who rushes daily to work from 09.15–16.30 in London and my timings are key as my children are in nursery and cannot be dropped any earlier than 08.00 or fetched any later than 18.00."

She talked about having to catch the 08.39 train, which gets in 15 minutes later than the previous train used to:

"Fifteen minutes is an age in the life of any commuter, but for one in my position, working set, reduced hours who has no option to stay later or come in later it is nothing short of a disaster."

It is not only individuals who are suffering. Businesses are suffering, too. Macrovision, a business in my constituency, wrote to First Great Western to say:

"I do not believe that First Great Western Link has adequately considered the impact of this timetable change, as it is hugely important for the economy of Maidenhead and to the people who live and work there."

Hutchison 3G, which now employs some 1,400 people on its site in Maidenhead, deliberately sited its building close to the railway station so that it could support the sustainability agenda by encouraging people to use public transport. It says:

"One of the key factors in locating our offices in Maidenhead were the excellent train links that this provided for our employees, many of whom live in London, and for our business associates who regularly travel to Maidenhead for meetings . . . The effects of this change will make retention of our London based employees more difficult and increase the amount of time taken for our employees and business associates to travel to and from meetings and their homes."

Thames Valley chamber of commerce describes

"the slow stopping train, akin to the milk train service, creating the image of a sleepy backwater town",

and says that

"the effect on Maidenhead's economy, and that of the Thames Valley, will be weakened by new businesses thinking twice of relocating due to its worsening rail links in and out of London."

Why has all this come about? It cannot be that very few people use these services. Indeed, in response to a question that I put to the Minister of State, Department for Transport, the Member for Harrow, East (Mr. McNulty), he replied on 19 January that, in the

nine months from April to December last year, there were more than 2,300,000 passenger journeys to and from Maidenhead, and more than 760,000 passenger journeys to and from Twyford. No, the Strategic Rail Authority made a decision to merge the franchises of First Great Western and Thames Trains into a single franchise, to put the emphasis on increasing the punctuality of long-distance services, and to move the commuter services from Maidenhead and Twyford from the fast line to the slow line. This has resulted in the creation of a timetable that has reduced the number of fast and semi-fast services to and from Paddington, and many journeys are now significantly slower than they used to be.

First Great Western Link, in its response to many people on this issue, is very clear about the role of the Strategic Rail Authority in this decision. It stated that any train operator bidding for the franchise would have had to deliver the same objectives. These included:

"To implement a timetable that would address overcrowding issues"—

something of an irony, given that the overcrowding has now increased as a result of the timetable changes—and

"To reduce the number of services running in this area, (although at the same time increasing capacity on the remaining services). This is in line with the Strategic Rail Authority's view that less trains on this congested network would increase punctuality."

I have to tell the Minister that having fewer trains on this network has not increased punctuality; it has severely reduced punctuality. There are significant delays for passengers, and, moreover, longer journey times have been created. The Strategic Rail Authority's decision has not had the impact that it was intended to have.

First Great Western and, at the time when it announced the timetable changes, the Strategic Rail Authority, seem to have had a rather different opinion. It is very galling for my constituents to suffer such a deterioration in rail service while hearing on local radio, and seeing in advertisements and flyers from First Great Western, that the service is of benefit to customers and has improved. In December 2003, when the Strategic Rail Authority announced the timetable changes, it headed the announcement "Franchise Decision Means Big Improvements". It then listed a number of improvements that were all to services for Reading and the west.

Right at the end, the announcement said

"The new timetable means some increases in peak journey times on trains between London and Slough, Maidenhead and Twyford".

Some increases in peak journey times, indeed. It means that the service is now not providing those semi-fast services through to Paddington, but is causing considerable difficulty to commuters who—as I said earlier—are late for appointments and meetings, unable to juggle their child-care arrangements with their travelling arrangements, and suffering not only a severely reduced service but a very unpleasant experience on many trains owing to the present overcrowding.

Sadly, the Government have also taken the view that there is overall benefit in the new timetable. When I asked the Minister of State what response the Department for Transport had made to representations regarding the timetable changes, he replied

"The Department's response to representations related to the December 2004 timetable changes is that they deliver wider benefits through improvements to punctuality across the First Great Western and First Great Western Link franchises."—[*Official Report*, 24 January 2005; Vol. 430, c. 37W.]

I reiterate to the Minister that that is not what is happening to my constituents and those who travel to my constituency from elsewhere. They are not seeing benefits and improvements; all they are seeing is a reduced and deteriorating service.

Where can we go from here? I urge the Minister to consider three stages—three sets of decisions that can be made. First, I hope that First Great Western will continue to look at the timetable, make immediate further changes to the timetable that is currently operating, and increase the number of carriages on some of the trains, not just so that services can be improved in terms of time but so that the dangerous levels of overcrowding from which many are suffering can be reduced. That is the immediate need.

Secondly, the Minister will know that later this week Network Rail will hold its timetabling conference, which will set the timetable not for later in the summer but for 2006—that is, from December 2005 to December 2006. That timetable needs to make the changes that are needed to ensure that we return to the level of service that we experienced when Thames Trains was in charge. We certainly need services to be returned to the fast line rather than being shunted on to the slow line if we are to see the service that people need and deserve from an economically vibrant part of the country and an important economic hub in the south-east—namely an important part of the Thames valley.

This is the third aspect that I want the Minister to consider. The current franchise runs out in April 2006. Later this year, decisions will be made about the franchisee for the 10-year period after that. There is a slight difficulty over that process. It is being started by the Strategic Rail Authority—which, of course, is being abolished by the Government—and will be finished by the Department for Transport. I urge the Department to ensure that the franchise specification for these services returns us to the level of service that was available to my constituents before First Great Western took over the merged franchise in April 2004. Only a return to that level of service will ensure that my constituents in Maidenhead, Twyford, Cookham, Wargrave and Furze Platt and others who use those services will be able to enjoy the sort of service that is needed. That will ensure not only that they can carry on with their lives working in London, Reading or round about, but that we can retain the economic vibrancy of that important part of the Thames valley.

I urge the Minister to look seriously at the issues that I have raised. This is not simply about one or two people grumbling that their trains are late. It is a significant issue for my constituents and others. They have seen a severe reduction in service.

The Government want people to be able to enjoy a better work-life balance. They want sustainability and to encourage people on to public transport. All those agendas are being reversed through the action of the Strategic Rail Authority in merging the franchise, in

*[Mrs. Theresa May]*

requiring fewer trains to be put on and in putting trains for commuters on the slow lines. People are now getting into their cars rather than using the trains. That is not what the Government want. It is not what I want. I want a good level of rail service to Maidenhead, Twyford and the other stations in my constituency. I urge the Minister to look seriously at taking the action that is necessary through the agencies available to the Government to ensure that the timetable for 2006 is better and that the franchise arrangements return us to the level of service that Maidenhead, Twyford and the rest of my constituency not only need but deserve.

11.21 pm

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** I congratulate the right hon. Member for Maidenhead (Mrs. May) on securing this debate and on providing an opportunity for the House to discuss rail services to Maidenhead and Twyford. There are regular direct rail services from both stations to London Paddington. A branch line to Marlow leaves the main line at Maidenhead and one to Henley-on-Thames leaves it at Twyford. Both branch lines have been proposed for designation as community railways under the strategy published by the Strategic Rail Authority in November 2004.

The new timetable introduced on 12 December 2004 is a fully integrated timetable covering both First Great Western and First Great Western Link. It is the most radical restructuring of services into London Paddington for more than a decade. The intended benefits of the new timetable include improved performance, increased capacity, reduced overcrowding and a clearer and more focused management approach to platform capacity at Paddington and Reading.

Before the timetable change in December 2004, there were 12 services between Maidenhead and London Paddington between 7 am and 10 am. There are now 17. The number of weekday services from Twyford to London Paddington between 7 am and 10 am was 13, and that has increased under the December timetable to 18 direct services. From London Paddington to Twyford between 4 pm and 7 pm, there are now 15 direct services, and between London Paddington and Maidenhead, 17 direct services, compared with 13 and 15 respectively before the timetable changes.

Both First Great Western Link and the Strategic Rail Authority are closely monitoring the performance of the new timetable to ensure that it meets its objectives, but it is too early yet to draw any meaningful conclusions.

Commuter operators are required to carry out passenger counts to demonstrate that adequate capacity is provided to accommodate the passengers expected throughout the morning and evening peak periods. That ensures that franchise operators properly address the issue of capacity requirements in peak periods, while accepting the reality that this is a walk-on service and forecasting demand in advance is not an exact science. Train operators must agree with the SRA a timetable and train plan, showing the proposed allocation of rolling stock to services, as necessary to comply with a contractual limit on overcrowding.

Train operators are subject to financial penalties if they provide less than the agreed capacity. There are specified levels of overcrowding in peak periods that train operators should not exceed. They are 4.5 per cent. above capacity for either peak in isolation, or 3 per cent. for both peaks combined. Figures for First Great Western Link for the count in October 2004 were 2.5 per cent. in the morning peak, 1.5 per cent. in the evening peak, and 2.1 per cent. for both peaks combined. This is an average for all trains in the peak period. Where an operator of London commuter services exceeds levels of train crowding specified in the franchise contract, the SRA can, but is not obliged to, require the train operator to produce an action plan for providing more capacity and alleviating overcrowding.

It is an inescapable fact that the more heavily laden the train, the greater the number of passengers who are likely to be at risk in the event of an accident. Nevertheless, there is no evidence at present to suggest that overcrowding is, in itself, dangerous or actually causes accidents. All rolling stock is designed to run safely even when fully loaded, so the number of passengers does not affect a train's operating performance or its structural integrity.

The Rail Safety and Standards Board is currently researching the health and safety effects of crowding on passengers. First phase results are due to be published shortly. The aim of the work is to establish an understanding of the health and safety issues that may arise as a result of crowding on mainline and underground railways. The research seeks to identify all those situations in which crowding could lead directly to injury or make an accident worse.

Furthermore, the Health and Safety at Work, etc. Act 1974 places a general duty on employers to ensure, so far as is reasonably practicable, that workers and others, including passengers, are not exposed to health and safety risks. On the railways, that duty falls largely on train operating companies and on Network Rail, the infrastructure controller, to manage overcrowding on a day-to-day basis.

First Great Western Link ran 82.4 per cent. of its trains to time in the year to 30 September 2004, compared with 74.7 per cent. in the previous 12 months. The average figures for all London area commuter train operators were 84.4 per cent. and 79.7 per cent. respectively. The early weeks of a new timetable often see punctuality slip as the new arrangements become established. However, there is evidence that the new timetable is proving fairly robust. Both First Great Western Link and the SRA are monitoring punctuality and overcrowding. Changes have been incorporated thanks to experience already gained from the new timetable. For example, the 7.27 am service from Twyford is now running more reliably than it did when the timetable was first introduced in December and has been lengthened to 10 coaches.

**Mrs. May:** I am grateful to First Great Western Link for having doubled the number of coaches on the 7.27 am Adelante, following considerable pressure from me and the passengers to do something about that service. I am listening very carefully to the Minister's response. She quoted an increase in the number of services to Maidenhead and Twyford, but does she accept that the key issue of concern to my constituents

is the length of journey time? That means that many of them are now crowding on to a smaller number of services because many of the services that have been introduced, to which the Minister refers, are now slower services stopping at every station. It is the length of journey time that is crucial. My constituents want it at 20 to 25 minutes, not at the 35 to 40 minutes that some of those other services take.

**Charlotte Atkins:** I appreciate the concerns of the right hon. Lady's constituents, and I am sure that those representations will have been taken up by the operators and will be looked at in the context of the complaints that they have received. However, the Department has so far received very few representations from the right hon. Lady's constituents, although obviously she has made representations on their behalf.

An Oxford to London Paddington service at around 8.15 is calling additionally at Maidenhead to help with overcrowding.

Regional planning assessments will form the basis for planning the development of the railway over the next five to 20 years. Those will consider the function of the railway within current and future land use and transport systems, and its role in supporting the economic and wider development objectives of local, regional, devolved and central Government. A key objective of the RPAs will be to maximise value for money in pursuit of the Government's objectives for the environment, safety, economy, accessibility and integration. The RPA for the south-west is due to be published in winter 2005.

The SRA's forthcoming great western main line route utilisation strategy was published for consultation in January and will examine service patterns on all train services using the London Paddington corridor, including consideration of the practicality and value of providing or changing commuter services to Maidenhead and Twyford.

Maidenhead and Twyford are well used stations with substantial numbers of commuters, making reliable, punctual services absolutely vital. The future of rail services from both towns is secure and the SRA will be working with First Great Western Link to improve the performance and quality of the services to and from them.

Today, we have had an opportunity to consider the services and for the right hon. Lady to make her points clearly. I am sure that those issues will be noted and taken up by my hon. Friend the Minister of State.

*Question put and agreed to.*

*Adjourned accordingly at twenty-nine minutes to Twelve o'clock.*

# House of Commons

*Tuesday 8 February 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

## PRIVATE BUSINESS

LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON BILL

*Order for Second Reading read.*

*To be read a Second time on Tuesday 22 February.*

# Oral Answers to Questions

## SCOTLAND

*The Secretary of State was asked—*

### Economic Strategy

1. **Mr. Alex Salmond** (Banff and Buchan) (SNP): What discussions he has had with the Scottish Executive on future economic strategy in Scotland. [213400]

**The Secretary of State for Scotland (Mr. Alistair Darling):** I have regular discussions on a range of matters with Scottish Executive Ministers.

**Mr. Salmond:** Has the Secretary of State seen the "Index of Success", published by the Federation of Small Businesses and prepared by Mr. John McLaren, the Labour party's former economic adviser? It shows Scotland as 10th out of 10 of the small countries in the survey, behind Switzerland, Iceland, Norway, Sweden, Finland, New Zealand, Austria, Denmark and Ireland. With the Tories saying that Scotland is unattractive and the Labour party's former economic adviser saying that we are bottom of the league, what is it about those other countries that makes them so successful—except that they are independent and Scotland is not?

**Mr. Darling:** As ever, the hon. Gentleman might do better to look at the detail of the report instead of making the usual wide-ranging assertions that do not bear close examination. That survey showed that Scotland has many good and attractive aspects, which is why, with the rest of the United Kingdom, it is enjoying a long period of sustained economic growth and low unemployment.

One point that the FSB report highlights, and the main factor that is holding Scotland back, is its poor health record. That is why the Scottish Executive is putting substantial sums into health and making the necessary reforms to improve our health. That is important.

Yesterday, the hon. Gentleman claimed that he could set up some sort of fund to support Scotland from North sea oil.

**Mr. Salmond:** Like Norway.

**Mr. Darling:** The hon. Gentleman says, "Like Norway," but I am wondering what sort of fund it would be when it would have an annual shortfall of more than £4 billion, even if every single penny of North sea oil revenue were allocated to Scotland, which would be unlikely. *[Interruption.]* The fact is that the hon. Gentleman's economics do not add up. They did not add up when he was leader previously, and they do not add up now.

**Mrs. Helen Liddell** (Airdrie and Shotts) (Lab): Does my right hon. Friend agree that it is strange that those who purport to speak for Scotland spend their time talking it down? Rather, they should recognise the extent to which men and women in both the public and the private sector have succeeded in building a Scotland that can look forward to the future with confidence. Those who talk down Scotland talk down Scotland's people.

**Mr. Darling:** My right hon. Friend is right. The fact is that nationalist policies failed and were rejected by the electorate on each and every occasion when the hon. Gentleman led his party previously, and they will be rejected when he next leads it into an election. When people look around Scotland they see economic success, more people in work, more businesses, and expansion across the board because of the economic policies that are good not just for Scotland, but for the whole of the United Kingdom.

**Mr. Peter Duncan** (Galloway and Upper Nithsdale) (Con): The Secretary of State implores us to look at the detail, but that shows Scotland's relegation to 36th in the world league for competitiveness. Is he proud of that record in government?

**Mr. Darling:** If the hon. Gentleman looks at all the recent economic surveys of Scotland and the United Kingdom, he will see that they universally recognise Scotland as a good place in which to do business. When he comes to the Dispatch Box and looks over his shoulder to see all of two Conservative Members sitting in the Chamber today, he may want to reflect that part of his problem is the Conservatives' attitude to Scotland. Yesterday morning, his prominent Front-Bench colleague said on the radio:

> "The problem in Scotland has absolutely nothing to do with immigration levels, I'm afraid it has to do with the fact that Scotland is not a very attractive place for people to come and settle."

Does that not speak volumes about just how out of touch the Conservative party is with Scotland?

**Mr. Duncan:** The simple fact is that Scotland's economy is not attracting or retaining the very best. The figures are indisputable, with gross domestic product growth consistently lagging behind the rest of the UK, at some 7 per cent. since 1995, business start-ups at only three quarters of the UK level, and manufacturing

export levels continuing their seeming decline. What more will the Government do to redress that decline, and when will they sit up and take notice?

**Mr. Darling:** Rather like the hon. Gentleman who speaks for the nationalists, the hon. Gentleman who speaks for the Conservatives is selective in the statistics that he quotes. I notice that he did not actually repudiate what his Front-Bench colleague said yesterday—that the Tories believe that Scotland is not a very attractive place for people to go and live in. What about the fact that we are home to one of the biggest banks in the world? The Royal Bank of Scotland is building brand-new headquarters just outside Edinburgh, and we are home to numerous other financial institutions that are doing well, such as the Halifax Bank of Scotland. Even in manufacturing, where, yes, there have been difficulties because of the difficulties that face the electronics industry worldwide, there are successes to which we can point. The fact is that Scotland is now a very different place from the Scotland of the 1980s and 1990s, when there was record unemployment and a second generation of people were growing up with no work. The other thing that the hon. Gentleman should focus on is that the policies he advocates—£35 billion-worth of public spending cuts, with all the economic instability that would result—would take Scotland back to the past. No wonder the Conservatives are completely out of touch with modern Scotland. On present form, they are likely to remain that way for years to come.

## Defence Industry

2. **Mr. Bill Tynan** (Hamilton, South) (Lab): What estimate he has made of the number of jobs in Scotland which are dependent upon the defence industry.

[213401]

**The Secretary of State for Scotland (Mr. Alistair Darling):** The UK defence industry is very significant to the Scottish economy. The most recent figures suggest that an estimated 7,000 jobs in Scotland are directly related to Ministry of Defence equipment contracts, with a further 7,200 civilian personnel employed by the MOD and its agencies. Additionally, significant employment will be created indirectly by MOD activities in certain parts of Scotland.

**Mr. Tynan:** I thank my right hon. Friend for that comprehensive response. Does he accept that defence industry jobs are mostly high-skilled and high-tech, and give wonderful opportunities for apprenticeships for young men and women in Scotland? Has he made any assessment of the number of jobs that would be lost in Scotland if we decided to withdraw from NATO and our peacekeeping facilities around the world?

**Mr. Darling:** Withdrawing from NATO would not just be bad in terms of the UK's international obligations but—my hon. Friend is right—it would be devastating for the defence industry in Scotland. We know that the nationalists stand for the break-up of the British Army and the Royal Navy.

To take just one example, as was made clear yesterday, the Government want to proceed with the programme to build two large aircraft carriers. That will create jobs for more than 10,000 people in the United Kingdom—many of them at Govan and Rosyth, the MOD anticipates, provided that those yards come in with good bids. We expect that to be extremely important for Scotland. Withdrawing from NATO would be disastrous. So, too, would be the commitment by the Conservative party to cut £35 billion of public expenditure. That would be bound to cut defence procurement. We do not even have to speculate about that, as it is precisely what happened in the past when the Tories were last around, and allowed the resources available to the MOD to be run down because of their irresponsible economic attitude.

**John Thurso** (Caithness, Sutherland and Easter Ross) (LD): Does the Secretary of State accept that defence jobs are as important for the highlands as they are for the south of Scotland? Recently, there has been much press speculation that the announcement yesterday of a physical integrator contract for the future carrier vessel would be accompanied by announcement of the physical integration site. As that was not the case, will the right hon. Gentleman take this opportunity to assure the House, and my constituents in Nigg, that the criterion used for the selection of that site will be best value, and not, as the press suggested, a fix by the Treasury?

**Mr. Darling:** My right hon. Friend the Secretary of State for Defence will, I understand, be issuing a written statement in about 20 minutes' time. He will say that we anticipate that, subject to value for money, the carriers could be built at four sites in the UK—Govan, Portsmouth, Tyneside and Rosyth. That will have to be subject to value for money, as the hon. Gentleman will accept. I fully accept that defence jobs are important wherever they are, but the general point is that if we are to safeguard the defence jobs that we need, first, we should remain part of the United Kingdom, because there is no way that such jobs would go to Scotland if the Royal Navy were broken up, as the nationalists advocate. Secondly, it is essential to maintain levels of public investment, yet the Conservatives are on record saying that they want to cut public investment to the tune of £35 billion. If that happens there are bound to be casualties. Among them would be the Army and the Navy—and the hon. Member for Galloway and Upper Nithsdale (Mr. Duncan) has done nothing to refute that this morning.

**Dr. Gavin Strang** (Edinburgh, East and Musselburgh) (Lab): Will my right hon. Friend confirm that the announcement of tranche 2 for the Eurofighter Typhoon just before Christmas was a hugely important boost to BAE Systems Avionics in Edinburgh, a provider of high quality jobs? Against that background, it was disappointing that the company announced 190 redundancies. Will my right hon. Friend encourage the Secretary of State for Defence, in his discussions with BAE Systems, to ask the company to minimise those redundancies and ensure that they are voluntary?

**Mr. Darling:** I share my right hon. Friend's concern about the job losses announced in relation to some restructuring at BAE Systems, and I hope that the company will do everything it can to try to ensure

the future employment of everyone concerned. He will also be aware of the fact that the Department of Trade and Industry has asked the Office of Fair Trading to look at the proposed sale of some of that business to an Italian company, but I very much hope that we can do everything possible to maintain those jobs, because they are very high-skilled, and the people who work in the industry have served Scotland and the industry very well.

## Gaelic

3. **Mr. Alan Reid** (Argyll and Bute) (LD): What plans he has to support the Gaelic language. [213402]

**The Parliamentary Under-Secretary of State for Scotland (Mrs. Anne McGuire):** Action to support the Gaelic language is primarily the responsibility of Scottish Ministers. However, during his visit to Stornoway yesterday, my right hon. Friend the Secretary of State was delighted to announce the Government's decision to include for the first time Gaelic headings in the new e-passport, which is to be introduced later this year.

**Mr. Reid:** I welcome the Scottish Parliament's Gaelic Language (Scotland) Bill, which will require Scottish public bodies to prepare development plans about how they plan to use the Gaelic language in carrying out their functions. However, Scottish Ministers and the Scottish Parliament have no say over how UK public bodies operate in Scotland. Will the Government ensure that when UK public bodies such as the Department for Work and Pensions, the Home Office and the Ministry of Defence are operating in Scotland, they prepare and implement Gaelic language development plans?

**Mrs. McGuire:** The Secretary of State and I are keen to ensure that the Gaelic language is supported by Whitehall and Westminster, and I can advise the House that my right hon. Friend has written to all Departments to highlight the importance of the new Gaelic Language (Scotland) Bill. Of course, the hon. Gentleman is right to suggest that the Bill does not extend statutory responsibilities or obligations for UK public bodies, but the Scotland Office has hosted a constructive meeting between the Scottish Executive and Bòrd na Gàidhlig, with wide representation from Whitehall Departments, as a preliminary exchange on exactly how the voluntary arrangements might work in the spirit of the new Bill.

**Mr. George Foulkes** (Carrick, Cumnock and Doon Valley) (Lab/Co-op): Will my hon. Friend tell the hon. Member for Beaconsfield (Mr. Grieve) that the parts of Scotland where the Gaelic language is spoken are some of the most attractive in the whole of the United Kingdom?

**Mrs. McGuire:** The Secretary of State and I can give any hon. Member every assurance that the areas where the Gaelic language is spoken are definitely some of the most beautiful parts of Scotland, and when the hon. Member for Beaconsfield (Mr. Grieve) next visits Scotland, perhaps he might want to come further than the nearest grouse moor.

## Wind Farms

4. **Miss Anne McIntosh** (Vale of York) (Con): What discussions he has had with the First Minister on development of wind farms in Scotland. [213403]

**The Parliamentary Under-Secretary of State for Scotland (Mrs. Anne McGuire):** My right hon. Friend the Secretary of State has regular discussions with the First Minister. The development of wind farms in Scotland is a devolved responsibility.

**Miss McIntosh:** However, energy policy is a national and UK responsibility, and how can the Government have a energy policy whose sole commitment to renewable energy seems to be its obsession with wind farms? Does the hon. Lady think that with masses of onshore wind farms, Scotland will be a more attractive or a less attractive place to live?

**Mrs. McGuire:** I hate to correct the hon. Lady—no, I love to correct her: her interpretation of the development of renewable energy in Scotland is misleading. Everyone recognises the fact that wind farms are intermediate technology, but they are commercially viable and they are available at the moment. We have a renewables obligation, and until such time as other technologies, such as those that relate to wind, tides and energy crops, come on stream, we must consider how we reduce our emissions and provide clean renewable energy for Scotland. If the hon. Lady needs any reassurance that the greatest creative minds are looking at different ways of doing that, I assure her that—today, in fact—the Environment and Rural Development Committee of the Scottish Parliament is taking evidence from NFU Scotland, which wants dung power to become part of the energy mix in Scotland. In case anyone thinks that that issue is peculiar to Scotland, let me point out that there is already a dung power station in Devon.

**Mr. Russell Brown** (Dumfries) (Lab): My hon. Friend is aware from discussions that we have had in the past that the development of wind farms in the areas of most scenic beauty is extremely contentious. Does she agree that we need to consider the development of more wave and tidal power, and that much more needs to be spent on research? I honestly think that we have failed, over 20 or 30 years, by being so dependent on gas and oil for far too long.

**Mrs. McGuire:** My hon. Friend is correct. There is already significant investment in wave and tidal demonstration projects. My right hon. Friend the Secretary of State recently visited the demonstration project in Islay, and as the hon. Member for Orkney and Shetland (Mr. Carmichael) will verify, a great deal of work is being put into such pilot projects. The Department of Trade and Industry is providing almost £500 million of funding for such research and development demonstrations. We are aware that we must have an energy mix, and we are doing as much as possible to ensure that when the time comes, we will have a renewable energy policy worthy of the name.

**Mr. Peter Duncan** (Galloway and Upper Nithsdale) (Con): Clearly, the Minister knows that it is important to get the energy mix right. So, too, does the Deputy Minister for Enterprise and Lifelong Learning in the Scottish Parliament, who said:

"does it make sense, at the very time when climate change and the reduction of greenhouse gases have shot up the political agenda, to be planning the elimination of nuclear power?"

Does the Minister agree with that comment?

**Mrs. McGuire:** I think that the Deputy Minister said that there needed to be a mature debate. Most of us in the House—*[Interruption.]* Perhaps apart from the Conservatives, who want to try to politicise the issue, most of us realise that we must have a mature debate on the energy mix that will take us through the 21st century.

**Mr. Mark Lazarowicz** (Edinburgh, North and Leith) (Lab/Co-op): One renewable energy project that has received welcome funding from the Department of Trade and Industry is the innovative Pelamis wave project developed by Ocean Power Delivery, which is based in my constituency. Will my hon. Friend examine ways of building on the success of that project to establish a focus for renewable energy in Leith docks, which would allow us to tap into the immense potential for manufacturing jobs in such a growing sector of the economy?

**Mrs. McGuire:** I am well aware of the project about which my hon. Friend speaks—perhaps I will discuss the issues with him later. His question encourages us to appreciate not only that we must have renewable energy sources, but that creating such sources will be of benefit to economic development and job numbers in Scotland.

## Energy Policy

5. **Pete Wishart** (North Tayside) (SNP): What discussions he has had with the Scottish Executive and Cabinet colleagues on the future of energy policy for Scotland. [213404]

**The Secretary of State for Scotland (Mr. Alistair Darling):** Ministers and officials keep in regular contact with Scottish Executive and UK Government Departments on a range of developments affecting energy policy.

**Pete Wishart:** I thank the Secretary of State for that reply. Following on from the last question, the Prime Minister himself has described climate change as perhaps the world's greatest environmental challenge, yet Talisman, the company behind the 1,000 MW Beatrice offshore wind farm planned for the Moray firth, has described transmission charges as the biggest threat to such projects going ahead. Will the Secretary of State explain how transmission charges that are £20 per kW higher in remote areas will help to address the matter, and how they could possibly encourage such developments, which we dramatically require?

**Mr. Darling:** As ever with the nationalists, one cannot take what they say at face value. I, too, have held discussions with the company behind that proposal, and it has to look into a range of issues, one of which is transmission charges. We are mindful of that, and we made necessary changes to the Energy Act 2004 to ensure that we could help generation in the north of Scotland. I say to the hon. Gentleman, as I have said many times when we have discussed these matters in the House, that it is important for us to have a transmission regime that is reasonable not only for the north of Scotland, but for offshore generation. Although it is by no means certain that such sources will provide a lot of energy in the future, we certainly need to examine the situation if we are to get a proper balance between renewable energy and other forms of energy generation.

**Anne Picking** (East Lothian) (Lab): Does my right hon. Friend agree that in the energy policy for Scotland there is a place for all forms of energy, including nuclear power? Security of supply and safety are absolutely fundamental to the provision of energy in Scotland.

**Mr. Darling:** I agree with my hon. Friend that we need a sensible mix of energy generation to ensure continuity of supply. She will know that Torness power station has many years ahead of it and that decisions must be taken in due course about whether it should be refurbished so that it can continue generating. The hon. Member for Galloway and Upper Nithsdale (Mr. Duncan) was somewhat critical about this matter a few moments ago, but it was right for the Deputy Minister in the Scottish Executive to draw attention to the fact that we needed a mature debate on how to guarantee our energy supply in the future. That means having a proper mix of energy, which will no doubt include Torness.

## EU Structural Funds

7. **Sir Archy Kirkwood** (Roxburgh and Berwickshire) (LD): If he will seek to promote the interests of areas in Scotland likely to lose access to EU structural funds when public sector relocations are being planned. [213406]

**The Parliamentary Under-Secretary of State for Scotland (Mrs. Anne McGuire):** No decisions about the relocation of Government Departments away from Whitehall have yet been made. They will be based on Departments' operational needs and individual business cases rather than the particular needs of specific areas, or geography. My right hon. Friend the Secretary of State has made clear to other Departments the advantages of Scotland as a location, and has encouraged them to consider Scotland when reviewing relocation plans.

**Sir Archy Kirkwood:** I am grateful for that answer, but does the Minister accept that Scotland is a bona fide locus for the relocation of public sector jobs and that Whitehall Departments should be actively encouraged by the Scotland Office to consider such relocation? In that context, will she bear in mind giving priority in that consideration to areas that might be about to lose European structural funds?

**Mrs. McGuire:** I agree with the hon. Gentleman that Scotland is a suitable relocation site for jobs from Whitehall. Obviously, all the issues that he has raised

will be taken into consideration. It is worth mentioning, though, that it would help people to see Scotland as a suitable site for relocation if members of the Conservative party stopped saying that Scotland was an unacceptable place to live.

## ADVOCATE-GENERAL FOR SCOTLAND

*The Advocate-General was asked—*

### Devolution/Human Rights

16. **Annabelle Ewing** (Perth) (SNP): What devolution issues have been raised with her since 11 January. [213396]

17. **Miss Anne McIntosh** (Vale of York) (Con): What devolution issues she has considered since 11 January. [213397]

18. **Mr. Alan Reid** (Argyll and Bute) (LD): What devolution issues she has dealt with since 11 January. [213398]

19. **Mr. Tam Dalyell** (Linlithgow) (Lab): What human rights issues she has considered since 11 January. [213399]

**The Advocate-General for Scotland (Dr. Lynda Clark):** Since 11 January 2005, 55 devolution cases have been intimated to me, all of which have raised human rights issues. All of the 45 civil cases intimated to me concern prison conditions. Of the 10 cases relating to criminal law, eight related to pre-trial delay, one to delay in hearing an appeal and one to the detention and questioning of a 14-year-old boy.

**Annabelle Ewing:** I thank the Advocate-General for her answer. Is Lord Fraser correct when he says that the Inquiries Bill will allow him to secure the release of tapes of "The Gathering Place", and will that be enthusiastically supported by all Labour Members, from the First Minister upwards?

**The Advocate-General:** I have every respect for Lord Fraser; he is of course entitled to his interpretation. His inquiry predates the Bill to which the hon. Lady refers. Therefore, I do not think that I can further assist her.

**Miss McIntosh:** The hon. and learned Lady has had cause to consider a number of cases in relation to pre-trial delay. What is the current delay, and is the 110-day rule still applicable?

**The Advocate-General:** As the hon. Lady knows, the 110-day rule has been altered by statute to some extent, to change the way in which the dates run. Generally, the person concerned is not in custody in pre-trial delay cases. The 110-day rule relates to people who are in custody. People who are charged with summary offences or who have been released on bail are not covered by the rule. In some cases intimated to me as devolution issues the delay between the charge and the trial, when the person has not been in custody, has been substantial. Those are some of the cases on which challenges have been made.

**Mr. Reid:** In response to my question at the last Advocate-General's Question Time, the hon. and learned Lady told the House that she had intervened in only one or two of the cases notified to her. As she is soon to depart voluntarily, will she advise the House whether there is enough work in her office to justify a full-time ministerial salary?

**The Advocate-General:** There is some slight confusion; I was talking about one or two of the types of case raised. I have intervened and appeared in a number of cases. I do not have the figures to hand, but I have appeared personally in the highest courts in at least 10 different cases. I have also intervened through counsel in a number of other cases; I can give the hon. Gentleman the specific numbers. Devolution issues are only a very small part of my work. My work is advisory. For example, as I tried to explain to the Scottish Affairs Committee, most of my time is spent dealing with advisory matters that—unfortunately, from the point of view of Members—are regarded as confidential. Nevertheless, such work is a very important part of the role of Advocate-General. I hope and think that it will remain a very important role. Of course I have a range of other roles, and I refer the hon. Gentleman to the Select Committee evidence.

**Mr. Dalyell:** May I take the opportunity to thank my hon. and learned Friend for much of the unsung work that we know she has done behind the scenes? Also, may I take what is probably my last parliamentary opportunity to register the belief that languishing in Barlinnie is a man who may have been a sanctions buster, but who almost certainly was not a mass murderer? Before she leaves office, will the Advocate-General reflect on the extremely unsatisfactory division between Foreign Office responsibilities, on which I had a recent Adjournment debate, and the responsibilities of the Crown Office, where, to be frank, Westminster MPs are told to keep out?

**The Advocate-General:** I am grateful to my hon. Friend for singing my praise. I am sure that his will be sung in many quarters for having made such an enormous contribution to the work of Parliament.

I know that my hon. Friend has been concerned about the division of responsibilities. Perhaps I can assist him by drawing his attention to the Scottish Criminal Cases Review Commission, an independent body charged with reviewing alleged miscarriages of justice in Scotland. It might be able to examine some of the issues that cause him concern.

## CONSTITUTIONAL AFFAIRS

*The Parliamentary Under-Secretary of State was asked—*

### Magistrates

20. **Richard Ottaway** (Croydon, South) (Con): What measures he is taking to retain magistrates. [214423]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. Christopher Leslie):** The implementation stage of the magistrates national recruitment strategy will be launched shortly, building on an extensive programme of research and the testing of advertising approaches in the first year. My Department is analysing the healthy 1,949 returns that we received from the recent magistrates questionnaire to see which factors best influence both recruitment and retention. We hope to announce further measures in due course.

**Richard Ottaway:** Yet after eight years of Labour Government, we still have a problem. A national recruitment strategy, Operation Black Vote, and hotlines have all been tried, yet we have a shortage of magistrates. The Minister has rejected allowances—wrongly, in my view. Magistrates deal with 90 per cent. of the crime in this country. Does he recognise that he will have to do more if he is to turn the problem around and provide a proper strategy for an important part of our community?

**Mr. Leslie:** I agree to some extent. We do need to encourage employers to adopt a more supportive attitude to having magistrates in their employ. We should also consider sitting patterns, to see whether they are flexible enough to allow people to become magistrates. As for paying magistrates, a broad estimate is that that would involve about £100 million of expenditure. Given that the shadow Cabinet is proposing to cut £155 million from the Court Service, the prospects for proper recognition of magistrates by a Conservative Administration are pretty woeful.

**Mr. David Lepper** (Brighton, Pavilion) (Lab/Co-op): The Minister will have been told by our right hon. and learned Friend the Lord Chancellor, who visited the Brighton and Hove area a couple of weeks ago, of the desire of magistrates on the bench there to be able to retain some of the older magistrates who, despite having reached the upper age limit, still have valuable service to offer. Will he comment on that, and on what steps can be taken to help the Brighton and Hove bench to recruit younger magistrates as well, as it already has done to some extent?

**Mr. Leslie:** We need to recruit magistrates from all age groups, so long as they can demonstrate that they have the necessary maturity, judgment and strength of character to undertake that judicial function. We are considering various ideas—my hon. Friend mentioned a couple—that have emerged from the mass questionnaire. That has galvanised quite a lot of support in the magistrates community, and we are analysing the returns now. I hope that some of the suggestions made will result in innovative approaches.

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Given that the number of magistrates rose substantially under the Conservatives, has fallen substantially under Labour and is now described by the Lord Chancellor as a sore issue, what has been the single most important measure that the Lord Chancellor has taken to retain magistrates, and why has it failed?

**Mr. Leslie:** I do not think that the hon. Gentleman should exaggerate; the figures are not quite as bad as he suggests. *[Interruption.]* As I hear said from the Benches behind me, crime doubled when the Conservatives were in power, and we are working hard to reduce crime and continue the good record that we have. We have made changes, such as beginning to advertise in different ways to potential magistrates the benefits of their applying to join the bench, which has been a major step forward, and other changes are coming. Asking magistrates themselves what helps to keep them on the bench and what would recruit others is probably the best approach. That is what we have done, and we will learn lessons from talking to them directly.

## Domestic Violence

21. **Julie Morgan** (Cardiff, North) (Lab): If he will make a statement on the availability of legal aid in domestic violence cases. [214424]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy):** Domestic violence proceedings are a priority area for legal aid funding. That is reflected in the Legal Services Commission's funding code criteria, which now allow domestic violence cases to be funded very widely.

**Julie Morgan:** I thank my hon. Friend for that reply. Is he aware that in Cardiff three years ago more than 50 per cent. of known victims of domestic violence refused to make a complaint? Last year, the figure was down to 14 per cent. Does he agree that that shows an increased confidence in the judicial system, and that it is also the result of good inter-agency working? With that big increase in women taking cases to court, can he reassure me that enough legal aid will be provided?

**Mr. Lammy:** I know that my hon. Friend has continued to take up these issues not only in her constituency, but nationally. I am pleased that we have been able to put victims of domestic violence at the heart of the criminal justice system with the new Domestic Violence, Crime and Victims Act 2004. We have seen a steady increase from 2001, when we were spending about £44 million in this area of law, to the last financial year, in which the amount was £56 million.

**Mr. Jonathan Djanogly** (Huntingdon) (Con): According to the Law Society, managing legal aid expenditure as a single budget has meant that overspends on criminal legal aid have been met by cutting civil legal aid, while poor forecasting of demands on the criminal legal aid budget has led to erosion of the civil legal aid budget. That is an ongoing problem. Do the Government now intend to get a grip on this failure of management?

**Mr. Lammy:** What the Government are not doing is what the Opposition propose in the James review—scrapping community legal service partnerships and the money going to our citizens advice bureaux and law centres. We are not doing that, but we are sitting down with the professions in a fundamental legal aid review.

We are sitting down with the Crown Prosecution Service and looking at processes in our criminal justice system to ensure that they are not driving up costs. As we are proud on this side of the House of the advice that people get in our local communities, and particularly our civil legal aid, we are going to protect it.

### Magistrates/Police/Community Liaison

22. **Mr. Graham Allen** (Nottingham, North) (Lab): If he will bring forward proposals to improve the contact between magistrates and the police and communities they serve; and if he will make a statement. [214425]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. Christopher Leslie):** It is the Government's view that the criminal justice system can be better connected with the wider community without adversely jeopardising the integrity of law enforcement or judicial independence. Early returns of the recent questionnaire sent to all magistrates suggest that they, too, are keen to see a greater dialogue with neighbourhood groups, local schools and the local media in order to broaden the understanding of key community concerns.

**Mr. Allen:** What on earth is the National Criminal Justice Board doing about all this? People tell me—I do not believe them—that it is a bunch of lawyers talking about esoteric points of law. Will my hon. Friend ensure that the board understands that the criminal justice system belongs to the people whom it is meant to serve, not to a few professionals? Will he ensure that, rather than the odd public meeting here and there, there is a systematic effort by the board to ensure that every tenants association, neighbourhood watch scheme and community is intimately involved in the development of the criminal justice system and understands it?

**Mr. Leslie:** My hon. Friend is right that the law does not belong to lawyers. Occasionally, we need to bring together officials from the Crown Prosecution Service, the courts administration, including the judiciary, the police, the probation service and the Prison Service to allow them to iron out the differences between their departments and work smoothly together as a team. I hope that those partnerships will mean better local engagement with neighbourhood organisations and tenants associations such as neighbourhood watch, and I know that local criminal justice boards intend to do that as soon as possible.

**Mr. David Heath** (Somerton and Frome) (LD): The proximity of courts to police stations, custody suites and the community is important. I have just received a draft business plan from Her Majesty's Court Service Avon and Somerset, which, unsurprisingly, has a purpose, a vision and an aim. Part of its purpose is to focus on the public; part of its vision is an empowered local service; and part of its aim is being local and accountable. Rather disappointingly, however, it proposes to resurrect the dreary plans to close courthouses in Frome and Wells. When will local accountability mean keeping local courts open?

**Mr. Leslie:** Far fewer courthouses have closed in the past year than under previous Administrations. Given that there are so many courthouses, however, from time to time local magistrates committees recommend amalgamations, or consolidation of buildings. From this April, the new unification of the courts administration will provide opportunities to set up new magistrates facilities, perhaps in towns that have a civil court only—there are swings and roundabouts. I will re-examine the programme in Somerset highlighted by the hon. Gentleman and form a view.

**Hugh Bayley** (City of York) (Lab): Does the Minister agree that civil action is sometimes an effective way in which to deal with antisocial behaviour? Are county courts encouraged to help local crime prevention partnerships in the same way as magistrates courts by, for instance, fast-tracking cases to evict antisocial tenants who allow people to deal drugs on their premises? Such civil action is often more effective than criminal proceedings in promptly removing a problem from a problem estate.

**Mr. Leslie:** We must ensure that our civil and criminal courts work together more closely, particularly on antisocial behaviour. Local residents find it baffling if technical obstacles in the courts system make them feel that proceedings are moving too slowly. We have set up a series of new antisocial behaviour response courts, which include properly trained legal advisers and better specialist prosecutors to allow us to proceed more speedily with antisocial behaviour cases.

### New Courthouse (Colchester)

23. **Bob Russell** (Colchester) (LD): On what date he expects a full planning application to be made for a new courthouse in Colchester; when he expects construction to commence; and what the scheduled opening date is. [214426]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. Christopher Leslie):** Unfortunately, I cannot give the hon. Gentleman the specific construction schedule, because my Department is still finalising our investment plans for the Essex courts scheme.

**Bob Russell:** The Minister knows that I have raised the question of Colchester courthouse on numerous occasions. As I have pointed out previously, we have waited for a decision for longer than the duration of the second world war. May I put a deal to the Minister? If he will promise to announce a commencement date within six months, I will promise not to ask any more questions for six months.

**Mr. Leslie:** I enjoy the hon. Gentleman's questions so much that it is tempting not to give him a date so that we can continue this dialogue. I understand his tenacious attempt to secure early completion, but lots of other schemes across the rest of the country are also priorities. The pot of money is finite, and I am trying my best to ensure that we get a good spread of new build and refurbished magistrates courts as soon as possible.

## Magistrates Courts (West Midlands)

24. **Mr. Jim Cunningham** (Coventry, South) (Lab): How many magistrates courts there are in the west midlands region. [214428]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. Christopher Leslie):** There are currently 12 magistrates courts within the west midlands magistrates courts committee area.

**Mr. Cunningham:** What training is given to magistrates to deal with cases such as domestic violence and child abuse?

**Mr. Leslie:** The independent judicial studies board is responsible for training the judiciary. It also helps magistrate courts committees to give extra training sessions to local magistrates through the local bench. From April, that system will change, but the judicial studies board will undertake some of the training, funded by the taxpayer. I will try to give my hon. Friend some more information about the specifics of domestic violence case training, which is obviously a priority for all hon. Members.

## Freedom of Information Act

25. **Norman Baker** (Lewes) (LD): What mechanism is in place to review the operation of the Freedom of Information Act 2000. [214430]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy):** Comprehensive arrangements are in place across central Government to monitor the operation of the Act. The Department for Constitutional Affairs will receive quarterly returns from Departments on a range of information, including numbers of requests and the timeliness of responses. The first set of data will be published in June.

**Norman Baker:** Does the Minister agree that Departments seem to be significantly ill prepared to deal with the volume of requests coming in, despite the fact that they have had five years to prepare for the implementation of the Act? Has he seen the front page of *The Independent* and other newspaper stories that suggest that very few of the requests submitted are resulting in any information being released at all? Would he think about renaming the Act the "Creative Excuses for not Releasing Information Act"?

**Mr. Lammy:** I have answered a number of questions on freedom of information at this Dispatch Box. There have been questions about shredding, but that was not happening, and questions about a lack of training and workshops, but that was not the case, because the Minister was going around all Departments, and around the country, informing people about freedom of information. This is about the public getting access to important information about the public services that they use. There have been more than 4,500 requests, many of which have led to that information being given within 20 days. The Act is working, and working well.

## Legal Aid

26. **Mr. David Kidney** (Stafford) (Lab): What changes he plans to make to legal aid as a result of his fundamental review of legal aid. [214431]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy):** The fundamental legal aid review will report to Ministers in the first part of this year on reforms to place legal aid on a sustainable footing in the longer term and to target resources better to deliver the right outcomes for the right people. Ministers will then consider its recommendations.

**Mr. Kidney:** I am grateful to my hon. Friend. Can he give an assurance that as he attempts to design a modern system of legal aid that guarantees access to justice for all who need it, whether for criminal or civil cases, he will maintain a consistent and substantial budget for legal aid, and will not embark on a Tory model of cuts in budgets?

**Mr. Lammy:** Since the publication of the James review, there has been a huge dividing line on legal aid. The Government are committed to legal aid and are spending more on it than any other developed country in the world, but we want to ensure that that money is going to the people who need it, that we have frank and honest discussions, particularly with the professions, about how we spend those funds, and that processes, particularly criminal justice processes, are not driving up costs. The Conservatives are committed to taking money away from citizens advice bureaux and law centres; that is something that the Government stand against.

30. **Simon Hughes** (Southwark, North and Bermondsey) (LD): What assessment he has made of the implications of the Access to Justice Act 1999 for civil justice in England and Wales. [214435]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy):** The 1999 Act covered a number of areas of civil and criminal justice. Its main provisions established the community legal service and the criminal defence service, and extended conditional fee agreements. The Department conducted an independent review from September 2003 on the operation of the CLS to assess the impact of the delivery of an efficient and effective service on those who most need it.

**Simon Hughes:** Last year's Government figures showed that the number of people who have had civil legal aid has dropped by more than half over the past 15 years. Has the Minister's Department now decided on the value of equity in a person's home that should preclude their getting legal aid? The Department said last autumn that it would announce that. Has it decided? It matters to huge numbers of people around the country.

**Mr. Lammy:** We will publish the results of that consultation shortly. I have been engaged in a range of meetings, particularly with the legal aid community, the

Bar Council and the Law Society. The hon. Gentleman should remember that the Access to Justice Act 1999 took out of scope personal injury litigation, which means that there has been some reduction. We are committed to ensuring the appropriate levels of funding for civil legal aid, but we must also ensure that the money is being well spent against a budget that is now £2 billion, beyond which we cannot go. However, I shall publish the results of the consultation shortly.

### Legal Profession (Regulation)

31. **David Taylor** (North-West Leicestershire) (Lab/Co-op): If he will make a statement on the regulation of the legal profession. [214436]

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy):** The current regulatory framework for the legal profession is largely based on self-regulation, with the professional bodies—the largest are the Law Society and the Bar Council—combining regulatory and representative functions. The Government commissioned the Sir David Clementi review and are considering his proposals in detail.

**David Taylor:** I am a member of the Magistrates Association and when the Lord Chancellor gave an excellent address to our annual conference last autumn, he said that magistrates should be considered as part of the legal profession, and that they should be effective in their operations, connected to their communities and respected for their decisions. If that is so, why was my first-rate former bench colleague, Councillor Mrs. Adoline Smith, who frankly expressed her views on the sentencing options for burglary, asked to stand down from the bench? Is not that over-regulation which has deprived the people of Leicestershire of an excellent magistrate?

**Mr. Lammy:** It would be quite wrong of me to comment on an individual case. We have conducted the Sir David Clementi review so that we can have that frank and open discussion and ensure that we have the legal community that the country needs and deserves in the 21st century. I held a meeting with stakeholders about the issue last week and I will ensure that magistrates are part of those discussions as we go forward.

## HOUSE OF COMMONS COMMISSION

*The hon. Member for Roxburgh and Berwickshire, representing the House of Commons Commission, was asked—*

### Child Care Facilities

33. **Julie Morgan** (Cardiff, North) (Lab): What plans the Commission has to provide child care facilities in the House. [214438]

**Sir Archy Kirkwood (representing the House of Commons Commission):** As I am sure the hon. Lady knows, a study was conducted in 2002 on the feasibility of providing child care facilities for staff of the House, Members and Members' staff. Following the review of the report's recommendations, the value of the child care voucher was raised, the scheme was extended to cover all qualifying children in families, and eligibility was extended to cover Members' staff. I am sure that the hon. Lady also knows that we are providing babycare room facilities in the main building and baby changing facilities in the Palace and Portcullis House.

**Julie Morgan:** I agree that some progress has been made in recognising the child care needs of Members and staff in the House, especially through the expansion of the child care vouchers and the Westminster holiday play scheme, which staff and Members use. However, does not the hon. Gentleman agree that it is high time we had a nursery here to serve both Houses and enable Members and staff to do their work more effectively? Will he reconsider the matter?

**Sir Archy Kirkwood:** The hon. Lady has ploughed an assiduous furrow on the matter and I welcome her interest. My fellow Commissioners will always be alive to the need to make this place a more family-friendly workplace. However, the evidence has not changed since the review was undertaken in 2002: the vast majority of people would like to provide care for their children at home rather than bring them to this place. It is right to bear the aspiration in mind—we want to set an example for other workplaces. The balance of advantage is currently in favour of extending the voucher scheme, but we will continue to keep the matter under review and if the next Parliament has a new intake of lady Members who are as assiduous as the hon. Lady, we might reconsider it early in that Parliament.

**Mr. John Bercow** (Buckingham) (Con): Surely a proper nursery or crèche facility in the House is more than an aspiration to bear in mind. Is it not absurd in this day and age that the House of Commons takes pride in the existence of the Shooting Gallery but is unwilling to contemplate providing a facility that would be widely used and enjoyed? The matter will be raised over and over again, eloquently by the hon. Member for Cardiff, North (Julie Morgan) and others, and with monotonous regularity, to the point when the House of Commons Commission will probably decide that it is best to give up the unequal struggle and simply provide the facility.

**Sir Archy Kirkwood:** I understand that point perfectly, but it might interest the House to learn that up to 150 members of staff take advantage of the voucher scheme. That is a much bigger number of people. They are getting more modest benefits, but those benefits are appropriate to their needs. Some Members' staff in their constituencies are also taking advantage of the scheme, which is something that we shall want to promote in future. This is not simply an either/or; there will always be a tension between offering provision for the few and offering provision for the many, and we must keep the issue in mind while trying to develop the voucher scheme, which provides greater benefit for more people.

## LEADER OF THE HOUSE

*The Leader of the House was asked—*

### Sub Judice Resolution

34. **Ms Sally Keeble** (Northampton, North) (Lab): What input he has had to the Procedure Committee inquiry into the operation of the House's sub judice resolution. [214439]

**The Deputy Leader of the House of Commons (Mr. Phil Woolas):** Following representations from my hon. Friend the Member for Northampton, North (Ms Keeble) last July, my right hon. Friend the Leader of the House asked the Procedure Committee whether it would look at the application of the sub judice resolution in respect of coroners' courts and advise on whether there should be some extension of the discretion allowed to the Chair. He welcomes the Committee's inquiry, and looks forward to its findings with interest.

**Ms Keeble:** I am grateful to my hon. Friend for that reply. Would he be prepared to give evidence to the Committee himself, particularly in regard to coroners' courts, where no one is on trial and there is usually no jury? It would be quite wrong, when no one's right to a fair trial is being infringed, for the sub judice rule to prevent MPs from asking questions about matters of acute general public concern.

**Mr. Woolas:** I congratulate my hon. Friend on her campaign on this issue, which is important to her constituents and to those of other Members. My right hon. Friend the Leader of the House will look carefully at her request regarding the Procedure Committee's inquiry. It is true that coroners' courts do not determine the guilt or innocence of individuals, but they do reach important findings, and there is perhaps a risk of prejudicing their proceedings through statements being made in the House. I am sure that the Procedure Committee will note what my hon. Friend has said, and that it will pay careful heed to the evidence that she has given.

**Sir Nicholas Winterton** (Macclesfield) (Con): Is the Deputy Leader of the House aware that the Procedure Committee, which I chair, is currently undertaking an inquiry into the sub judice rule and into matters relating to coroners' courts? The Committee plans to make its report to the House before Easter. May I also say to the hon. Member for Northampton, North (Ms Keeble) that there is still time for right hon. and hon. Members to submit evidence directly to me or to the Committee Clerk and, if necessary, to request to give oral evidence in person?

**Mr. Woolas:** I am sure that the whole House is grateful to the Committee Chairman for those remarks and for the inquiry that his Committee is undertaking. These are important matters because, when a coroner's inquest is adjourned, members of the public—and Members of Parliament, through the House's resolutions on sub judice—are debarred from commenting on its proceedings. That is the difficult situation on which the Committee is being asked to make recommendations.

**Mr. Paul Tyler** (North Cornwall) (LD): I welcome the current review, but is the Minister aware that much of this discussion took place in the Joint Committee on Parliamentary Privilege back in 1999? Its report made a number of recommendations, including one that the two Houses of Parliament should bring the same rules into force, because there is an anomaly in regard to the way in which the sub judice rule is dealt with in each House. Does the Minister also recall the Committee's strong recommendation that

"No action should be taken to limit freedom of speech in Parliament in respect of

(a) matters subject to a court injunction imposing confidentiality; or

(b) breaches of the Official Secrets Acts."?

Is he satisfied that the current review will be able to take those recommendations forward?

**Mr. Woolas:** I am aware of that report by the Joint Committee. Indeed, when my right hon. Friend the Leader of the House referred the request from my hon. Friend the Member for Northampton, North to the Procedure Committee, along with a request from the Select Committee on Foreign Affairs, that request was copied to the Procedure Committee in the House of Lords, because of the important questions that it raises. For the two Houses not to act in tandem would create further complications and, perhaps, further injustice.

## HOUSE OF COMMONS COMMISSION

*The hon. Member for Roxburgh and Berwickshire, representing the House of Commons Commission, was asked—*

### Youth Parliament

35. **Mr. David Stewart** (Inverness, East, Nairn and Lochaber) (Lab): What plans he has for the Youth Parliament to sit in the House of Commons Chamber. [214440]

**Sir Archy Kirkwood (representing the House of Commons Commission):** In its report on connecting Parliament with the public, the Select Committee on Modernisation of the House of Commons suggested that the United Kingdom Youth Parliament should be able to meet and debate occasionally in the Chamber when Parliament is not sitting. However, my hon. Friend—if I may call him that—will be aware that there is a long-standing convention in the House that Mr. Speaker shall have exclusive jurisdiction over the use of the Chamber.

**Mr. Stewart:** Has the hon. Gentleman read the poll in today's edition of *The Herald*, which shows that 80 per cent. of young people aged between 16 and 20 surveyed are very interested in the politics of crime and punishment? Does he not think that that would be an excellent debate for the Youth Parliament to have in this very Chamber?

**Sir Archy Kirkwood:** I am aware, as is the Commission, of the need to try to engage greater interest among that age group in particular, and we are also aware of the valuable work of the United Kingdom Youth Parliament. The hon. Gentleman might not know that Committee Room 10 is already used very effectively by the education unit, and it is on a much more sensible scale for the number of youngsters often involved. I say to him in the spirit of compromise—although we have to be careful about the practicalities and precedents—that if the representatives of the United Kingdom Youth Parliament want to get in touch with the Commission and the education unit, I am sure that we will be able to promote their interests in a way that is beneficial to both parties.

## BILL PRESENTED

### CHILDREN'S FOOD

Ms Debra Shipley, supported by Vera Baird, Alan Howarth, Geraint Davies, Mr. Andy Reed, Mr. Simon Thomas, Mr. Ernie Ross, Mr. Graham Allen, Mr. Paul Burstow, Mr. Paul Tyler, Angela Eagle and Mr. Robert Walter, presented a Bill to make provision regarding the marketing, promotion and sale of food and drink to and for children; to make provision for education and the dissemination of information about children's diet, nutrition and health; to place certain duties on the Food Standards Agency; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 8 April, and to be printed [Bill 56].

## Small Shops (Protection)

12.31 pm

**Brian Cotter** (Weston-super-Mare) (LD): I beg to move,

That leave be given to bring in a Bill to require local authorities to develop plans to support small shops; to amend the Town and Country Planning Act 1990 to impose additional planning requirements in relation to large shops and shopping centres; to make provision about retail purchasing by local authorities and other public authorities; to amend the Local Government Finance Act 1988 in relation to non-domestic rates for small shops and related business; and for connected purposes.

Small shops are at the very heart of our local communities, providing vital services to local residents and a wide choice of goods and services. A study produced by the Council for the Protection of Rural England in 1997 highlighted some of the most important functions provided by small shops, which can apply equally to small retailers in urban and rural environments.

The survey showed that small shops provide a lifeline for those in need, such as the elderly, the young and those without transport, and provide valuable opportunities for human contact. For some people on their own, particularly the elderly, the only conversation they may have all day is with the shop assistant in their local store, so the friendly and intimate experience of shopping in a small outlet is one that they particularly value. Just last week, I met a lady who sees that as a particularly important and satisfying part of her job, as do many such people.

Small retailers provide a market for local produce and suppliers, thus providing consumers with more choice and recycling money back into the local community, and they also provide important job opportunities in such communities. A report published by the Department of Health at the end of 1999 as part of the Government's neighbourhood renewal strategy summarises the important role that small shops play in poorer or isolated locations:

"Thriving local shops can provide employment for local residents and a pathway into new schools and training opportunities, can reduce crime and can improve health by providing a range of quality goods including food, at affordable prices."

The important role that small shops play in our local communities is therefore clear, so it is worrying that recent years have seen a rise in the number of small retailers shutting up shop for good.

In a 2002 report, "Ghost Town Britain: Death on the High Street", the New Economics Foundation revealed that between 1997 and 2002, specialist stores such as butchers, bakers and fishmongers shut at the rate of 50 per week. Assuming closures have continued at that rate, I would maintain that more than 20,000 specialist shops have closed since Labour came to power.

An increase in the number of local bank branches and post offices closing has also accelerated the decline of local shopping parades as consumers look elsewhere to access the financial and shopping facilities that they need, often in out-of-town shopping centres. In August, the New Economics Foundation launched its "Clone Town Britain" survey amid fears that Britain was becoming a nation of clone towns, suggesting that "identikit urban environments" and chain stores are squeezing out local identity and individuality.

To some extent, those changes reflect developments in lifestyles and consumer tastes. Many of us, including me, appreciate the convenience of shopping at a supermarket or shopping centre and of meeting all our needs under one roof. Supermarkets in particular can provide shoppers with access to cheap food and goods, and competition between the major players is therefore of benefit to the consumer in helping to keep prices down. Currently, however, there are concerns about the consolidation of the grocery market by the larger supermarkets and about the operation of the supermarket code of practice, particularly in relation to the treatment of suppliers. That has led the Association of Convenience Stores, Friends of the Earth and others to call for a full market review by the Office of Fair Trading.

Research conducted on just over 1,000 consumers for the Association of Convenience Stores in October 2004 showed that 63 per cent. thought that the growth of supermarket-owned convenience stores gave consumers less choice about where to shop. Therefore, it seems that while people want the convenience and cheap goods that supermarkets provide, they also want the diversity and friendly service that small local retailers provide. That is why we must act to prevent a further decline in the sector.

My Bill seeks to address that by requiring local authorities to develop retail plans for their area, as proposed by the New Economics Foundation, building on proposals outlined under the Local Communities Sustainability Bill. That was highlighted in a report on small shops published by the Better Regulation Task Force in July 2001, which said that

"small retailers continue to have concerns that planning decisions that allow out of town stores to be built do not fully cost and assess the impact on local retailers and employment in the surrounding area."

Recently, in my constituency, I was approached by small retailers in one parade of shops who were extremely concerned about a planning application that had been submitted to site a supermarket express store in the area. Although those plans were subsequently rejected, it is imperative to ensure that local authorities take sufficient account of concerns raised by small retailers and consumers in reaching their decisions. Without the Bill, that cannot always happen. It is therefore imperative that we encourage local authorities to take a sustainable approach to economic planning and require them to consider both small retailers and consumers in their plans, including the need to ensure social inclusion and diversity in the retail sector. Such plans could be implemented in several ways, but it would ultimately be up to each local area to decide what worked best for it.

My Bill would also call for local competition policy, again as proposed by the New Economics Foundation. Normally, competition policy is addressed nationally, but it would be applied locally under my Bill. The national predominance of a chain is meaningless in deciding whether a supermarket will drive local shops out of business. Such an application of the law would also empower local communities to make decisions about the future of their areas.

Under the proposals, local communities would also have the final word in any decision on whether to allow the construction of a large shopping centre exceeding a certain size. My Bill would also implement the recommendation made by the New Economics Foundation to require local authorities to use tools such as those developed by the foundation to track local spending and then favour local retailers whose businesses ultimately leave more money recirculating in the local economy, especially in poor areas.

Finally, my Bill would also provide rate relief for shops and businesses with a rateable value of less than £25,000. The proposal would be revenue-neutral, with larger businesses required to cover the cost in accordance with an upward scale. Research published by the Department of the Environment in 1995 showed that business rates represented 30 per cent. of the profits on businesses with turnovers of less than £100,000—more than twice the proportion for large businesses. The Government have acknowledged that that is a problem for retailers, and stated in their response to the Better Regulation Task Force report on small shops that

"small high street shops are sometimes valued at a higher rate per square metre than supermarkets."

While the Government themselves have recognised the problem, their proposed rate relief scheme, which would provide relief for small firms with a rateable value of less than £10,000, will not do a great deal to address the problem. The Federation of Small Businesses has argued that the threshold is too low. Following the recent revaluation of commercial properties, it warns that many small shopkeepers may experience a considerable increase in their rates. It goes on to say that a shop in the south of England faces an average 29 per cent. increase in its rateable value, which could mean an increase of about £1,800 in the final rates bill.

My Bill seeks to address the effect of the recent revaluation and the disproportionate burden that business rates place on small shops by increasing the threshold at which rate relief is available for smaller retailers. The measures that I have proposed are essential if we are to ensure that there is no further erosion of Britain's independent retail sector, and I therefore commend the Bill to the House.

*Question put and agreed to.*

Bill ordered to be brought in by Brian Cotter, Malcolm Bruce, Mrs. Annette Brooke, Sue Doughty, Andrew George, Mr. Parmjit Singh Gill, Mr. Mike Hancock, Mr. David Heath, Dr. John Pugh and Sarah Teather.

## SMALL SHOPS (PROTECTION)

Brian Cotter accordingly presented a Bill to require local authorities to develop plans to support small shops; to amend the Town and Country Planning Act 1990 to impose additional planning requirements in relation to large shops and shopping centres; to make provision about retail purchasing by local authorities and other public authorities; to amend the Local Government Finance Act 1988 in relation to non-domestic rates for small shops and related business; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 20 May, and to be printed [Bill 57].

# Opposition Day

[4TH ALLOTTED DAY]

## Climate Change and the Environment

12.42 pm

**Norman Baker** (Lewes) (LD): I beg to move,

That this House endorses the comments of Sir David King that climate change is the most serious threat facing the planet and congratulates him on his work in this area; welcomes the Prime Minister's commitment to make the tackling of climate change a top priority for the United Kingdom's presidencies of the EU and G8 this year; reiterates the UK commitment to a 60 per cent. reduction in carbon emissions by 2050; strongly welcomes the coming into force of the Kyoto agreement on 16th February and the strong role the European Union has played in achieving this; believes that it is vital that, post-Kyoto, the international community works to reach agreement on the action needed to tackle climate change, which should engage the United States but which should also recognise the importance of the energy choices which face many of the major developing countries; calls on the global community to work with them in addressing those choices; rejects the notion that tackling climate change will of necessity damage the economy and indeed suggests that it is failure to do so that will lead to that result; believes that all parties in this House should by their own actions help convince the public of the need to take environmental matters seriously; and therefore condemns Conservative plans severely to weaken the Environment Agency through the massive and debilitating cuts proposed for the Agency by that party, and its damaging plans to abolish the climate change levy.

It is a great pleasure to introduce a debate on the important subject of climate change just a few days before the Kyoto protocol comes into force on 16 February. It has been a long, hard struggle, and it is right to pay tribute to people from all parties and all countries who have made Kyoto possible, despite the opposition of the United States, Australia and others. It is nearly the anniversary of a debate that the Liberal Democrats introduced in the limited time that we are allowed for Opposition debates. On 10 February 2004, we held a debate on the state of the environment and, as environment spokesman, I said that the environment was not receiving sufficient attention in the House, and that there should be an annual debate on it. We have waited without success for the Government to introduce a debate in the intervening 12 months, so, almost to the day, we are pleased to introduce another. The Liberal Democrats have a limited number of Opposition days, so it would be very welcome if the Government provided time for such debates.

During this Parliament, we have introduced three substantive debates on the environment in Opposition time. By comparison, there has been only one debate in Government time and the Conservatives have not introduced any at all. They were going to introduce a debate on climate change last year but, at the last moment, it disappeared and was replaced by a debate in which they opposed wind farms. That must be the only example in history where the horse has been pulled up before the runners are off.

**Mr. Colin Challen** (Morley and Rothwell) (Lab): Does the hon. Gentleman recollect that the last time that his party held a debate on this subject not a single Liberal Democrat Back Bencher made a speech? Is there a three-line Whip today?

**Norman Baker:** No, I do not recall that. There is not a three-line Whip today—there is genuine interest among Liberal Democrats in the environment, as demonstrated by the number of my colleagues who are here today. I hope, incidentally, that subsequent interventions will be directed more towards the important issues that we are debating, instead of being narrow party points.

**Paddy Tipping** (Sherwood) (Lab): Perhaps I can help. Does the hon. Gentleman remember the Second Reading of the Clean Neighbourhoods and Environment Bill—a Bill about the local environment—in which not one Liberal Democrat Back Bencher spoke?

**Norman Baker:** No, I do not recall that, but I do recall that we, unlike the so-called official Opposition, supported the Government on that occasion.

I do not want to rehearse at great length the examples that prove that climate change is occurring. We have all seen them in the newspapers and heard them on television and the radio, so there can be no doubt whatever that climate change is occurring or that it is induced by human behaviour. Sir David King, the Government's chief scientific adviser, has done a splendid job in drawing attention to the scientific evidence, which is now accepted by the vast majority of scientific opinion across the world. It is accepted by all parties in the House—I see a Plaid Cymru Member in his place—and I am not aware of any Member who fails to believe that climate change is happening and that it is humanly induced. If there are any such Members, I hope that they will make themselves known today.

**Rev. Martin Smyth** (Belfast, South) (UUP) *rose—*

**Norman Baker:** Perhaps we have one.

**Rev. Martin Smyth:** Does the hon. Gentleman accept that there is growing confusion about the issue? A week or so ago, there was a conference led by an Oxford professor, in which it was agreed that there was global warming. The next day's *Metro* reported that the increase would be 11°, but the professor subsequently said that it would be only 5°. Does the hon. Gentleman accept that some people are beginning to wonder whether there might be another ice age before we get really burned up?

**Norman Baker:** I acknowledge that the science is not exact and that there are different projections for the future in respect of the exact level of temperature change. That is bound to be the case, but it is unquestionable that climate change is occurring and that temperatures are increasing. If the gulf stream switches off, that could well lead to downward changes in temperature for this country, but that does not show that climate change is failing to occur—it is occurring.

**Mr. John Gummer** (Suffolk, Coastal) (Con): Has the hon. Gentleman seen the latest scientific assessment of all the papers on climate change by climatologists and other experts, which shows that there is no longer any significant argument about these matters among the scientific community? Indeed, there is hardly a single person who doubts the fundamental fact that the world is warming—and doing so alarmingly quickly.

**Norman Baker:** The right hon. Gentleman is absolutely correct, and I pay tribute to the work that he did in government in bringing this matter forward and to his subsequent contribution in opposition. It is welcome to have such a knowledgeable voice on the Conservative Benches. He is absolutely right that there is no doubt among the scientific community. That is not to deny that some individuals are advancing the theory that climate change is not occurring. Indeed, I shall consider some of those voices now.

One voice is that of Julian Morris of the International Policy Network, who claims that climate change is a myth. Apparently, sea levels are not rising and Britain's chief scientist is "an embarrassment" because he believes that catastrophe is inevitable. It is worth pointing to the close links between International Policy Network and Exxon Mobil, which gave the organisation $50,000. Exxon lists that donation as part of its climate change outreach programme. There are also close links with the Washington-based Competitive Enterprise Institute. We may be able to deduce from the comments of Julian Morris that there is an ulterior motive behind his denial of climate change.

I have already mentioned the Competitive Enterprise Institute, and Members may have heard the outrageous interview with Myron Ebell on the Radio 4 "Today" programme. He criticised Sir David King in hugely personal and outrageous terms and called climate change "a tissue of improbabilities", claiming that the objective was for Europe to "attack America's economic superiority". It is worth pointing out that the Competitive Enterprise Institute is also funded by Exxon Mobil—to the tune of $280,000 in 2001.

We could also mention Dr. Roger Bate of Tech Central Station. He also criticised Sir David King, who is fast becoming an object of derision for people associated with Exxon Mobil and others. He says that

"it is especially shameful for the British to attempt limiting debate"—

apparently that is what we are doing—

"in a country that had science suppressed far too often in the past."

I do not think that many hon. Members will recognise that description of this country. The House may be interested to know that Tech Central Station received $95,000 from Exxon Mobil last year for climate change activities.

I am sure that some people are genuine and well meaning. David Bellamy, the former environmentalist, has denied climate change in the newspapers. I am not sure that we can give much credit to his views, but I think that he is genuine. Tech Central Station, the Competitive Enterprise Institute and the International Policy Network are linked not by a belief that climate change is not happening, but by a need to advance an argument on behalf of those with a vested interest in action not being taken. A plethora of such articles has appeared in the press, supposedly from independent scientists. In fact, they are nothing of the sort: they are being paid by the oil industry to advance some very short-sighted arguments.

In the oil industry, Shell and BP have shown leadership. They embrace new technology and realise that we must change. There is a big difference between their activities and those of Exxon Mobil, which pretends that it can still keep its head in the sand.

**Mr. Simon Thomas** (Ceredigion) (PC): I acknowledge that Shell and BP accept the science of climate change and that they have invested in other technologies. However, those two companies have posted huge profits in the past week. That raises the question of why they do not invest significantly more in renewable and energy-saving technologies. Does the hon. Gentleman agree that they could be doing a damn sight more?

**Norman Baker:** Yes, they could. They have accepted the science and are going in the right direction, as the hon. Gentleman says. I am grateful for his intervention. It might encourage them to go further, as I believe that they should.

**Mr. Mark Lazarowicz** (Edinburgh, North and Leith) (Lab/Co-op): Does the hon. Gentleman agree that a windfall tax on those producers would be a good idea? That money could be invested in renewable energy technologies, as has been suggested.

**Norman Baker:** I am not necessarily in favour of windfall taxes, but I believe that measures should be put in place to encourage companies to take the right steps. That can be achieved without a windfall tax, not least because it is in companies' economic interest to go down that road.

I want to speak briefly about media reporting of climate change. I make a particular plea to the producers of the "Today" programme on Radio 4. Can we please stop having artificial debates between those who believe that climate change is happening and the minority who say that they believe that it is not? We should move on from that: we need debates between politicians about how best to deal with the problem. Producers insist on presenting a ludicrous juxtaposition that does not help the argument. I very much hope that they will take what I say on board. We no longer argue about whether smoking causes lung cancer. That is now accepted, and I hope that BBC producers will accept that parallel.

I congratulate broadsheet newspapers such as *The Independent* and *The Guardian* on much of the exposure that they give to climate change and on the way that they raise the issue for readers, but it is not sufficient for their science editors simply to write a finite piece that causes people to think how dreadful things are. Politicians of all parties and countries should be engaged and asked what they are doing about the problem. The newspapers need to make the issue far more political than they have done so far.

**Mr. Tam Dalyell** (Linlithgow) (Lab): It is slightly dangerous to go down the road of suggesting that people whose opinions may be erroneous or unpalatable should not have the right to express them on radio, if it is the presenters' choice that they should do so. I am generally in favour of what the hon. Gentleman is trying to do, but I think that that is dangerous.

**Norman Baker:** Let me reassure the Father of the House that no one is suggesting that people should be censored, or that the "Today" programme's editorial content should be determined by anyone other than the BBC. However, it is neither sensible nor editorially justifiable to give equal weight to both sides of an argument when the overwhelming scientific consensus is on one side. That consensus is so overwhelming that it should be taken as read. For instance, a person who wanted to say on Radio 4 that lung cancer was not related to smoking would be given short shrift. That is the comparison that I want to make.

**Mr. Russell Brown** (Dumfries) (Lab): To set the record straight, is the hon. Gentleman saying that we should listen to what is being said, and that programmes should have a mix that includes politicians? Surely he is not saying that other people should be set aside, and that politicians should take control?

**Norman Baker:** I am certainly not saying that. Programmes should dovetail scientists, politicians and pressure groups. That sort of arrangement applies in most other fields of policy, although it seems that it does not in respect of environment policy.

**Simon Hughes** (Southwark, North and Bermondsey) (LD): My hon. Friend has praised some elements of the press, and some of them do a very good job, but does he accept that the national media should also report what happens at a local and regional level? For example, one Sunday newspaper carried a very good story about the potential effect of climate change on a very old pub's daub and wattle structure. People realise that climate change affects faraway countries with which we have links, but they will be more likely to accept that they must change their lives and lifestyles if they understand that places in this country can suffer as well.

**Norman Baker:** I agree, and I should declare an interest: I own a building with wot and dobble—I mean wauble and dot—

**Simon Hughes:** Wattle and daub.

**Norman Baker:** With that particular method of construction—*[Laughter.]* That was how buildings were made many hundreds of years ago. As always, my hon. Friend makes a valuable point.

I turn now to the comments of Bjorn Lomborg, associate professor of political science at Anglia university. He was the author of a book entitled "Global Crises". I believe that he is well motivated, but in error. If some hon. Members disagree, I can say that I am being generous for the purpose of this debate.

Lomborg suggests that we should spend the money necessary to tackle global warming on other matters, such as helping developing countries with aid, and so on. I shall describe later how I do not believe that there is a net cost to the prevention of global warming, but I think that Lomborg misses the point. He is worried about developing countries, but they are the ones that suffer most from global warming. They will be hit first by the floods associated with warming, and their populations and lifestyles will absorb the biggest impact.

**Mr. Peter Ainsworth** (East Surrey) (Con): Of the money given by the developed world to the developing world for energy projects, less than 3 per cent. is spent on renewable forms of energy. Does not the hon. Gentleman think that that is shocking? Should we not take that huge opportunity to get the latest technology to places where it will make a real difference?

**Norman Baker:** I absolutely agree. The hon. Gentleman is Chair of the Select Committee on Environmental Audit, and does a splendid job. Moreover, I watched him grill the Prime Minister very effectively this morning in the Liaison Committee.

All Governments—our own can do this through the Department for International Development and other Departments—need to look at how international development aid is spent. We need to know that the money we give in aid, for good reasons, is not making an environmental problem worse. In the end, developing countries need a secure environment even more than the UK does. It is an own goal to encourage fossil-fuel energy generation, as happens in some places.

It seems very likely that there will be an increase in global temperature of 2°C by the 2050s. The consequence for the developing world will be that an additional 250 million to 300 million people will be at risk of contracting malaria. Also, 12 million more people will be exposed to hunger as crop production falls, and 20 million more could suffer from coastal flooding. Clearly, that must be tackled. I suggest to Mr. Lomborg that merely giving aid and doing nothing else is like pouring water into a colander: it will not solve the problem.

Does tackling climate change have a negative economic impact? The Secretary of State will know that one reason given by the US for not engaging in the Kyoto process was the alleged damage to the US economy. Frankly, I think that that damage is somewhat overstated. To be fair to the Government, and their Tory predecessors, this country over the past 15 years has demonstrated an ability to disconnect economic growth from carbon emissions. That is a very important lesson to take out and sell to the Americans and to others who are sceptical about the proposition.

**Mr. Simon Thomas:** It is true that carbon emissions can be decoupled from economic growth, but does the hon. Gentleman agree that the aviation industry is the exception and that the problem that it poses needs to be tackled? Under Kyoto, this country has generally succeeded in decreasing emissions, but the aviation industry and some parts of the transport sector remain problematic. Does he agree that the decoupling that he describes has to happen in those sectors as well?

**Norman Baker:** I agree, and I shall come to that later, if time allows.

One of the first things we must do is to end the "predict and provide" policy on airport growth, which the Government seem to have accepted. Secondly, fiscal measures must be introduced to put pressure on airlines for greater efficiency in minimising carbon emissions, which will soar if we do not take action soon.

**Lembit Öpik** (Montgomeryshire) (LD): On economic cost, is my hon. Friend aware that a Friends of the Earth report in 1997 predicted that, by 2030, the period between storm surges of the magnitude previously expected once every 100 years will be reduced to 12 years in Holyhead, five years in Cardiff and three and a half years in Milford Haven? The resulting damage will give rise to untold economic costs, and investment now is likely to pay for itself many times over in preventing damage in the first world, let alone the third.

**Norman Baker:** That is right, and there are two equations. The first is the cost of doing nothing. Those who say, "Let's not take action because it would damage the economy," fail to cost in the effects of doing nothing, which are significant. Flood defence work is required in this country, but that is not the only example. Doing nothing will have huge economic costs. Parliamentary answers I have received have suggested that the total cost of damage to the environment in 2004 was £67 billion. Not all of that arose from climate change, but much of it did. That is the cost of doing nothing.

**Mr. Gummer:** Does the hon. Gentleman accept that another argument is that the United States Department of Energy showed that it could meet its Kyoto targets without harming its economy or changing the lifestyle of its people? The problem is that the targets are not high enough, but it is an absolute lie to suggest that they cannot be met other than by damaging the economy.

**Norman Baker:** The right hon. Gentleman is absolutely right. I note that Spencer Abraham has left the US Department of Energy since that report was issued, and those two facts may not be unconnected.

The right hon. Gentleman may want to refer to what Bill Clinton said in 1997 when he was President:

"The conversion of fuel to energy use is extremely inefficient and could be made much cleaner with existing technologies or those already on the horizon, in ways that will not weaken the economy but in fact will add to our strength in new businesses and new jobs. If we do this properly, we will not jeopardize our prosperity—we will increase it."

That is right and those who are concerned about the economic impact of tackling change should realise that it is not damaging, but an opportunity.

**Mr. Peter Ainsworth:** I agree with the hon. Gentleman. Has he seen, by any chance, the report sponsored by the World Wildlife Fund, "Cry Wolf", which charts the way in which industry has consistently exaggerated the costs of incoming environmental legislation? Is he aware that Digby Jones came before the Environmental Audit Committee recently and could not name a single British company that had left the United Kingdom because of environmental laws?

**Norman Baker:** The hon. Gentleman is right to draw attention to that report. I am glad that not all parts of industry are negative. Some are forward-thinking and the work of the Carbon Trust is useful in that connection. For example, BP spent $20 million to implement its energy reduction strategy between 1998 and 2001. It embarked on that for environmental reasons, but released almost $650 million in financial savings in just three years. There is no doubt that such action can be economically as well as environmentally beneficial.

**Dr. Alan Whitehead** (Southampton, Test) (Lab): Does the hon. Gentleman agree that one of the most important elements of ensuring that industry does not lose out economically from the business reaction to climate change is the security of forward signals for its future business? In that context, would he comment on the wisdom of abolishing some of those forward signals—for example, the climate change levy?

**Norman Baker:** It would be extremely detrimental if the climate change levy were abolished and not replaced with something as or more effective—we would argue for a carbon tax. Pressure is being applied gently and should be increased, and it would send entirely the wrong signals to industry if that pressure were removed. All political parties should think carefully about manifesto proposals that might send the wrong signals for tackling climate change.

I could give other examples, but will not do so for the good reason of lack of time. However, there is no shortage of businesses that have taken action on the environment, often because they believe that they should do so for reasons of conscience, and have seen large consequential increases in their productivity and profits.

**Mr. Gummer:** Does that not lead the hon. Gentleman to be displeased with the Government for going back to the European Union and reneging on their original proposal? They pretended that that had something to do with bureaucracy in the European Union, but the reason was that the CBI was leaning on the Prime Minister and the Prime Minister gave way, as he always does on this matter.

**Norman Baker:** One of the joys of making speeches on the environment in the presence of hon. Members who are well aware of the facts is that they anticipate my points, although that is sometimes unhelpful to the continuity of my speech.

I agree that the position on the national allocation plan is unfortunate. The Government have reneged on the original targets and pulled back from them. That sent exactly the wrong message to countries in the EU that have not yet signed up. It is unhelpful if we send out conflicting messages saying that it is a good scheme but that we shall partly renege on it. The Government say that they have more information, which caused them to change their view. How convenient. That might be true, but does not seem convincing on paper.

I understood that the outcome of the dispute between the European Union and the Government was going to be cleared up this week. However, *The Daily Telegraph*, which I always read because it is a most reliable newspaper—I am sure that hon. Members agree, tongue

*[Norman Baker]*

in cheek—said today that the European Commission has forced Ministers to delay an announcement yet again until the matter is sorted out. When the Secretary of State or the Minister replies, perhaps they will clarify where we are with a national allocation plan, whether agreement has been reached and, if so, on what basis. If we have reduced our target—the reason would probably be pressure from uneducated elements of business—it would be unfortunate and unhelpful to the international efforts of the Prime Minister to convince others to treat climate change seriously.

On the international situation, first, I welcome the fact that the Prime Minister and the Government have made climate change one of the two priorities for our EU and G8 presidencies. That is absolutely right and if we were in government, we would probably have picked the same two priorities. We are pleased that that is the Prime Minister's approach and it is clear that he is giving time to it and that a lot of work is going on behind the scenes with the Secretary of State for the Environment, Food and Rural Affairs and others in difficult negotiating territory. We support them in their negotiations and I hope that we can provide constructive support, as well as constructive criticism in an attempt to be helpful.

The United States Administration are the predominant problem, but we also need to accept the situation in developing countries, such as China, India and Brazil, whose economies are fast-growing. China has an immensely fast-running economy; it is almost unbelievable how fast it is growing. The result will be an increase in energy consumption, and we have a key role to play in such countries' choice of whether they will base their energy needs on renewable resources, fossil fuel, or nuclear options. If those developing countries ask why they should sort out the mess created by the western world and suffer the brunt of the problem, as they might, we must have a good answer. We must make it clear that we got it wrong in many ways, but that we now have collective responsibility throughout the world to try to sort it out. If we do not sort it out, they will suffer even more than we will.

**Richard Ottaway** (Croydon, South) (Con): The hon. Gentleman referred to developing countries, the central feature of which is population growth. The world's population is increasing by around 250,000 a day and the main growth is in India and China, but they are not using modern renewable technologies. Does he acknowledge that population growth is a key factor in climate change?

**Norman Baker:** All human activity is key in climate change, and population growth is one factor. It is important that as far as possible our international development and other policies encourage sustainable living. Population growth is best tackled by providing security and a decent standard of living in developing countries. That will take pressure off population growth, as we have seen in Europe, where it is much lower than in Africa. The way forward is to take an enlightened approach to those countries.

I want to touch briefly on the tactics adopted by the Government towards their partners in the EU and the G8. In December, my colleague the right hon. and learned Member for North-East Fife (Sir Menzies Campbell), the Lib Dem shadow Foreign Secretary, and I wrote to the Foreign Secretary about the tactics to be deployed in negotiations with the United States. I appreciate that the Secretary of State for Environment, Food and Rural Affairs will not want to lay bare those tactics before the House, but it is important to understand that there are two possible ways to proceed. The first is to assume that the United States genuinely does not believe the science, and to spend much time and effort to persuade the US that the science is there. The alternative is to assume that the US knows the science but pretends not to—which is where I think we are—and that it is stalling for time in an effort not to bring in measures that are inevitable. I am frightened that the British Government are spending too much time taking the American position at face value and thus neglecting the opportunity to make more progress. Kyoto will come in next week, in the teeth of US opposition, so it is important that those who have signed up to Kyoto take this opportunity to go forward together. If we go forward together strongly, the US will follow at some point. Furthermore, without causing diplomatic incidents, we should work with individual US states—in the north-east, California and elsewhere—which are actually doing good stuff.

**Malcolm Bruce** (Gordon) (LD): And Canada and Mexico.

**Norman Baker:** Indeed. Those states and countries are moving forward on emissions trading and tackling climate change. American business, too, increasingly recognises the opportunities in the world from tackling climate change. That is what is happening from the grassroots up in the US, but it has not yet reached the White House.

We need to encourage those elements. What we must not do, in any circumstances, is to try to find a halfway house that brings the Americans on board but would involve abandoning key targets to get them to sign a piece of paper that the Prime Minister can wave Chamberlain-style saying, "Climate change agreement in our time." We must avoid that at all costs.

I am worried. Although I believe that the Prime Minister is well intentioned, I am not convinced that he has the diplomatic skills to get the right result in his negotiations with President Bush. A whole range of issues, whether the International Criminal Court, Iraq or even the Chancellor's laudable attempts to secure debt relief, are being stopped, stymied, blocked or opposed by the United States. It is difficult to think of anything that the US has done recently that is helpful to the UK. Our special relationship with the United States is peculiar; it is all give on one side and all take on the other. That seems a peculiar arrangement. I wonder whether it is seriously worth pursuing the idea that we can secure any agreement from the Americans. That is not to say that we should not talk to them. We can agree on matters such as technology and investment in technology and we can agree to share science and so on, but we must not in any circumstances allow the US to be a brake on the post-Kyoto arrangements. We must ensure that those arrangements are put in place with the countries that are willing to agree to them. We must also ensure that they include targets.

The Secretary of State will be aware of a report in *The Observer* that suggested that in the December Council the British Government made an attempt to abandon the 2050 target for a 60 per cent. reduction in carbon dioxide emissions. We were told subsequently that that was a tactic by the British Government and that in March the policy would come back in.

**The Secretary of State for Environment, Food and Rural Affairs (Margaret Beckett):** I do not want to detain the House, but that was not a tactic by the Government. It was a mistake by *The Observer*.

**Norman Baker:** I am sure that *The Observer* will have seen that and will reply at length on Sunday. Sadly, none of us has the opportunity to do so in that particular format. However, I have seen the minutes so I take the Secretary of State's comment with a pinch of salt. It looked to me, from reading the minutes, as though *The Observer* was accurate, but never mind, we will take the matter at face value.

I have not concentrated on domestic policy because it is important to get the international scene right. With due respect to the Government, however, if they are to achieve credibility abroad they must deliver real progress at home. Grandiose speeches abroad are no substitute for action at home. I do not pretend that it is easy or that all the problems can be solved overnight, but there are significant shortcomings in the Government's performance that must be addressed. One is Government structure. The Government, sadly in my view, abandoned the Department of the Environment, Transport and the Regions, which for the first time brought transport and the environment together in a sensible way. We now have DEFRA, which, with due respect to the Secretary of State, does not carry the same weight in the Government as the Treasury or the Department of Trade and Industry.

**The Minister for the Environment and Agri-environment (Mr. Elliot Morley):** It does.

**Norman Baker:** I should be very surprised if that were so. I can give the Minister chapter and verse, whether on the national allocation plan, abandoned cars or a range of other issues, to show how DEFRA has lost out to the DTI time and time again recently.

**Sir Sydney Chapman** (Chipping Barnet) (Con): As well as the desperate need significantly to reduce carbon emissions, we are making a double whammy of the crisis. I do not think that the hon. Gentleman has mentioned that fact. It has been calculated that over the past 25 years we have chopped down 5 million sq km of rain forest—the one instrument, so to speak, that can actually mop up carbon dioxide emissions. That 5 million sq km is equivalent to 20 times the size of the land mass of the United Kingdom.

**Norman Baker:** That is a good point, which demonstrates how impossible it is to cover the whole range of issues in a speech such as this, especially as I do not want to take any more time from the other Members who want to speak.

The Government must make more progress on transport, where there has been a big increase in emissions which is out of control. Road traffic will grow by about 25 per cent. over this decade alone. Public transport fares are rocketing. The cost of travelling by rail has gone up by 84 per cent. since 1974 and is about to increase again; the cost of travelling by bus has grown by 71 per cent., while the cost of motoring has gone down. We have the aviation problems to which the hon. Member for Ceredigion (Mr. Thomas) rightly referred earlier and they, too, need to be tackled. Stephen Tindale of Greenpeace has said that the Government have failed and that they seem to have given up on controlling emissions from transport. That is a big problem and the Government must sort it out. They must also ensure that their energy White Paper, which contains many good ideas, is brought to fruition.

The motion sets out the absolute importance of the need to take urgent action on the serious threat facing the planet from climate change. It recognises the need to engage the US and developing countries, and calls on the Government to ensure that that is a key priority. I hope very much that the House will support the motion.

1.17 pm

**The Secretary of State for Environment, Food and Rural Affairs (Margaret Beckett):** I find myself in a rather unusual position for a Minister taking part in an Opposition day debate. Although, inevitably, I do not agree with everything that the hon. Member for Lewes (Norman Baker) has just said, I am in agreement with the sentiments expressed in the motion. As the opening words of the motion draw attention to the overwhelming importance and gravity of the threat of climate change, it is welcome and not altogether surprising that there should be common ground and agreement on both sides of the House, or at least in most parts of the House.

Climate change is a global problem—probably, as the motion says, the most urgent challenge facing the global community. It requires not only political leadership but ultimately a global solution. The Prime Minister, as is acknowledged across the world, is doing his utmost to provide that leadership and is leading international efforts to tackle climate change. It was his decision to make climate change a top priority for both our G8 and our EU presidencies. I welcome the recognition of that fact in the Liberal Democrat motion.

I begin by reiterating, as did the hon. Member for Lewes in his opening speech, the sheer breadth of consensus on the science of climate change—a degree of consensus, which, as he said, is not always reflected in the way in which scientific discussion is reported. Over about 18 years, the intergovernmental panel on climate change has brought together more than 1,000 international scientific experts on climate change.

The IPCC's third assessment report in 2001 concluded that there was strong evidence that climate change owing to human emissions of greenhouse gases was already

*[Margaret Beckett]*

occurring and that future emissions of greenhouse gases were likely to raise global temperatures by between 1.4 and 5.8° C during this century. I am always conscious of the fact that that does not sound very much, but I am equally conscious of the fact that the scientific evidence suggests that such a rise in temperature would have a wide range of impacts both on the natural world and, in consequence, on human society.

Nevertheless, some are still questioning whether we should worry about climate change. The most vociferous challenges that we hear nearly all come from self-proclaimed experts with little real expertise, whose arguments nevertheless receive attention that is out of all proportion to either their numbers or their relevance. That is not unprecedented, of course. The hon. Member for Lewes gave the example of those who query the link between lung cancer and smoking, and there are still more who still query the link between HIV and AIDS. So that phenomenon is not uncommon, but it is dangerous.

I will not reiterate the examples that the hon. Gentleman gave, but I will make an observation about one of those whom he quoted. As he rightly says, Professor Lomborg talks instead about diverting resources that could be used to help to tackle the problems of climate change to tackle those of development. Indeed, we all accept that development needs to be addressed, but the real danger of his argument is that if we follow the route that he prescribes—the hon. Gentleman used the example of pouring water into a colander—we would certainly be in danger of running to stand still, because of trying to tackle impacts that we were not seeking to mitigate. Such people must not be allowed to divert us from the real question, which is not whether climate change is happening, but what we could and should do about it.

**Simon Hughes:** May I add a further consensual proposition? We have the very unusual circumstance of an Opposition motion on the Order Paper without an amendment from the Government or the Conservative party. There is consensus among the main parties, and broad consensus among those outside who know what they are talking about. Will the right hon. Lady join us—I know that she tries to do this all the time—in persuading the media to place more importance on the huge international issues on which there is agreement than on ridiculous attempts to divide us on matters of zero importance to people abroad, let alone people at home?

**Margaret Beckett:** The hon. Gentleman makes an important point. Of course, I understand the anxiety expressed by the Father of the House, my hon. Friend the Member for Linlithgow (Mr. Dalyell). No one is talking about stifling debate, but there is no harm in giving a proper weighting and relevance to the different contributions to that debate, and I share the view expressed by the hon. Gentleman and his colleague the hon. Member for Lewes that, unfortunately, that still does not seem to be happening in many parts of the media, which give entirely disproportionate space, time and coverage to those whose views are neither widely shared nor widely respected.

The international community has taken an unprecedented and significant step. It is particularly significant in this context because it is clear that the whole international community has accepted the science of climate change and thereby agreed to the Kyoto protocol, whose entry into force we will celebrate next Wednesday. But the Kyoto protocol is just a first tiny step towards tackling climate change. There is little doubt that the uncertainty of the past year or so about when and—indeed, at some stages—whether it would come into force had led to a loss of momentum in international discussions on climate change, and we urgently need to renew that momentum. That is why the Prime Minister put climate change, with Africa, at the top of the international political agenda this year.

**Mr. Dalyell:** Has my right hon. Friend had the opportunity to make clear her views to either the BBC or the other media on the balance of reporting between those who recognise climate change and those who, for whatever reason, do not? If she has, what answers has she had?

**Margaret Beckett:** I have not made formal representations because I must admit to my hon. Friend that, over my years in politics, I have not found that formal protests to the news media about such issues are very productive. However, I am aware—I think that this is widely known—that, for example, a thoughtful, well-constructed letter making exactly that point but not challenging people's right to be heard has been sent to such organisations from national representatives of four of the best known non-governmental organisations. I thought for a day or so that that plea had been heard, but in more recent days, there is some evidence that it has been set aside yet again. I share my hon. Friend's view that it would be advantageous to us all if we could move on from what is a very sterile dispute into the much more difficult territory of what we do and how we do it most effectively.

**Mrs. Anne Campbell** (Cambridge) (Lab): Does my right hon. Friend agree that the people who say that climate change is not real and is not happening can have quite a damaging effect on our ability to take effective action, by giving people an opportunity and an excuse to say that they do not need to change their lifestyles? That could have a very damaging impact on the future.

**Margaret Beckett:** I agree with my hon. Friend that, indeed, such claims can have a damaging effect, and some of their manifestations are more bizarre than others. I was faintly surprised to hear that someone is now suggesting that there is no evidence of sea level rise. I should have thought that that was one of the easiest things to observe—in fact, it is taking place.

Our presidencies of the G8 and the EU give us the opportunity this year to refocus political attention both on the scale of the challenge and, indeed, on how we can meet it. As the Prime Minister said at the Davos meeting of the World Economic Forum, we need to send a clear signal of our common direction of travel to show that we are united as a world community in moving in the direction of greenhouse gas reductions, thus making that a signal that business and the global economy will understand and can follow. We need to underpin that

with a firm push for research and technology and for the implementation of technological developments. We need to reach out to the developing world, both to those rapidly industrialising economies whose growing energy needs must be met sustainably and to the least developed countries, which—again, as the hon. Member for Lewes said—stand to lose most from the effects of climate change.

**Mr. Peter Ainsworth:** I do not wish to sound churlish and I hear what the right hon. Lady says and welcome the prominence given to the issue in the EU presidency, but has she spoken recently to the Foreign Office, which produced a Command Paper called "Prospects for the EU in 2005" this month? One might have thought that that provided an opportunity to set out the stall for the objectives on climate change, but climate change is mentioned in only two of 97 paragraphs in that document. That does not fill me with confidence that the Foreign Office, at least, has seized that agenda.

**Margaret Beckett:** I take the hon. Gentleman's point, and I am sure that my right hon. Friend the Foreign Secretary would do so, too. I simply say that what the Foreign Office was seeking to do in that paper was to highlight the things that perhaps people do not know are very much already on the agenda, but I assure the hon. Gentleman that we have the utmost help and co-operation from the Foreign Office, from the Foreign Secretary and, not least, from the many more junior members of the Foreign Office who are in place in our posts in all the various countries with which we need to work and who provide an excellent and very co-operative service, working with my Department, to spread some of these messages. I understand the anxiety that the hon. Gentleman highlights, but I assure him that the Foreign Office is very much on side.

To map our direction of travel, we need to be guided by the best scientific evidence on the potential impact of climate change. That is why at the start of our G8 year, at the Met Office in Exeter last week, we convened a meeting of the top international scientists working on climate change. Those at the meeting concluded that, compared with the IPCC's last assessment in 2001, there is now greater clarity and less uncertainty about the impact of climate change across a wide range of systems, sectors and societies. In many cases, those at the meeting suggested that the risks are more serious than previously thought.

Those at the conference noted that there is evidence that the sensitivity of the climate system to greenhouse gas emissions is now likely to be higher than was believed even in 2001, and that that implies a greater likelihood both of temperature increase and of damaging impacts at lower levels of greenhouse gases in the atmosphere. Those at the conference also noted that delaying taking action is likely to require greater action later to achieve the same temperature target, and suggested that even a delay of only five years could be significant.

As I read those words, I was reminded of a remark that an American business man made to me in Davos—it used sailing as a metaphor, so perhaps it is appropriate today. He said that if it is thought necessary to change course, the earlier one does so, the smaller the course correction can be. The later one leaves it, the greater the course correction, and if one leaves it too late, sometimes sufficient correction cannot be made. That is an apposite and useful example.

**Mr. Dalyell:** Before my right hon. Friend leaves the subject of the Exeter meeting, may I ask her a question? She will know, because the Minister for the Environment and Agri-environment wound up the meeting, that last Tuesday Professor Mitchell of the Met Office in Exeter, along with Sir David King, emphasised the difficulties that arise when rain falls instead of slow-melting snow, because it comes down much more quickly and there is thus less time for absorption. May I take it that that subject is a top research priority?

**Margaret Beckett:** We are indeed examining that matter. I am mindful of the remarks from the end of the conference, and we are all conscious, whether owing to snow melt or other events such as those in Boscastle recently, of the way in which changes to the pattern of water flows can make a significant difference to previously expected circumstances.

The report of the science conference uses measured and careful words, but it gives a clear message to politicians. It underlines the urgency of action, and we must ensure that that message is widely heard in the G8, in the EU, at the UN and in our constituencies—wherever climate change is discussed. However, we will not achieve progress simply by reiterating the scale of the threat. We also need to demonstrate that the global community can meet the challenge successfully. As the Prime Minister said in Davos, if we put forward as a solution to climate change something that involves drastic cuts in growth or standards of living, it simply will not be accepted, not least by the poorest countries and societies for which survival itself requires development.

Fortunately, that need not be the case. The UK set out two years ago in the energy White Paper our commitment to cutting our emissions by 60 per cent. by about 2050. We believe that the target is achievable without sacrificing our economy, as our economic analysis suggests. Indeed, the impact of unchecked climate change would be far more damaging to our economy. We therefore hope that others will consider not only following that analysis, but setting similar long-term goals.

Perhaps because we have all been focused on the scale of the challenge, the international community has hitherto spent too little time discussing and co-operating on the strategic challenges of moving to a low-carbon economy. That is why next month, the Secretary of State for Trade and Industry and I will host a round-table discussion for Energy and Environment Ministers from 20 countries that will focus on such issues. It will be a unique forum to bring together countries with significant and growing energy needs and cut across the usual divides between both developed and developing economies, and ministerial portfolios. The round-table discussion will examine the challenges of stimulating research, technology and investment to tackle climate change, and will try to identify some of the ways forward.

All countries need to be engaged in the effort to tackle climate change, including the world's largest economy and biggest greenhouse gas emitter, the United States.

*[Margaret Beckett]*

There is evidence, although I do not suggest that it has been evident in the Chamber today, that some may want to use this issue to engage in grand political gestures and to isolate the US for its regrettable refusal to ratify the Kyoto protocol. There is evidence that some people hope that the US will somehow, through isolation, be drawn back into international dialogue or agreement. That is not a credible strategy. We have already seen from the Kyoto protocol the problems that can be stored up if we do not build the underlying political acceptance needed to deliver our objectives: acceptance is required for the exercise of political will. The Government will thus continue, bilaterally and with our EU partners, to engage the United States intensively in climate change discussions at all levels. We will, of course, do that through the G8, but not exclusively so.

**Paddy Tipping:** There has been remarkable consensus in the Chamber today, but is it not the case that the programme advocated by the hon. Member for Lewes (Norman Baker) is based around the isolation of the United States? Surely we must engage with the largest producer of carbon, hold sensible discussions and acknowledge the work that is being done there so that we can find an appropriate way forward in all our interests.

**Margaret Beckett:** In fairness to the hon. Member for Lewes—perhaps I misunderstood him—I do not entirely share my hon. Friend's interpretation of his remarks. However, I assure my hon. Friend that we believe that we will stand our best chance of success through engagement.

**Malcolm Bruce:** Is not the reality that the Liberal Democrats are expressing frustration with the United States because its technology on, and capacity for, energy conservation would allow it to gain the most from, and give the most to, solving the problem? We must of course enlist its technology in addition to our own to solve the problem. Expressing frustration is not the same as not engaging.

**Margaret Beckett:** I am grateful to the hon. Gentleman for that clarification. I am sure that everyone in the House shares his view on the need for such technological engagement. Indeed, we welcome the focus that the present American Administration have put on research and technology. We must avoid the trap of depicting policy frameworks and technology development as not only alternative, but mutually exclusive, ways of tackling climate change. We take the view that both are essential. In the absence of mandatory policies at federal level, we welcome the fact that several American states are increasingly putting their own innovative policies in place. We are co-operating with those who wish to learn from the UK and EU experience.

The Government have consistently sought to provide leadership on climate change. We have done that through our leading role in the negotiations at Kyoto, Bonn and Marrakech, through our ambitious national targets—our 12.5 per cent. Kyoto commitment, our 20 per cent. nationally set carbon dioxide goal for 2010, and our longer-term 60 per cent. objective for 2050—and through our ground-breaking programmes of national action to deliver them.

**Mrs. Anne Campbell:** Does my right hon. Friend agree that plant diversity can play an important part in climate change? The World Conservation Monitoring Centre, which is based in Cambridge and funded by the United Nations Environment Programme, is a worthy institute that needs consistent and sustained funding to do its work properly. Will she give a commitment to try to find a stable source of funding for that greatly renowned institute?

**Margaret Beckett:** I agree with my hon. Friend's general point about the importance of plant diversity, and I understand her anxieties. We are conscious not only of the consistent funding difficulties of the United Nations Environment Programme, but of the discussions that have been taking place about the centre. Although I cannot undertake to solve its problems, my hon. Friend the Minister for the Environment and Agri-environment continues to be engaged in discussions on the matter.

I referred to the programmes of action that the Government have put in place. They include the climate change levy, climate change agreements, the world's first economy-wide emissions trading scheme, the renewables obligation, our energy efficiency commitment and the work of the Carbon and Energy Saving Trusts. However, we recognise the need for further action to meet our commitments, which is why a review of our climate change strategy itself is under way.

Incredibly, it appears—I hope that we will flush out a denial during the debate—that although the official Opposition claim, I think, to share those common goals, they propose to sweep much of that away. The Conservatives' response to the biggest threat to our quality of life and our children's future has been to oppose some of the most important elements of our climate change programmes. The Conservatives opposed the climate change levy, which has effectively provided business with an incentive to cut emissions and financed new initiatives to do so, such as the Carbon Trust. All revenue from the levy is recycled to support businesses in cutting emissions, which casts doubt on any proposal for its abolition. The Conservatives have also opposed our proposals for the EU emissions trading scheme and, apparently, the Government's renewable energy programme. That is all too consistent with their wider environmental agenda, as the motion points out. Their proposals under the James review include slashing spending in some of the most important elements of our environmental protection and conservation work.

**Mr. James Paice** (South-East Cambridgeshire) (Con): Will the Secretary of State give way?

**Margaret Beckett:** I shall be pleased to give way; I hope that the hon. Gentleman is about to tell me that his policy has changed.

**Mr. Paice:** I want the Secretary of State to go back over the accusation that she made against the Opposition about the European emissions trading policy. On what basis does she suggest that we have opposed the European emissions trading scheme?

**Margaret Beckett:** I am afraid that I am not carrying any *Hansard* references with me—*[Interruption]*—but that is certainly the impression that we have been given. If that is not the Conservative party's policy, I am delighted to hear it. Would the hon. Gentleman like to tell me from the Dispatch Box that the Conservatives do not propose to abolish the climate change levy? Perhaps he would like to confirm that, as we understand from the last time that the Opposition were asked about the issue, the Conservative party does not feel able yet to support our 60 per cent. target on cutting greenhouse gas emissions. I see that that, too, seems still to be Conservative policy—or rather lack of policy.

**Richard Ottaway:** In attacking the Conservatives on the climate change levy, is the right hon. Lady not missing an important point about carbon trading, which I am glad that my hon. Friend the Member for South-East Cambridgeshire (Mr. Paice) has confirmed we are supporting? With carbon trading, the climate change levy becomes ineffective. The climate is not changed; it is not a levy but a tax.

**Margaret Beckett:** I do not share the hon. Gentleman's point of view, but I am grateful to him for intervening, because it gave my hon. Friend the Minister for the Environment and Agri-environment the opportunity to remind me of what led us to what I have been told is the erroneous conclusion that the Conservative party does not support the EU emissions trading scheme. We were led into that error by their praying against the regulations that introduced the scheme. It is clearly a mistake to think that that had anything to do with their policy. We were also led into the error by the continued criticism, which I am sure I recall hearing from the Opposition Benches, that the targets, including the initial national allocation plan which we have since sought to amend, were too harsh on British industry. A sinner who repents is always welcome.

**Mr. David Kidney** (Stafford) (Lab): The motion also mentions the Environment Agency. Does my right hon. Friend agree that the agency does sterling work? For example, it helps to respond to increasing extremes of weather, such as flooding, and has driven up the quality of our drinking, bathing and river water to a superb level. Is that not because of consistent and substantial Government funding?

**Margaret Beckett:** My hon. Friend is entirely right in drawing attention both to the value of much of the work of the Environment Agency and to Government funding and the dangers of the James review proposals. The Conservatives propose to take £47 million from the Environment Agency through 1,286 job cuts among those whom they dismiss as operational staff. They are the very people who clean up after disasters, whether in the circumstances that my hon. Friend has identified or those involving the Sea Empress, which caused a massive oil spill off the Welsh coast in 1996.

The Conservatives also gloss over the role of those whom they intend to sack in enforcing the rules on, for example, fly-tipping—abandoned cars, beds and other rubbish—which blights so many landscapes and brings great misery to many ordinary families and communities. Again, that is consistent at least with the voting pattern that the Tory Opposition have displayed. That is why they opposed the Clean Neighbourhoods and Environment Bill on Second Reading on 10 January, when they said that such matters were "urban issues" and not rural concerns. This Government disagree, and think that our proposals will improve the local environment for all in urban and rural areas.

Let us consider the Tory approach to climate change. Claiming to recognise the dangers while rejecting potential solutions is not merely backward-looking but typically short-sighted. The motion correctly stresses that it is possible to grow our economy and cut greenhouse gas emissions. Between 1990 and 2003, our gross domestic product went up by 32 per cent., while our greenhouse gas emissions went down by about 14 per cent.

**Mr. Simon Thomas:** The right hon. Lady is right about the global figures, but surely she is concerned that emissions from transport have gone up and, as I said earlier, aviation emissions have risen significantly. Aviation is covered by international agreements, but we can do something about transport in this country. Does she accept that motoring overall has become cheaper and that the cost of public transport has significantly risen? If so, what will she and the Treasury do to ensure that we encourage motorists to take the cheapest and least environmentally damaging form of transport, saving on carbon emissions? Surely there must be a strategy for dealing with that aspect of emissions.

**Margaret Beckett:** I accept the hon. Gentleman's point that transport emissions are a very important factor. He referred to the issue of aviation emissions and he is right that they can only be tackled internationally. I hope that he is aware that one of the Government's goals during our EU presidency is to move towards bringing aviation emissions into the second phase of the EU emissions trading scheme. There are many technical problems to solve before that can be done, but it would certainly be a worthwhile and constructive outcome.

The hon. Gentleman is unduly harsh on the Department for Transport and on the Government's overall record on transport emissions. First, the Department for Transport has joined my Department and the DTI in our climate change goals and public service agreements. Secondly, if he looks back at the structure of company car taxation that we inherited, he will see that substantial changes have been made to that, as well as the changes to the taxation structure that the Chancellor made to encourage the use of more environmentally friendly fuel. So it is not the case that steps have not been taken, but I accept that there is a great deal more to do on that, as on other fronts. That is part of the purpose of our climate change programme review.

**Mr. Peter Ainsworth:** The Secretary of State will be aware that among organisations engaged in education

*[Mr. Peter Ainsworth]*

on sustainable development there is considerable anxiety about funding, the end of the landfill tax credit funding scheme and the transfer of responsibilities to the Department for Education and Skills. Does she accept that very much part of the solution to all the great difficulties that we face when dealing with climate change is better education? What reassurance can she offer those organisations that they will continue to receive such Government funding?

**Margaret Beckett:** Obviously, I cannot give an assurance that every programme will be supported in quite the same way, but we looked very carefully at the programmes that were supported under previous schemes to try to achieve the maximum value for money, which I am sure the hon. Gentleman would be the first to seek and to applaud. Although I entirely share his view that it is through education that many of the problems can be tackled, I have little doubt that the Department for Education and Skills is as committed to that as my Department. The previous Secretary of State certainly took the issue very seriously and I have no cause whatever to doubt that his successor takes it no less seriously.

I have talked about the way in which these issues are handled and how we seek to make 2005 a year of international leadership. We will use our EU presidency to encourage EU colleagues to meet their Kyoto targets; to set out a medium and long-term strategy for the EU beyond Kyoto, working towards the guideline of limiting global temperature increase to no more than 2° C, which is an existing EU guideline; and above all to engage the EU in a debate about further action with the wider international community.

I do not want to be diverted, but perhaps this is the point at which to say to the hon. Member for Lewes, who raised the story in *The Observer*, that there has been a genuine misunderstanding. We all understand that it is always a problem when journalists get hold of a document that they believe to be exclusive, as they often become rather more excited than the content justifies. The European Commission is undertaking on behalf of the whole Community exactly the analysis of the scientific and economic impact of measures that might be taken that we undertook before we drew up our energy White Paper and agreed to our 60 per cent. target. We expect the publication of that analysis this month. It will be considered in the March Council, which will discuss its implications for any medium and long-term targets or goals that the EU might set. The Environment Council was unanimous in resisting attempts to get member states to commit themselves to a number the month before the analysis was published, rather than wait until the month after. That never struck us as a good way to make policy, but I concede that there have been misunderstandings.

In the past few months, there have been some encouraging signals in the international dialogue. It was inevitably becalmed while people wondered whether the Kyoto protocol would come into force, or whether we needed to build on the consensus behind it by some alternative means, but Russia's welcome decision to ratify has been accompanied by two other recent developments. First, everyone has begun to focus more on how we can adapt to the climate changes already built in by human activity in the past century: focusing on adaptation, especially on supporting and assisting the most vulnerable, heightens awareness of the need to find ways to avert even greater dangers and to mitigate our impact on the environment. Secondly, recognition has grown of the fact that, especially in economies such as ours, with increased challenges come increased opportunities. The most obvious are the opportunities to save money while saving carbon—opportunities highlighted by the Carbon Trust and the Energy Saving Trust—but, while welcome, they are a small part of the potential economic benefits of tackling climate change. New jobs—even new industries—are growing up around us: four years ago, 170,000 people were employed in environmental industries, which had a turnover of some £16 billion; today, there are 400,000 such jobs and turnover has reached £25 billion.

Despite those real opportunities, which we must seize, as the world's top scientists recently reconfirmed, climate change remains a serious threat to our world—not in some far distant future, but in our own and our children's and grandchildren's lifetimes. It is a problem crying out for leadership. The Prime Minister has committed the Government to providing that leadership and I hope that the House will agree to support us in doing so by giving its support to the motion.

1.52 pm

**Mr. Tim Yeo** (South Suffolk) (Con): I warmly congratulate the Liberal Democrats on choosing the subject of today's debate, and I welcome the Secretary of State to her place. Although I am not sure who wrote her speech, I strongly advise her to sack them. I profoundly deplore the fact that, in relation to such an important subject on which there is so much consensus across the House, she has continued in this debate to display the bad habits that she recently displayed on Radio 4 by making assertions that have no basis in fact. I shall deal with her Radio 4 remarks later in my speech, but on the specific matter of emissions trading, let me point out that everyone knows that the Conservative party has always, without reservation, supported the principle. It is both ignorant and outrageous of her to suggest otherwise, and she does herself and the Government no good in the eyes of those who take an interest in the subject, including many distinguished non-governmental organisations, by making wholly unfounded allegations about the Conservative party, its record and its policy.

This is an unusual Opposition day. No Government amendment to the motion has been tabled, because the Liberal Democrats' motion does not criticise the Government at all but merely attacks the Conservatives. That might give a clue to the Liberal Democrats' intentions, but I have to say, in a spirit of co-operation, that given the last Conservative Government's excellent record on climate change, it is regrettable that the motion only attacks the Conservative party, especially as all the progress made by Britain in cutting carbon dioxide emissions was achieved when the Conservative Government were in power, and since Labour came to office no further progress has been made. I therefore find it rather extraordinary that the Liberal Democrats have included the section in question in their motion, although, to be

fair to the hon. Member for Lewes (Norman Baker), he scarcely referred to it in his speech. Perhaps he realised that it did not fit well with the general tone of his speech, with much of which I agree.

Let me deal briefly with the rather silly attack on the Conservative party in the motion by making it clear that when the next Conservative Government have reached the happy stage of being able to abolish the climate change levy—a clumsy and crude tax, which has not achieved most of the benefits claimed for it and whose main purpose, as my hon. Friend the Member for South-East Cambridgeshire (Mr. Paice) pointed out, is removed once an emissions trading scheme is operating effectively—we shall continue to fund the Carbon Trust, the national insurance contributions concessions, the enhanced capital allowances and the other measures that the levy has paid for out of general taxation.

**Mr. Morley** *indicated dissent.*

**Mr. Yeo:** There is nothing new in this—it is all on the record. Perhaps the Minister is trying to apologise for the outrageous assertions made by the Secretary of State, for which there was no basis in fact.

In addition, we shall introduce other market instruments, including changes to the tax system, to ensure that businesses and individuals are encouraged to act in an environmentally friendly way.

Twelve years have passed since I was a Minister of State at the former Department of the Environment responsible for, among other things, climate change policy. I was convinced then that the evidence that the world's climate was changing was irrefutable, and it seemed to me that the likelihood of those changes being caused at least in part by human activity was very strong. Today, I believe the evidence is even stronger. Few people—apart from those with vested interests, some of whom were named by the hon. Member for Lewes—attempt to deny either the scale or the urgency of the challenge we face. The chief scientific adviser certainly does not: he has called climate change

"the most serious issue facing us this century."

In his view,

"Action is affordable. Inaction is not."

A basic duty of Government is to protect citizens against external threats. Defending the borders and policing the streets have long been accepted as part of that duty; another part should be protecting citizens against the consequences of climate change. Achieving the goal of climate stability is a prerequisite of economic prosperity in any part of the world. The present generation of political leaders will be judged not only by how they handle the threat of terrorism but by how they respond to the challenge of climate change.

Fifteen years ago, Britain's Government responded well. My noble Friend Baroness Thatcher was the first Head of Government of any major country to take climate change seriously. Her statesmanlike approach, coupled with the quality of Britain's scientists, gave us international leadership on this important issue. Later, my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) played a key role in persuading the United States to sign the Rio treaty. When Labour came to power, hopes were high that Britain's distinguished contribution to confronting the challenge would continue, and the negotiation of the Kyoto treaty was a positive step. The right hon. Member for Oldham, West and Royton (Mr. Meacher), who is sadly no longer a member of the Government, grappled intelligently and bravely with the issues, but regrettably his proved to be a lone voice inside the Government. Gradually, it has become clear that Labour's approach to climate change is all talk.

I welcome the emphasis the Prime Minister has put on the subject in recent weeks. It is good that climate change is at the centre of his agenda for the G8 chairmanship and the EU presidency, but much more than gestures are needed if Britain is to regain the influence it once had. Two things need to happen, and quickly. First, Britain must put its own house in order. Progress in reducing carbon dioxide emissions was good before 1997, under the Conservative Government, but it has stalled. Earlier decreases in emissions have been replaced by a levelling out of the trend, and in some individual years since 1997 emissions have increased.

Sadly, the Secretary of State does not seem to understand those facts. On Radio 4's "Today" programme a few days ago, she misleadingly claimed that emissions of greenhouse gases were well down on what they were when Labour came to power in 1997. As Friends of the Earth immediately pointed out, carbon dioxide emissions have not fallen in the UK since Labour came to power.

**Margaret Beckett:** I am sorry, but I am afraid that it is the hon. Gentleman who is misunderstanding the point I was making. I was not challenging the fact that, sadly, our carbon dioxide emissions have not gone down. I will not go into the issue of the Conservative record, except to point out that flattening the economy through two recessions means that it is rather easier to cut emissions. It is true that our carbon dioxide emissions have not fallen, just as it is true that they have risen across the whole northern hemisphere. Nevertheless, the basket of greenhouse gases that are part of our Kyoto target has fallen significantly, and we are reaching our Kyoto target several years ahead of time.

**Mr. Yeo:** The Secretary of State rehearses the tired old argument that the cut in carbon dioxide emissions before 1997 was something to do with the performance of the economy. Let me remind her that we have recently been hearing boasts from the Government about 50 consecutive quarters of economic growth. Almost half those quarters occurred before 1997, under the Conservative Government. The reduction in carbon dioxide emissions under the Conservatives was achieved in a period covering five years of continuous economic growth. The last five years of that period were of continuous economic growth, but despite that, that Government's policies achieved a cut in carbon dioxide emissions that this Government have failed to achieve. They have failed to continue the progress. She misleadingly referred to greenhouse gases in the hope that people will think that they are carbon dioxide. I am glad to say that on the very day when she made her broadcast,—2 February, a week ago tomorrow—a Friends of the Earth press release made it clear within hours that

"Carbon dioxide levels have not fallen since Labour came to power . . . UK emissions of carbon dioxide stand at only 7.5 per cent below the 1990 baseline—the same as when Labour came to power in 1997."

*[Mr. Yeo]*

Perhaps the rises in carbon dioxide emissions that have occurred under Labour explain the attempts reportedly made in secret last year by Britain to water down the longer-term EU targets. Whether or not those reports are true—I have heard the exchanges between the hon. Member for Lewes and the Secretary of State—they certainly give rise to very justifiable concern. In any event, the Government have been forced to admit—at least, this is clear to everyone else—that they will be unable to achieve their own target for carbon dioxide emissions, which is a cut of 20 per cent. on 1990 levels by 2010, as set out in the 1997 Labour election manifesto. That target cannot now possibly be met.

That failure scarcely enables Britain to lecture other countries about the need for more progress. Britain's failure to have a national allocations plan ready and agreed in time for the start of trading in the EU emissions trading scheme further weakens the Government's international authority. Despite its flaws, the EU emissions trading scheme is, at least for the time being, the only game in town. It is the best mechanism available for encouraging the efficient use of resources in tackling climate change and cutting carbon dioxide emissions.

Last summer, the Department for Environment, Food and Rural Affairs had a national allocations plan ready for submission to the EU, but the plan was apparently ripped up on the intervention of the Prime Minister himself. The result is that today, British companies are unable to take part in emissions trading.

**Margaret Beckett:** That is not entirely accurate. Forward trading is taking place, and no spot trading is taking place at the moment. I am sure that the hon. Gentleman will be able to explain this away, but I detect some inconsistency in the fact that the Conservatives prayed against the regulations that put in place the emissions trading scheme and have argued against our proposals for the national allocation plan, saying that they were too tough on British business. Having attacked us for being too tough on British business, when we went back to the Commission and said that we believed on the basis of further information that we should be allowed to amend our plan, as a great deal more information had come in since the provisional numbers—we said at the outset that they were provisional—were drawn up, he is now attacking us for wanting to make the change for which the Opposition called at the time.

**Mr. Yeo:** It is perfectly consistent with strong support for the principle of emissions trading to force debates on the detail of any regulations or measures that are needed to give effect to that principle. We remain unequivocal in our support for the principle of emissions trading as the most effective way of allocating resources in pursuit of the aim of reducing carbon dioxide emissions. On the second point, my criticism is that the Government were not ready. We have known about the start date for emissions trading for years. It should not have been difficult for the Government to work out what our national allocations plan should set out in the interests of a proper balance between environmental gain and the needs of business. Indeed, I am interested that the Secretary of State seems to suggest that it was pressure from the Opposition that caused the Government to withdraw the original plan. Many of my hon. Friends will be flattered to think that the Government pay so much attention to our views. In fact, the Government, as they so often do, caved in to the demands of big business. Big business, not small business, goes round to Downing street and has a word with the Prime Minister, so the plan was ripped up.

It is the result of that chaos that I particularly criticise. It is not the detail of plan A or B, but the fact that, after several years in which to prepare, we have reached the starting date and Britain has joined the Czech Republic, Poland, Greece and Italy as the only countries in the EU that have been unable to get their act together. I think that that shows how inadequate the Government's approach to this very important international issue so often is.

It is hard to see quite how the Prime Minister can reconcile the actions of his Government in that respect with his speech on 14 September last year, when he said that climate change was

"the world's greatest environmental challenge"

and that

"our efforts to stabilise the climate will need, over time, to become far more ambitious than the Kyoto Protocol."

On this issue, it appears that, while the Prime Minister is on the surface all talk, behind the scenes his Government are working in precisely the opposite direction from that which is needed if his fine words are to be put into practice. As Bryony Worthington of Friends of the Earth put it:

"The trading scheme is potentially a huge step forward in the race to tackle climate change, but it has been undermined by the lack of ambition countries have shown in bringing it into action. The UK has provided a classic example of how not to do it."

**Dr. Whitehead:** In terms of speeches that said substantial things but did not presage as much as those substantial things might have suggested, does the hon. Gentleman recall that he set out Conservative action for a greener Britain in a speech to the Centre for Policy Studies on 7 December? Can he recall referring in that speech to a single unequivocal commitment to a new policy instrument dealing with climate change, other than the unequivocal commitment to

"nominate 100 stations for urgent upgrade funded by commercial investors"?

**Mr. Yeo:** I congratulate the hon. Gentleman on reading out the Whips' brief, but if he thinks that that causes the remotest embarrassment on the Opposition Benches, he will have to think again. I will set out well before the election some specific measures. *[Laughter.]* Hon. Members may laugh, but in view of the collaboration that we have seen between the Liberal Democrats and the Government in the terms of the motion, perhaps the Liberal Democrats also have some inside information on the date of the election. Will the Government cut and run before Easter after all?

**Dr. Whitehead:** Is the answer no?

**Mr. Yeo:** The answer to the hon. Gentleman is that I set out in a broad way a number of measures that I

believe the next Conservative Government should take. I will put flesh on the bones of those measures in the next few weeks. I shall return to the point about railway stations in a moment, but I am surprised that Labour Members should think that it is a bad idea to draw extra capital into modernising Britain's railway stations. The only specific quotation that he could produce from my speech to the Centre for Policy Studies was one in which I set out our passionate commitment to getting public transport the extra investment that it plainly needs and is not receiving under a Labour Government.

**Mr. Peter Ainsworth:** I look forward to hearing what my hon. Friend has to say when he sets out his stall in due course. He will know that huge commercial opportunities are available in tackling climate change, and many businesses are making good business out of taking those opportunities. Does he not agree, however, that science, technologies and business opportunities may not be enough, and that there is indeed a role for fiscal instruments and perhaps the bolder use of such instruments than we have yet seen in this country, as well as regulations, which themselves can create new markets?

**Mr. Yeo:** I pay warm tribute to my hon. Friend's chairmanship of the Environmental Audit Committee, which has produced many constructive and thoughtful reports on the subjects that we are debating today. He is right that no inherent conflict exists between economic growth, business opportunities and commercial prosperity, and the measures that are needed to tackle climate change—indeed, the two go hand in hand.

Fiscal instruments have an important role to play. I am determined that the next Conservative Government will make greater use of fiscal instruments than the present Government. Unexploited opportunities exist to use our tax system to encourage people to make greener choices.

The starting date for emissions trading, 1 January 2005, was not a great surprise. It is difficult to reconcile the Government's failure to be ready for that date with their claim that they are putting climate change at the heart of the British EU presidency. I wonder how much satisfaction the Minister takes in seeing Britain among the laggards in that process.

Although participation in the scheme, when it eventually happens, will be helpful, it is not the whole answer to getting Britain's $CO_2$ emissions back on a firmly downward trend, which will require policy changes in four areas. First, energy efficiency may be unglamorous, but as a former Conservative Secretary of State for Energy put it, it is

"the cheapest, swiftest and most publicly acceptable way to combat global warming."

Even those sceptics who question the science of climate change can scarcely attack measures designed to save households and businesses money. For domestic energy efficiency, the Government rely on the energy efficiency commitment to incentivise consumers. A scheme that does not rely exclusively on promotion by electricity suppliers might excite a wider consumer market. We are studying changes to the energy efficiency commitment to allow more businesses to benefit from promoting domestic energy efficiency, a model that could be applied to business customers as well as households.

The second policy change concerns transport. I recognise that progress has been made in moving towards greener cars, and I am sure that that progress will continue, but transport still accounts for one quarter of $CO_2$ emissions. As is the case with energy efficiency, we must engage the public and help them to make more environmentally friendly choices. We should not use regulations or force people out of their cars, which is the Deputy Prime Minister's policy, because cars have enhanced the lives of millions of people. A car is the instrument that allows almost everyone today to enjoy freedoms that were confined to the rich 100 years ago.

One way in which to encourage greener choices by car users is to go much further than the Government in introducing variable rates of vehicle excise duty, which is the direction suggested by my hon. Friend the Member for East Surrey (Mr. Ainsworth). That would be more effective than the colour-coded labels recently suggested by the Secretary of State for Transport. I am not against colour-coded labels, which sound suspiciously like a watered-down version of the colour-coded tax discs that I advocated last year as a way to make the impact that a vehicle has on the environment clear to the public.

An incentive to buying a greener car even bigger than the colour of the label in the showroom would be a wider range of vehicle excise duty rates. Even if such changes applied to new purchases only, they would influence the choice of new vehicles, and everyone would be helped to continue to enjoy driving while reducing the impact of motoring on the public. The Government's approach is far too timid: the difference in vehicle excise duty between a Ferrari and a Smart car is only £50.

Transport involves more than cars. Aviation, which has already been referred to, is the fastest growing source of $CO_2$ emissions in the transport sector, and I hope that it will soon fall within the EU emissions trading scheme. A possible tax on aviation fuel also seems to be back in the news. It could make a big contribution to capturing the environmental cost of aviation, but it will work only if it is introduced on an entirely international basis. If international agreement on aviation fuel taxing is eventually reached, some of the other taxes on aviation could be removed.

More immediately, I am concerned about how little understanding the public have of the link between climate change and aviation. In a survey conducted by the Department for Transport a couple of years ago, only one person in eight made the connection between climate change and flying. We would educate the public about the impact of aviation on the environment if we were, for example, to encourage airlines to show emissions per passenger on travel documents, which would remind people that in environmental terms short-haul flights do not compare well with alternative modes of transport. The more information people are given, the more likely they are to choose the environmentally friendly option.

The third area of policy change concerns renewable energy. The Government are in a muddle: their obsession with onshore wind farms, one of the least reliable and most unpopular forms of renewable energy, will ensure that they miss their own target for producing 10 per cent. of electricity from renewable sources by 2010. With only five years to go, it would be much better

*[Mr. Yeo]*

if they admitted that they will miss that target. We should develop a more coherent approach to renewable energy to exploit Britain's natural advantages as an island by using offshore technologies, including tidal power and wave power. In that context, I regret the Government's failure to introduce a marine conservation Bill to facilitate the establishment of offshore areas where marine-based renewable energy projects could flourish.

**Mr. Challen:** Back in the '80s, Lady Thatcher introduced the non-fossil fuel obligation, the bulk of which was paid to the nuclear industry. We would be able to make greater progress towards our targets now if Conservative Governments had bothered to invest in renewable energy.

**Mr. Yeo:** I am startled that the hon. Gentleman has singled out Baroness Thatcher as someone to attack on climate change. Anyone who has ever heard of the issue recognises that without her the world would be years behind in responding to the issue.

The hon. Gentleman has attacked nuclear power. The present Government are doing their best to prop up the existing nuclear power stations to get a bit more life out of them, so his Front Benchers do not support him. Nuclear power has an extremely positive effect on climate change because it is by far the largest producer of energy without $CO_2$ emissions.

**Norman Baker:** Will the hon. Gentleman clarify whether it is Conservative party policy to build new nuclear power stations to tackle climate change?

**Mr. Yeo:** Conservative party policy is to develop energy on the most economic basis. If the nuclear power industry shows that it can compete economically with other forms of power, and if it satisfies the proper and legitimate concerns expressed by some people about the disposal of waste, there is no reason why we should not build nuclear power stations.

**Mr. Peter Ainsworth:** Will my hon. Friend accept that the nuclear industry has managed to compete in the past only with huge dollops of taxpayers' money, and that it is unlikely to be able to solve those problems any time soon?

**Mr. Yeo:** I am open-minded about nuclear power. *[Laughter.]* Liberal Democrat Members express great mirth at the idea that one should be open-minded. If a particular type of energy that happens to score well on $CO_2$ emissions shows that it can compete economically, it seems extraordinary that others—notably the Liberal Democrats, who claim to be so concerned—should want to rule it out. The Liberal Democrat approach is extraordinary, and characteristically inconsistent. As I have said before in this House, we will wait and see whether the industry can meet the challenge that I have laid down.

**Mr. Simon Thomas:** If the hon. Gentleman is right about the Liberal Democrats and their attitude to nuclear energy, why is he prepared to rule out wind energy? In Wales, the Conservative party has opposed all wind farms, both offshore and onshore. We have the greatest wind resources in western Europe, and the technology is ready to go. Why is his party ruling out wind energy?

**Mr. Yeo:** We are not, as it happens. We are saying that the Government's policy is extraordinarily distorted in that the help that they provide for renewable energy sources is directed heavily towards onshore wind farms. Local communities should have more say on whether an onshore wind farm is built in their area, and any strong local objections should be recognised. Ultimately, there should be a mix of renewables, including wind, wave and tidal power, and a whole variety of other sources.

**Dr. Desmond Turner** (Brighton, Kemptown) (Lab): I was gratified to hear the hon. Gentleman talk about the opportunities that we have on this island for marine renewable technologies. It grieves me to remind him that research into wave energy was killed off in the early stages of the Thatcher Administration. That was not a very good contribution, because had the work continued, that source would almost certainly be commercially available today.

**Mr. Yeo:** If the hon. Gentleman is so concerned about the effect of Government policy on research, why does he support the present Government's policy, which has effectively choked off nearly all the resources available for research into anything other than wind power? He appears reluctant to call the Government to account for failing to learn the lessons that he says should have been learned by the Conservative Government.

**Dr. Turner** *rose—*

**Mr. Yeo:** I have given way to the hon. Gentleman once, and I am afraid that I must make some progress.

**Mr. Alistair Carmichael** (Orkney and Shetland) (LD): Will the hon. Gentleman give way?

**Mr. Yeo:** No—I am sorry.

The fourth area of policy that needs to be changed concerns the planning system, which should be used to avoid making the consequences of climate change worse. For example, planning policy guidance must be strengthened to make it easier for councils to refuse consent for building on flood plains or on sites where development would make flooding more likely because of run-off problems. We must bear it in mind that one of the characteristics of climate change is that rainfall is becoming more violent and we more often experience high winds. I sympathise with the concerns of the Environment Agency about wrongly located development continuing to make the risks of flooding greater. The harm that such development inflicts is not confined to new buildings but can cause problems for existing properties, and in the end it may be the taxpayer who picks up the tab.

Planning guidance can also contribute positively to cutting carbon dioxide emissions by encouraging development at or near railway stations—a point that I made in a speech just before Christmas. It is a scandal

that we have failed, under public and private ownership models, to make better use of the huge brownfield development opportunities that exist around many stations. Starter homes or commercial and retail development on those sites would be beneficial environmentally and in other ways. Planning agreements should ensure that such developments provide funds to improve stations in order to bring them into the 21st century and increase the capacity of the railways at a time of record demand. Those gains could be obtained without taxpayers or travellers having to contribute a penny. Development around stations would offer people more chances to choose environmentally friendly transport options. The Government's role is not to coerce people out of their cars but to facilitate those choices.

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): My hon. Friend raises a serious point. Some innovative planning is taking place whereby affordable housing is being built on top of supermarkets, and there is no reason why we should not use our stations more imaginatively by doing the same thing. That would be a sustainable way of going forward, because people's housing would be near to the transport that they were going to use.

**Mr. Yeo:** My hon. Friend is right. The situation is nothing short of scandalous. Those of us who regularly travel by train are aware of how many opportunities there are around the country to use stations and the land immediately around them for development purposes.

The four changes in domestic policy that I mentioned would add up to a coherent programme to get Britain back on track. With evidence of Britain's determination to tackle climate change at home, we would once more be able to resume our leadership on the issue abroad. Internationally, we should have three aims. First, and most obviously, the Prime Minister should press President Bush much harder, not only on Kyoto but on climate change generally. It is painfully clear that the Prime Minister will not say boo to a goose when it comes to President Bush. What on earth has Britain got in return for its unquestioning support of the United States in the past three years? It does not appear that our influence has been exercised over any important policy area.

Secondly, as the hon. Member for Lewes said, Britain should be more active in reaching out to those elements in the United States who do take climate change seriously. Some states, industries and companies are clear-sighted enough to see that climate change cannot be ignored. They realise that whether or not the United States ratifies Kyoto, there are advantages to America in taking part in emissions trading, in helping to shape the post-Kyoto framework, and in developing the technologies that will lead to the win-win situation of continued economic growth and steadily falling emissions.

Thirdly, although it is crucial to engage the United States in the process, it is equally crucial to bring China and India on board. One way in which Britain could put pressure on the United States is to start negotiating international standards with China and India. I am pleased that the Government's chief scientist has recently been in Bangalore. The growth of those giant economies inevitably means that more energy will be consumed, and in particular coal power. The challenge is to accelerate progress towards minimising the environmental impact of that consumption.

The post-Kyoto framework should have the positive aim of promoting climate stability. The achievement of that aim will not harm business or slow down economic growth, nor will it impede the progress that developing countries make towards greater prosperity. Indeed, climate change is the very background against which developing countries will grow sustainably, and the only background against which that growth will be secure.

I regret that the Liberal Democrats chose to insert a point-scoring phrase into their motion, because without it I would have been able to give the motion my support. However, I can and do confirm that the Conservative party is wholly committed to the actions needed at home and abroad to achieve climate stability. When we were last in government, we took those actions. While we are in opposition, we will support the Government when they propose policies to promote climate stability, and a future Conservative Government will have those policies right at the top of their agenda.

2.26 pm

**Dr. Desmond Turner** (Brighton, Kemptown) (Lab): I am glad that the hon. Member for Lewes (Norman Baker) initiated the debate. It started off happily and I was pleased that a consensus was developing across the Chamber, but it has unfortunately gone a little sour since the hon. Member for South Suffolk (Mr. Yeo) entered the fray.

Climate change is a bigger challenge than the fate or fortunes of any political party and must be tackled through consensus. We cannot simply switch policies if we are to be effective. Lest—perish the thought—the Government change, we must ensure that we have policies that will be consistently supported and developed. In this context, politicians need to grow up in a way that they never have before.

An international consensus is also required and if we can achieve a solid cross-party consensus in this place, we can provide some international leadership. This country has much of the expertise and many of the technologies necessary to begin to tackle the problem. We are fortunate in our climatologists, who are among the world leaders, if not the world leaders. Thanks to them, we have virtually reached a scientific consensus on climate change, although not necessarily on its scale or timing, because that involves so many variables that it is impossible to be totally precise about whether a given level of carbon dioxide concentration will produce an elevation in temperature of 2° or as high as 11°. It is simply too multifactorial, but it is abundantly clear that further changes will occur. We would prefer to avoid any scenario because it would have serious consequences with which we would have to deal.

Our climatologists have been responsible because, although the range of scenarios that they have presented to us so far has been scary enough, they have carefully avoided invoking the apocalyptic. We must remember that an apocalyptic event happened at least once in geological history. The seas boiled and the methane hydrates on the floor of the oceans were released. The temperatures rocketed and approximately 90 per cent.

*[Dr. Desmond Turner]*

of the species on earth died. That could still happen, for example, if we lost the Amazonian rain forest altogether, perhaps through fire, which is possible, and the methane hydrates were released again. In that case, a future for the whole human race, let alone any other species, would be almost impossible. Although that is an apocalyptic scenario, it is possible and we should never forget it.

We cannot assume that temperature will increase gradually and that the sea level will creep up by a centimetre every decade. Perhaps we could cope with that, but frightening step changes along the way, with which we could not cope, could also occur. Indeed, if we do not take sufficient action now, and if we retain the business-as-usual model, some of the mildest climate change scenarios would lead to the exposure of thousands of millions of people to danger through flood, famine and disease.

The question is therefore not whether we should act but how soon and how radically we can act. We must be radical about the matter. Descending into petty party political bickering about who did what is therefore pathetic and we should not do it.

**John Barrett** (Edinburgh, West) (LD): Does the hon. Gentleman agree that those who are most likely to be the victims of climate change are least likely to have influence over gas emissions, and that that is why it is essential to play our part in international discussions about future emissions with emerging industrial nations such as China and India?

**Dr. Turner:** I thank the hon. Gentleman for his intervention, with which I agree. We cannot say, "We've had all the fun with fossil fuels but we're going to stop using them now and you mustn't use them. You're going to have to stay poor and undeveloped." That will not wash. As part of our international aid programme, we should put funds into developing and distributing simple, low-cost and low-carbon technologies that are usable in the developing world. I am happy that the Foreign and Commonwealth Office initiated such a programme, which is now an international programme, about two years ago. It is under way but it needs to be developed a great deal more. Our country is fortunate in having technologies that can be applied in that work.

I am happy that the Government are reviewing their climate change policies. I am sure that my right hon. Friend the Secretary of State would not claim that our policies were currently absolutely right. They need to be overhauled, partly because they were developed when it was a battle to convince people that climate change was real. Now the battle is tackling it and we need a step change in the effectiveness of our policies. I am sure that my hon. Friend the Minister for the Environment and Agri-environment can tell us more about the review. I hope that more hon. Members will contribute to the review in a cross-party and collaborative manner. I would even embrace ideas from the hon. Member for South Suffolk.

The Government must review their policies and reach some consensus. They should also examine the coherence of policies. It is not ideal for DEFRA to have responsibilities for climate change, while responsibility for energy, which is one of the key elements in tackling climate change, is split between DEFRA and the Department of Trade and Industry, the keeper of the key fiscal instruments—the Treasury—is a separate Department, and the Department for Transport is also involved. At least four major Departments need to work together cohesively to make a future strategy stick. That might mean a change of culture. I do not mean that in a political sense because politicians can speak to each other happily, but we all know that civil servants have a less good record of cross-departmental collaboration. I therefore suggest to my hon. Friend that we also need to consider our civil service structures for underpinning, delivering and developing climate change policy, because we could do much more on that.

**Norman Baker:** I am attracted by the idea that my parliamentary next-door neighbour presents. Is he drawn to our proposal, as he should logically be, for a merged department of environment, energy and transport, precisely to deal with the problems that he identifies?

**Dr. Turner:** I do not want to comment one way or the other on any specific structure. I simply say that we should examine the structures and ensure that, whatever they are, they have an overarching brief to work together. There must be a clear Cabinet responsibility at the top to ensure that co-ordination of climate change policy happens on the ground.

It is good that the Government have adopted the Royal Commission on Environmental Pollution's 60 per cent. target by 2050, but I agree with David King that that is not sufficient to deal with the position that confronts us. We must remember that $CO_2$ is not the only greenhouse gas. It has been established that atmospheric $CO_2$ emissions were no higher than today's when the climate change event in the Eocene occurred. The levels of nitrous oxide and methane did the damage. Other greenhouse gases can be just as threatening as $CO_2$. We therefore need to examine the spread of greenhouse gases and control the emissions of them all.

We need vigorous action now. We cannot afford to wait 20 years. The insurance industry would endorse that because claims against damage through exceptional weather events have rocketed. There is a clear pattern—logarithmic growth—in those claims. There is plenty of evidence that we cannot afford not to take action. If we do not, the consequences will be expensive to the economy. We need to invest more, but we do not have to adopt a hair-shirt economic policy to do so. I see no intrinsic reason why renewable energy should be any more expensive than current generation technologies, once it has got over the initial development hump and is fully developed. Likewise, energy conservation investment will pay for itself.

We have the technical potential to reduce $CO_2$ emissions by 80 per cent. quite easily, and by rather more as far as domestic and industrial energy, land transport and electricity generation are concerned. Air transport remains a problem. People remember the Hindenburg disaster and we would probably have difficulty getting people on to a hydrogen-fuelled plane. Hydrogen is so light that, even in liquid form, the amount required for a transatlantic flight would fill the

entire fuselage, leaving no room for the passengers. Anyone with any good ideas on how to make hydrogen storage much more compact should go to the DTI and ask for a development grant, because cracking that problem would be one of the greatest services that they could provide. The path to a non-carbon future—or a virtually non-carbon future, at any rate—would then become possible.

**Mr. Challen:** In this fairly consensual debate, we have heard that onshore wind farms present a problem. I agree with my hon. Friend that we can probably meet a great deal of our energy needs through renewables, but how would he address the growing resistance to onshore wind farms? Does he agree that one way would be to address their ownership structures? We could, for example, have community wind farms and micro-generation. In that way, people would have a vested interest in going down that route.

**Dr. Turner:** My hon. Friend is right, but I would also point out that onshore wind farms are a stop-gap. Offshore wind farms are much more publicly acceptable than their onshore counterparts and have better wind opportunities. We will get more electricity out of the offshore wind turbines than out of those on land. But wind power is only a stop-gap. We can only go so far with it, partly because of its unpredictability. We cannot rely on it for baseline load. It is also intrinsically expensive because its load factor is so poor, at 30 per cent. or less. We have, however, the most magnificent energy resources round our coasts in the form of wave and tide power, which has the raw energy potential to provide double the amount of electricity that we currently generate in a year.

**Mr. Carmichael:** Does the hon. Gentleman agree that the flaw in the Conservatives' argument is that tidal and wave resources are, by their very nature, in the more remote, peripheral communities that do not have proper grid connections and that they would get that connection only if they were allowed to develop the intermediate technology, namely wind power?

**Dr. Turner:** I do not disagree with that. I would not for a moment wish to inhibit the development of wind power. The Government have agreed that the grid has to be rewired and we intend to do that. Yes, that is where the resources are, and we should use them. The Government are already putting resources into wave and tidal technology, through the DTI. I want to see more resources going into it, and I think that they inevitably will.

I agree with Opposition Members' comments about the importance of fiscal measures. We have heard some chat about that today. We need to look carefully at fiscal measures because, in a market economy such as the one that we have to work in, they are the key to driving behaviour and making things work. We have an opportunity, as part of the climate change review, to overhaul those fiscal measures.

The hon. Member for Lewes mentioned the carbon tax. I have long been an advocate of carbon taxation, not simply as a tax being used to take money, but as part of a continuum involving a carbon credit that could be invested in the development of renewables. That has been expanded on by the most recent report from the Science and Technology Committee, which I recommend to hon. Members. Ministers have already read it and I hope that they will look at it again as part of the climate change review.

The main message is that there are many things that we can and absolutely must do. We must do them together because we cannot afford to waste time squabbling unnecessarily. We must agree that, for the sake of the future of the human race, we have to act quickly and with determination. Even if it costs a bit now, the payback in the years to come will be well worth it.

2.46 pm

**Sue Doughty** (Guildford) (LD): I want to look at a number of issues relating to the need for a co-ordinated approach to mitigating the effects of climate change. The first is the security implications of climate change. During the past 12 months, we have been developing a greater understanding of the impact of climate change on the security of countries across the globe, and of the potential for climate change to increase the inequalities between the haves and the have-nots, with the consequential insecurity that that would bring.

I have taken quite an interest in this matter, and it worries me that we still need greater Government co-ordination in this regard. The Minister will recall that, in March 2004, I asked the Secretary of State what assessment she had made of the national security implications of climate change. The Minister responded on her behalf, saying that the Government were

"carrying out internal assessments to identify how policy and operational responsibilities in all Departments could be affected by climate change. This process is currently reporting, and has included both the Ministry of Defence and the Foreign and Commonwealth Office . . . Some of the potential linkages between climate change and security include pressure on food and water resources and energy supplies, which in turn . . . may contribute to the causes of migration . . . and conflict."—[*Official Report*, 10 March 2004; Vol. 418, c. 1534W.]

I followed that up by asking when we were going to see the report, and the Minister replied that it would be "later in 2004", and that copies would be placed in both Libraries. I asked a member of the Library staff about this yesterday, and, having consulted DEFRA, they told me that the information would not be available until April or May this year. I believe that the Minister and the Secretary of State are concentrating on climate change, and I certainly would not suggest that they and their Department are not putting an enormous amount of effort into the matter. We know, however, that climate change is not only the responsibility of the Department that deals with the environment. It is a shared responsibility right across the Cabinet.

When I asked how many people in the Ministry of Defence were working on identifying the national security implications of climate change, I was told:

"Staff working on this do so as part of their wider duties and consequently it is not possible to quantify the numbers of staff involved."—[*Official Report*, 19 April 2002; Vol. 420, c. 10W.]

Is anyone working on it? Are enough people working on it? In times of instability, this is becoming an increasingly important issue. It will perform a key function in supporting the Prime Minister's leadership role on climate change. In the war against terrorism,

*[Sue Doughty]*

climate change cannot be ignored. I hope that that information will be provided so that when he and the Secretary of State are negotiating with the United States—as we know they are doing—we are able to give them more information to push that point.

We must understand that we need adaptation strategies in the face of climate change, and I hope that those strategies will not include increased spending on defence, but will focus on dealing with climate change. We have a choice to make about how much we spend on defence because we have failed to deal with climate change. Other areas of defence are outside the scope of this debate and I will not comment on those.

**Malcolm Bruce:** Is it not an interesting fact that at the heart of the conflict between Palestine and Israel the single biggest issue to be resolved is who controls the water supply? It is predicted that the main wars of this century are likely to be fought over water because of the pressures of climate change.

**Sue Doughty:** I thank my hon. Friend for that very helpful contribution. Only this week, we heard about the potential for conflict over the Nile waters and the sources of that river.

We are aware that Sagarmatha national park in the Himalayas is at risk. Glacial lakes are melting, which has an impact on local communities because the water flows down on to the low-lying flood plains. Communities there rely partially on tourism and partially on their normal way of life, which includes the glaciers and the natural beauty of the Himalayas that so many people go to see. That impact threatens their whole way of life and there is a real fear in lakeside communities that those lakes will burst. That would be a catastrophe.

Major changes to the Arctic and the way of life of the Inuit people have been reported by the WWF, and the British Antarctic Survey has commented on the thinning of the icecaps and its implication for sea levels. The WWF website has a very useful half-minute summary: global temperatures have risen by 2°C in the past 150 years; 228 million people are now at risk from malaria; starvation affects 12 million people; 2 million people are short of fresh water; millions are forced to move inland due to coastal flooding; and thousands of species have become extinct in the past 50 years and we know that many more will do so in the next 50. This is not a criticism of current Ministers at all, but the website comments on the fact that Ministers did not take action 50 years ago. I do not know the source for that information.

We are experiencing extreme weather conditions: since Christmas there have been floods in Carlisle and in Scotland. There were hurricanes in Florida last year, which do not just damage properties and cause loss of life, but have a huge financial cost that must be recognised. Insurance claims after the hurricanes in Florida could reach $20 billion. That is a huge sum, and an example of the sums we mean when we talk about investing to save.

Closer to home there is more that we could do. On housing, we agree that we need more homes for people to live in. There are massive increases in the house building programme in the south-east, but we could improve the environmental quality of that programme. Members of Parliament in many parts of the south-east disagree with the Government's calculations on the number of homes needed, their location and how the cake will be divided up. Local authorities have to deal with that problem here and now, and they are already defining guidelines for development that must be sustainable and have Government support, because there are huge opportunities to make sustainable improvements through the housing that we are planning and designing for the future.

If we are talking about sustainable communities, we must ask what that means. It is very curious that we are unable to find out how the Government define sustainable communities. Everyone in the Chamber today would agree about definitions of sustainability and environmental sustainability, but we do not see the word "environment" flowing through into the definition of sustainable communities. Those house-building programmes bring huge beneficial opportunities such as district heating schemes and combined heat and power. However, after Christmas, the Environmental Audit Committee pointed out in its review of housing:

"We regret that in the case of housing the Department (DEFRA) seems to have been sidelined."

There are opportunities, however. The Office of the Deputy Prime Minister has a draft planning policy statement, PPS1, but it does not recognise the need to ensure that development occurs within environmental limits, as well as other sustainability measures. It does not recognise the need for the precautionary principle for environmental sustainability. Does that matter? Of course it does, because emissions from the housing sector are significant: current levels of such emissions are about 40 megatons of carbon a year. Current plans could reduce that to 30 megatons a year, which is an improvement, but when one looks at Government emission reduction targets for the UK as a whole—from 153.2 megatons of carbon a year in 2000 to 65 megatons in 2050—one sees that a reduction of 10 megatons will not be enough.

The houses we are planning to build now will be in place in 2050. It is important to note that housing does not go away. The foundations that we lay now, and their environmental impact, will be with us in 2050. That makes it sound as though we have a lot of time to get our act together, but melting icecaps and glaciers show that that problem is here now. We think of 2050 as the end of the line, but we have to seize the opportunity now. Considering what we could be facing, poor environmental performance in buildings will be a major contributor to carbon emissions in 2050, and the sector, as the Environmental Audit Committee report pointed out, could contribute more than 55 per cent. of UK carbon emissions—nearly double the current contribution.

In combination with aviation, that will substantially undermine the Government's ability to meet their reduction targets. We need to ensure that we stay on target, and set tougher targets, if we are to make the difference that will call a halt to climate change, which is desperately important.

Some areas that the Government are working on, and their change of heart on aviation emissions, are very welcome, but the "predict and provide" approach must

be managed alongside what we can do about aviation emissions. Combined with the effects of building, they will cause a major difficulty. We need to conduct an urgent review now of sustainable construction methods to make an impact on not only the finished buildings and their carbon emissions, but the pollution that will arise as part of the building process.

I touched on flooding earlier. To return to the macro aspect, there are plans to build across the south-east. A village in my constituency has a road with a number of bungalows; it is on a wide flood plain. There is no big river, but we know that each of those properties is being expanded into a house, and such things as conservatories are being built. As the water runs down the hills into the village, instead of it being soaked up by the clay, people sometimes find 2 in of water lying on their lawn. In fact, people are giving up lawns in this village and growing vegetables because of the impact of the water. That is a very small example, but it shows how we are not getting to grips with this increased and sudden rainfall that we are experiencing so often.

How much worse will the impact be on the Thames gateway as we build on it and there is a displacement of water? We have no plan; we have no clarity about what is the purpose of Thames gateway development. On the one side, we are told that it is providing housing for a regenerated community, but Sir John Egan said to the Environmental Audit Committee that the development is intended to house people commuting into London. Are we therefore building a development with no clear idea about how people will commute into London? Will the railway infrastructure be in place or will they get into their cars? Although the Conservatives are saying that cleaner cars are good—we all agree with that, and cars have their place, but not every place—stationary cars in a traffic jam are no solution to climate change problems. We must do much more. It is sad that the Conservatives, who presided over the undermining of the railways, are now trying to claim the moral high ground. I wish that they had done something about it at the time.

When we examine the potential for flooding in the Thames gateway, on which many people have commented, we must ask who will insure the properties. For how long will the Association of British Insurers bail people out when things go wrong, or do the Government plan to be the insurer of last resort? I know that that is not currently part of their plans.

**Mr. Morley:** I get surprised sometimes about the focus that people put on flood risk in relation to the Thames gateway development. I do not dispute that it is an issue, but the defences in that area are at one in 100 standard, which is extremely high. The Thames gateway design includes green space, for example, which can also be used as sustainable urban drainage, and the plans include the extension of the rail network so that there are public transport links to the new development. A major new development always provides an opportunity to build in sustainable features from the very beginning, and that is certainly the intention with the Thames gateway.

**Sue Doughty:** I am grateful to the Minister for his intervention, but other commentators do not share his confidence about flooding. Only recently, I was at a seminar with developers who expressed severe concern. At least the Thames gateway has infrastructure planned. What about other places, such as Milton Keynes, where not so much infrastructure will be provided, and places such as Guildford, which is subjected to infill? Displaced water will also be a consequence of such developments, and I would expect to see even more flooding as a result.

We support the proposal of the Office of the Deputy Prime Minister that the Environment Agency should be a statutory consultee on planning applications. The Conservatives, however, would cut the Environment Agency. When will they comment on those proposals and understand their environmental implications?

The hon. Member for Brighton, Kemptown (Dr. Turner) mentioned methane. This is a subject close to the Minister's heart and mine, and I urge him to ramp up efforts to reduce the amount of biodegradable waste going into landfill. Please can we make sure, with urgency, that councils have the tools that they need to assess levels of home composting and so on, and to make plans to encourage it? Such small steps will make a significant difference to methane emissions.

Leadership on climate change is needed. We had a peace dividend as the old Soviet empire crumbled—we now want a climate dividend. That opportunity is available, but only if we get our own house in order and exercise real leadership with allies such as the United States, as well as European allies. As polluters, we must recognise that not only do our people suffer as climate change takes hold but others do, too. It is strange, but on a mild day such as today, instead of people saying, "What a lovely day"—it is mild in Guildford, where the flowers are coming out in my garden—perhaps they should say a little more often, "Why is it so mild at the beginning of February?" We must recognise that the problem is here and now, and act on it here and now.

3.4 pm

**Alan Simpson** (Nottingham, South) (Lab): I shall try to be as brisk as possible, partly to allow other Members into the debate, but also because I want to make several points that I hope will upset the apple-cart in relation to the consensus of free trade assumptions on tackling climate change problems—the consensus that trade liberalisation and a free-for-all are somehow compatible with realising many of the goals that Members have identified today.

The Environment, Food and Rural Affairs Committee has just returned from a Brussels visit, on which we met a large number of Commissioners who were as passionate as any Member who has spoken today about climate change. Those Commissioners were brilliant—until we talked to other Commissioners with interests in trade, who were clearly running with a completely different agenda. When push came to shove, the environment got the shove. That is the crisis that we must face. It is a crisis of political leadership as much as a crisis of climate change.

**Mr. Carmichael:** Does the hon. Gentleman accept that the same contradiction is at the heart of domestic energy policy? On the one hand, the Department for Environment, Food and Rural Affairs and the Department of Trade and Industry say that they want to promote renewables development, while on the other,

*[Mr. Carmichael]*

the mad monks at the Office of Gas and Electricity Markets say that we can do that only within the framework of a competition-driven structure that excludes renewables development.

**Alan Simpson:** I accept that that contradiction exists in government, but I want to widen the picture—I believe that the contradiction exists in every party represented in Parliament today. We need to examine the contradictions in each of our own houses. I would love us to fight a general election on climate change. I would love us to say that the biggest issue that will affect the whole of our lives, and the entirety of our children's lives, is climate change, and that we want to be in dispute with each other about which of us can tackle it most seriously and rapidly. We will not do that, however. The general election will be fought on which leader is the most ugly, which party's set of policies are the most contradictory, who are the biggest bunch of scoundrels, and who can be toughest on immigrants. That will miss the big challenges.

Bob Dylan once wrote in a song:

"You don't need a weather man
To know which way the wind blows".

In the same way, we do not need a panel of scientists to tell us about climate change. Let us ask Munich Re, the biggest reinsurance company on the planet, which says that, on current trends, the global economy could be bankrupt by 2050 because of the sheer cost of making good the damage done as a result of climate change. That is the warning bell about which each of us needs to think hard. What is required is a paradigm shift. We need to change how we think about the way we live in the world and how we think about economics.

In scientific terms, we are told that we must limit temperature rise to 2°C higher than it was in pre-industrial times. The terminology that scientists use is that we cannot go above 400 parts per million of carbon dioxide in the atmosphere—we are now at about 380 parts per million. In layperson's terms, the most important fact is that, on current trends, we would exceed the 400 parts per million figure by about 2015. When Professor Sir David King came to talk to the Environment, Food and Rural Affairs Committee, he was clear about the time scale and said that climate change was a much bigger threat than terrorism. As for the 2015 timetable, that is not when the world will end but when, scientists tell us, we will be locked into irreversible change. This is the period in which we can do something.

Of course this issue concerns more than ourselves. The consequences of climate change will hit the developing world worst and we shall see a huge increase in drought, disease, environmental devastation and mass migration. Some of those problems will come to our shores second-hand, but others will come to us first-hand. At the recent conference in Exeter, the Hadley centre was quick to point out that one of the contradictions of global warming is that we will also experience global cooling. The prospect of the north Atlantic drift ceasing has now reached 50:50. It is not an immediate prospect, but we know that the north Atlantic drift has been weakening over the decades and the consequences are inevitable cooling. The Hadley centre said that on the north Atlantic coast, there may be winter cooling of 5° C, which means temperatures lower than those in the "little ice age" in the 17th and 18th centuries, when the Thames froze over. We are not well equipped to deal with that change.

In addition, sea levels will be affected by the melting of the Greenland and west Antarctica icecaps—something we once did not believe possible—and may rise by up to 18ft. Some coastal constituencies will be affected by that more imminently than my constituency, but the prospect of representing Nottingham sur mer is not entirely ludicrous.

**Dr. Desmond Turner:** Will my hon. Friend give way?

**Alan Simpson:** I am afraid I will not accept any more interventions, as Members are queuing up to make speeches.

The erratic weather patterns that we have to deal with are a consequence of climate change. Professor King pointed out to the Committee that we must think about how we manage the prospect of flooding and drought in the same month. We are the beneficiaries of an enormously generous piece of over-engineering—the Victorian sewerage system. No one would build drains of that capacity now, yet most of our cities cannot deal with flash flooding. We therefore need a huge rethink on our engineering programme. At the recent Exeter conference, it was said that even a five-year delay could have a critical impact on our ability to tackle the problem.

I have five suggestions about what we should do. The good news is that a fantastic array of sustainable technologies are coming on to the market. I am incorporating many of them in a derelict place in the middle of Nottingham that will eventually generate 50 per cent. more energy than it consumes. Such developments are exciting, but in 2001, the Prime Minister set aside £5 million so that renewable energy pilot schemes could be targeted on the poorest housing in the country. Sadly, however, since then, the Department of Trade and Industry has not been able to get a single pilot off the ground. There are 2 million households living in fuel poverty. I asked the Office of the Deputy Prime Minister how many properties in the UK's housing stock would meet SAP 65, the minimum standard for establishing a framework to address fuel poverty. On 20 January, I was told that

"16 per cent. of the housing stock meets or exceeds SAP 65."—[*Official Report*, 20 January 2005; Vol. 429, c. 1044W.]

That shows how behind we are in tackling things.

How can we establish a programme that develops the resources and policy changes to address that problem? First, we need a windfall tax on oil and gas producers. Early-day motion 504 explains that they have enjoyed at least £5 billion in excess profits upstream as a result of increased prices, and I am told that it may be as much as £9 billion. The public and the Government should take a scoop of those profits and put them into renewables. Secondly, as some people believe in market solutions, we must change the market rules. I have recently had a number of rows with developers in my own city, as not one of them has put up buildings that self-generate energy or recycle their own water. They are not required

to do so, so if we want such initiatives we must change the concept of building in our society. We should set market rules under which people have obligations so that, for example, they cannot put up a building on a flood plain unless they build in a reservoir capacity. There are cities on the planet that are already doing so, and in some countries developers are required to incorporate self-generation in the design of buildings. We do not have such requirements, because we let people build on the cheap. We steal today from the prospects of tomorrow.

Thirdly, we have an absurd approach to energy markets. Not a single energy company in the land will talk about its business plan for selling less. There is a simple way of tackling that: we change the rules to allow companies to sell conservation rather than consumption. They could sell packages of home warmth in long-term supply packages, to stimulate the consumption of less.

Fourthly, on international commitments, the time has come to scrap the World Trade Organisation and replace it with a world environment organisation. The criteria for assessment would be produced by sustainability audits in which we looked at the patterns of global trade. We must ask ourselves how much of today's trade consists of water sequestration by the north from the south. How many food miles result in carbon dumping on the planet? To what extent are long-term food contracts built on assumptions about the intensification of agriculture, whereas we should be looking at localisation and sustainability.

A number of Members have said that we must focus on the USA, but I agree with the hon. Member for Edinburgh, West (Mr. Barrett) that it is more important to look at China. The Chinese Government have guaranteed their population that within the next 10 years every family with one child will have one car, shifting car ownership from 33 per 1,000 to 333 per 1,000. The earth would suffocate under that programme, which is not an unreasonable one. The trouble is that we do not ask what sort of vehicles are being made available in developing world markets.

Finally, to address the problem we need to consider a gift relationship in future, rather than one of exploitation. The history of the last century is one in which we dumped on the developing world the products and practices that we banned in our own land, calling it aid or development. We need a gift relationship—Titmuss talked about it in terms of blood transfusion or the blood donor service in the UK—that is writ large on a global scale and scripted out in environmental terms. If we act selflessly in gifting the technology to others and ourselves, we have a chance of creating an environment fit for our children to live and breathe in. If we do not, the free trade follies that constantly push the environmental agenda to the sidelines of policy will destroy the planet. We will not achieve sustainable economics, and instead will have a world that is driven by no economics at all.

As I said, I would love political parties to fight the next election on the issue of who has the best environmental record and programme. The real question is whether any of the parties in the House have the courage to occupy a platform on which our children's lives depend.

3.18 pm

**Mr. Simon Thomas** (Ceredigion) (PC): I am grateful for being called to speak immediately after that invitation from the hon. Member for Nottingham, South (Alan Simpson), as there is one political party that will make climate change a priority at the election. I agreed with almost everything that he said, and I can assure him that he will sympathise with many things in our manifesto. I am afraid, however, that people will not have a chance to vote for us in England.

I am very pleased indeed that the Liberal Democrats have called for this Opposition day debate. I acknowledge that they have used such debates to introduce such matters in the House, whereas the Government have been rather remiss in providing debates on climate change. The usual suspects are in the Chamber. *[Interruption.]* Indeed, people can see for themselves where there are gaps on the Benches. We have reached consensus on the science of climate change, but we do not have consensus on the political tasks needed to deal with the problem. I shall get the political bit over before I address more consensual matters. If any party, MP or member of a party thinks that we can achieve a carbon-free future without using wind energy they are shutting the door on a solution to climate change. Anyone who thinks that that is a realistic prospect will let down severely the people of this country, the environment and future generations.

The Conservative party has said no to any wind farms whatever in Wales. That is totally unsustainable and I simply cannot accept it as a policy with which to tackle climate change. It is possible to discuss the right mix and the need to invest in wave, solar and other forms of renewable technology, but it is impossible to talk seriously about achieving the 20 per cent. renewable target without including both onshore and offshore wind power.

I also have to say that there have been no significant wind farm proposals for Wales that the Liberal Democrats—whether a parliamentary candidate in my own constituency, a Member of Parliament or an Assembly Member—have failed to oppose. Indeed, Liberal Democrats of some significance and seniority have opposed all those plans. The hon. Member for Lewes (Norman Baker) is not in his place now, but I acknowledge the important work that he has done on these matters. I hope that he can lead his party in securing a more proactive acceptance of the need to use wind on our journey towards the carbon-free future. The wonder of wind energy is that, if we do not need it in 20 or 30 years' time, we can take the structures down and leave the environment as it was—virtually, though not completely, unchanged. That aspect is so different from other forms of energy generation that we need to swallow the pill. I am prepared, and have long been prepared, to swallow it in my own constituency in Wales, and I hope that other parties will, too.

Let us consider what is happening with the environment at present. The public at large, newspapers and the media tend to talk about climate change as if it is something that is going to happen, but it is important to emphasise that it is happening now. We are already very close to the tipping points—the points at which climate change becomes disastrous. A UK voluntary network is run by the Centre for Ecology and Hydrology, and it observes changes throughout the

*[Mr. Simon Thomas]*

calendar year. It is easy to see from that research over the past 30 years that spring is definitely arriving earlier. I had roses in my garden at Christmas, and a fig tree that is starting to shoot.

We all know what is happening, but it is good to have confirmation. Swallows are arriving a week earlier than they did 30 years ago, and butterflies are also appearing much earlier. One consequence is that species, particularly bird species, are hatching after the glut of caterpillars has gone. The birds are unable to capitalise on the caterpillars, as it were, that have already been and gone in the early spring. The Royal Society for the Protection of Birds has provided figures, and it puts in context the occasional bird strike against the wind farms. That happens occasionally, and there are sometimes bird strikes against my house. At least one bird a year dies flying into my windows—more than died in the wind farm recently in Ceredigion. The occasional bird strike has to be placed in the context of mass bird extinction under climate change.

Within Wales during the past 14 months, the valley of Conwy alone has had three serious breaches of its flood defences. The villages in the valley had three occurrences during the last 14 months that should happen only once every 20 years. Furthermore, the key statistics for Wales, published only a fortnight ago, clearly show a 1°C rise in average temperatures over the past three years compared with the 1960–1990 period. That is important.

The latest report on climate change has come from the international climate change taskforce, chaired by the former Secretary of State for Transport, Local Government and the Regions, and I was pleased to hear him repudiate—on Radio 4 when he launched the report—many of his transport decisions. Let us hope that the current Department for Transport will follow suit. The report states:

> "Above the 2 degree C level, the risks of abrupt, accelerated, or runaway climate change also increase. The possibilities include reaching climatic tipping points leading, for example, to the loss of the West Antarctic and Greenland ice sheets".

The hon. Member for Nottingham, South made a similar point. The report goes on to refer to

> "the transformation of the planet's forests and soils from a net sink of carbon to a net source of carbon",

recommending that at least 25 per cent. of our electricity should be generated from renewables.

Just a week after the publication of that report came the report from the British Antarctic Survey, showing that the west Antarctic ice sheet is indeed in danger of collapse. If an international taskforce argues that 2° is the tipping point, and if the figures for Wales show that we are already 1° higher, we are already very close indeed to some disastrous changes taking place within the United Kingdom. That demonstrates why political parties should be placing these issues on top of the agenda, irrespective of whether the press want to talk about that in the context of posters, images or dirty campaigning. This issue should, in 2005, be the focus of all our political campaigning. We must do what we can in our constituencies, but hon. Members will know how difficult it sometimes is to get these essential messages across.

One important issue that has not been mentioned—we have mainly talked about political and public responsibility—is business and corporate responsibility. It is crucial to understand that we all have to pull together in tackling climate change. We have already heard a little about Shell and BP and their massive profits—bigger, together, than the entire budget for Wales in a year. Let us consider Shell—described by the hon. Member for Lewes as one of the better companies on the grounds that it had accepted the science of climate change. The company posted massive profits, yet is still asking for UK Export Credits Guarantee Department and European Bank for Reconstruction and Development support to help it develop oil and gas pipelines in Sakhalin in Russia. Shell is still involved in gas flaring in Nigeria, which produces more greenhouse gas emissions than the rest of sub-Saharan Africa put together. These "goodies", then, have accepted the science of climate change, but continue to exploit developing countries by using technology that we would not allow in this country, producing greenhouse gas emissions that offset any savings that the companies are making in this country.

To be honest, I am not certain that a windfall tax is the answer, but something has to be done to bring these companies to book and to ensure that their corporate social responsibility is dedicated to tackling climate change. They should use much of their massive profits to invest in other technologies. That is, after all, to the good of their shareholders in the long run.

The Government have made some progress in respect of the overall basket of greenhouse gases, but as we have already heard, they are seriously short of the targets on CO2 reduction. Indeed, if current trends continue, the projection for 2010 suggests a reduction of 7.7 per cent., as compared with the Kyoto obligation of 12.5 per cent., the manifesto commitment of 20 per cent., and indeed the Prime Minister's own commitment given to the House in December of 14 per cent. That was the commitment that he gave to the leader of the Liberal Democrat party.

It is also important to remember that the UK figures do not include aviation. It has been mentioned a couple of times in the debate, but needs to be emphasised. Aviation is not included in the national greenhouse gas inventories. If aviation were included, we would be talking about figures about 5 per cent. higher. I hope that the Minister will deal with the problem in his winding-up speech. I understand why international agreements mean that we cannot go ahead now and tax aviation fuel, but I also understand that it is possible to tax emissions. What are the Government doing in respect of emission taxation, which would help to drive better technology within the aviation industry without necessarily hugely increasing costs? The costs of the aviation industry need to be put on record. Research shows that the richer people in society are the ones who benefit from cheap flights, often to their second homes in Bayonne or the Navarre valley or wherever. Less well-off people do not benefit much from cheap flights.

Climate change is a huge challenge for political parties and the political consensus in this country, but there are also huge opportunities. This island is the part

of Europe with the greatest renewable energy resources. Our solar energy may not be so good, but the wind, wave and tidal energy available to us is very great. We could power the whole of western Europe with energy from wind. The installations would not look very nice, but we have that potential, and we need to start finding creative ways to benefit our communities in that way.

For example, we could allow people to put small turbines on their homes. That would accommodate those who oppose wind farms. If we chose to do that, we should not make people fill out a 19-page form from Ofgem so that they could sell energy back to the network. Another possibility is to give council tax rebates to people who install renewable energy equipment in their homes. We should try to incentivise people in a different way. It is too complicated to convince people to go for the Clear Skies initiative. That is too remote: if we want people to choose renewable energy in their daily lives, we have to make it much easier for them.

Time is short so I shall end with a myth—the myth of Cantre'r Gwaelod. This Welsh folk tale harks back to a time when there was no sea between Wales and Ireland, and it is true that at one time the two countries were not separated by water. The relevant area was flooded as a result of the neglect of a politician, whose name has come down over the centuries. He was not called Blair or Howard, but Seithennen. If we politicians do not want future generations to think of us as the ones who neglected our environment, and if we do not want those future generations to live in caves remembering a time when a civilisation existed before the flood came, we need to be aware of the myths and stories of the past.

Climate change is no myth. What is happening to our environment is no folk tale. We should work to ensure that our reputation in history is a good one and we are recalled with approbation. To do that, we must tackle climate change now.

3.31 pm

**Mr. Colin Challen** (Morley and Rothwell) (Lab): I shall make my contribution as brief as possible. I want to speak about the costs to business of environmental regulations. That is an especially important matter in the context of this debate.

Sir Digby Jones gave evidence to the Environmental Audit Committee. What he said was very revealing. It is clear that he accepts that climate change is taking place. He supports contraction and convergence, even though the Confederation of British Industry is restless in the face of the costs that appear to be imposed on it by the Government. That complaint is reflected in the rather fallacious arguments of the Copenhagen consensus, whose members say that other problems should be dealt with first, as climate change is too expensive to deal with.

The report entitled "Cry Wolf" has been referred to already this afternoon. Prepared by the International Chemical Secretariat on behalf of WWF, it shows how business lobby groups consistently have predicted excessive costs in relation to environmental regulation. For example, the directive from the former EEC on vehicle emission standards introduced the catalytic converter in the early 1990s, and industry experts said that fitting that equipment would cost an extra £600 per car. As it turned out, the extra cost was more in the region of £60.

The report states:

"It led to smaller, cheaper cars being equipped with more sophisticated engines and fuel management technologies which in turn led to improved fuel efficiency in spite of the supposed fuel consumption penalty of the catalyst."

It goes on to detail the new technology's indirect benefits. Some 12 years on from the introduction of catalytic converters, researchers this year calculated that the health benefits alone amounted to some £2 billion.

Another example of the predictions made by business can be found in the introduction to amendments made to the US Clean Air Act 1990. The industry predicted that "unbearable" costs would be attached to those amendments. The maximum figure for those costs was $91 billion, although the real extra costs amounted to $26 billion. I admit that that is still a lot of money, but a White House study found that the changes had produced benefits worth $192 billion.

There are so many other examples of the sort of predictions that business can come up with that I am very concerned at the impact that industrial lobby groups can have in getting regulations watered down. It is regrettable that our national allocation plan—part of the EU's emissions trading scheme—seems to have fallen victim to that process and as a result has become a bit more generous. Once again, industry seems to have been rewarded for crying wolf. It is time for those of us who take climate change seriously to cry foul.

Under the UK's emissions trading scheme, industry received a windfall of around £200 million of taxpayers' money. I recommend that everyone read the slim Public Accounts Committee report on its inquiry into how the UK scheme operated, because it provides an insight into how the Government handled that innovation. There were teething problems and, as expected, money was thrown at it to get it going. Business benefited to the tune of £200 million, but it still cried foul when we tried to introduce more regulations and the climate change levy, which is business-neutral and should be kept and improved, if possible.

Another issue that concerns me is grandfathering. Grandfathers are known as kindly, old gentlemen—there may be one or two in the Chamber—who are blessed with wisdom, authority and far-sightedness. However, in the world of pollution controls and environmental regulation, grandfathering means that industry can claim that its old plant should be exempt from many controls. That is how George W. Bush approached the problem of oil industry pollution when he was governor of Texas: he gutted the Clean Air Act 1990, which had been amended by his father. Now, we want to grandfather future emissions based on industry growth expectations or predictions so that emissions from the growth can be accommodated without breaking the rules. Even if we have an effective emissions, trading scheme, it may allow for growth and emissions and I am sure that many people will find that odd. We should be looking for absolute reductions in emissions and I hope that we will strengthen the European scheme, include aviation, and introduce lower baselines than industry expects. We need to take a much tougher line.

I welcome the report of the international climate change task force which was co-chaired by my right hon. Friend, the Member for Tyneside, North (Mr. Byers).

*[Mr. Colin Challen]*

Interestingly, the other co-chair was a Republican Senator, Olympia Snowe, which shows that some members of Mr. Bush's party are concerned enough to engage with the science, even if he is not. The report calls for immediate action, such as a twofold increase in research, development and demonstration of renewable energy technologies. It also calls for removal of barriers to the development of such industries and for the abolition of fossil fuel subsidies. I forget how many sisters we have left among the oil companies, but it is amazing that they are reporting such massive profits and still sharing in the $80 billion of subsidy.

Another recommendation in the report is to build on the global climate change framework of both the United Nations framework convention on climate change and Kyoto. It refers to a new basis of equity and common, but differentiated, responsibilities. As someone who supports contraction and convergence, that is the meaning that I want to read into it, but I understand why its authors would not want to say that explicitly. However, the notion of equity is not ambivalent in the report. There is no equitable distribution of carbon emissions at present. The earth's capacity to absorb carbon is put at 3 billion tonnes, but our current emissions amount to around 6 billion tonnes, or 1 tonne for every member of the human race. In this country, we emit around 24 tonnes per household per annum and the figure is higher in the United States.

Those statistics demonstrate the inequitable distribution of carbon emissions and pollution more generally. We need environmental equity as well as carbon emissions trading and so on. We need a cap and trade programme, and contraction and convergence is the name that we must give to it. We must link that battle with the battle against poverty. I hope to hear about that link more often in the speeches of my right hon. Friend the Chancellor, because we are making the poor poorer with policies that do not tackle carbon emissions. Marginal agricultural land will become unusable, and drought, the failure of the Indian monsoon and so on will make the task of tackling poverty much more difficult. We must make that link.

3.39 pm

**Malcolm Bruce** (Gordon) (LD): This has been a good and lively debate. Indeed, we could have had a full-day debate on the subject and I urge the Government to consider that. After all, the Prime Minister has made it clear that he wants to make climate change central to our presidency of both the EU and the G8. This is the third debate initiated by the Liberal Democrats in this Parliament to ensure that we debate the environment, and the House should appreciate that we have done that in the limited time available to us for such debates. There is clearly plenty of scope for debate and many people want to contribute. It would help to inform the Government's approach if they gave us such opportunities, and I hope that the Minister will feed that back.

**Mr. Lazarowicz:** Will the hon. Gentleman give way?

**Malcolm Bruce:** I am sorry, I do not have time. I appreciate that the hon. Gentleman wants to intervene but I have only 10 minutes for my speech, and even so it will be impossible to summarise the whole debate.

What has been interesting about the debate is that a variety of speeches have stressed that the science is incontrovertible, that time presses urgently and that we need radical measures that we should co-operate to support. The problem is that the Conservative party has not been fully part of that. We have heard only one speech from the Conservative Benches during the entire debate. Conservative Back Benchers have made some constructive interventions, but they were less than supportive of their Front-Bench policy, and they are no longer in the Chamber. That is a challenge, because we shall be unable to address the radical climate change policies that are needed if the Conservative party is not fully on board working with us.

The Conservatives have suggested that they want to get rid of the climate change levy and would cut the Environment Agency's budget. They are going round the country campaigning energetically against wind energy while acting as a front for a nuclear power industry that has no economic case to make. Although I will accept some strictures from the hon. Member for Ceredigion (Mr. Thomas) on the activity of certain people, we should be clear that not every wind farm is ideally located and that planning issues are legitimate.

As a party, the Liberal Democrats are clear that wind energy is crucial in the short term to meet the renewable energy targets that we have undertaken under Kyoto. As a Scottish Member, I can say that both our Ministers in the partnership Government in Edinburgh are up front in promoting and encouraging wind energy developments. Last week, I walked over a wind farm site in my constituency that will be generating electricity this summer. I have also supported a fairly controversial application that is going through the process. People who oppose wind energy in principle, or who in practice oppose every development, are actually setting themselves against addressing the climate change agenda. It is as simple as that. One cannot be in favour of dealing with that issue and oppose wind energy either in principle or in practice.

**Mr. Lazarowicz** *rose—*

**Malcolm Bruce:** I know how long the hon. Gentleman has been waiting so I will give way, but I would be grateful if he could be quick.

**Mr. Lazarowicz:** I am grateful to the hon. Gentleman for giving way. What he says about people being consistent must also apply to transport. As he knows, his party in Edinburgh is campaigning against the congestion charge, which is supported by environmental organisations, in that city. That is why Friends of the Earth said today:

"The Liberal Democrats in Edinburgh campaigning against a Yes vote are besmirching the national party's much-vaunted green credentials for the sake of short-term political opportunism."

I do not want to embarrass the hon. Gentleman too much, but will he give a lead to his party in Edinburgh and tell it to stop opposing the congestion charge in that city?

**Malcolm Bruce:** It was a serious mistake to allow the hon. Gentleman to intervene. The fact is that our party in Edinburgh is critical of the scheme, not the principle, as he knows perfectly well. At the end of the day, with

some debate and argument, we might come up with a scheme that we can both support. That is what debate is about.

We have had our differences with the Government on some of the central issues on the climate change agenda. Sometimes we do not think that the Government are radical enough or that their schemes will work, but our debates are about how to come up with mechanisms that will deliver results. There are many aspects of what the Government are doing—their commitment and the mechanisms—that we can and do support, but we need more mechanisms to bring on some of the alternative schemes that are not delivering at present. That is not a criticism of what the Government are doing, but a recognition that if there are too many schemes, things become too complicated and people do not respond.

I urge the Minister to consider other aspects of renewables, such as timber. Our forestry industry could make a substantial contribution, yet it is being frustrated because a time horizon on co-firing could lead to a sudden drop in the market unless there is a recognition that we need both coppicing and off-cuts to become a long-term part of that process. Schemes that involve not electricity generation but space heating using renewable energy and more efficient systems must be encouraged.

The Minister will be familiar with the fact that, with the right mechanisms to increase the promotion of energy efficiency, we could also produce a mechanism that could deliver the expansion of combined heat and power that we all want yet are failing to achieve. In fact, combined heat and power can do more than anything else to help us to meet our 2010 targets, yet its development has come to a complete halt. I urge the Government to think about such mechanisms.

I am pleased that the Secretary of State spoke and engaged with us very seriously on this matter. It is important to make it clear that criticisms of the United States Administration's policies, particularly their hostility to the Kyoto protocol, should not blind anyone to the fact that the US has an enormous contribution to make towards solving the problem, both by changing its own behaviour and by providing the technology that it has the capacity to contribute. One of the encouraging things about the US is that it will make a substantial contribution to that technology regardless of the US Administration's policy.

The hon. Member for Nottingham, South (Alan Simpson) rightly highlighted the problems of countries such as China and India and the need for us to balance their development with the contribution that we can make. That is another reason why I believe strongly that we must recognise the fact that nuclear power is not the solution. Anyone who tries to reactivate nuclear power is blocking the solution, as our past experience shows. The best way that I can describe the nuclear power industry is as a cuckoo in the nest: it sucks all the resources from every other aspect of energy to the point where no other innovation takes place.

We have an overhang of nuclear waste clean-up costs estimated at £50 billion or more. We also have an overhang in that producing electricity with nuclear power costs us more than most other forms of electricity production. Those people who complain that the introduction of renewable energy costs a little more should recognise that the sums involved are a fraction of the extra costs that we have already paid for the nuclear industry, which never delivered any of its early promise. It is a question not of being anti-nuclear, but of acknowledging that the resources that nuclear power devours displace everything else. We simply cannot afford to be taken down that track.

The Secretary of State also rightly made a plea—another challenge to the Conservative party to come on board in this respect—to stop talking about the science, about which we all agree, and to agree about the radical measures that we need to take together to deal with the fundamental problem. All political parties have had difficulties with high fuel costs—a policy intended to discourage car use, or at least to try to connect the car with its environmental impact. That has caused considerable tensions—the blockades embarrassed us all—but we have sustained that policy.

The solution depends on all the major parties being prepared to stand together. The Conservative party's answer to congestion charging is to build more roads, but it exploits the difficulties of making such decisions. The reality is that strong cross-party support is required, particularly in the earlier stages. As the hon. Member for Brighton, Kemptown (Dr. Turner) put it, the problem is so serious and severe that those radical measures, which may not appear popular, are so important that we should all be prepared to stand together to defend and justify them because bigger issues are at stake. So long as a significant political party is playing party politics in that scenario, it will undermine what we can achieve and—as the hon. Member for Nottingham, South says—we may have passed the point of no return by 2015. In 10 years' time, there may not be the capacity to introduce policies that can turn the tide.

This is an important debate. I challenge the Government to recognise the fact that if they are serious—we believe that they are—about their priorities for the G8 and the EU, they must have regular debates during the presidency to report back and give the House an opportunity to inform them and, indeed, perhaps back them up in their negotiations in those important forums. If things really are as serious as the Government say, they should take Parliament with them and not act simply as an Executive. Plenty of hon. Members are willing to support the Government in those difficult decisions, and they should give us the chance to tell them so.

3.49 pm

**The Minister for the Environment and Agri-environment (Mr. Elliot Morley):** We have had a good debate in which hon. Members have made excellent contributions. I agreed with a great deal of what was said, and the Government will support the motion because its thrust is exactly right.

The hon. Member for Lewes (Norman Baker) made a good case and highlighted the political aspects of climate change that we must all address. I also accept the points made by the hon. Member for Gordon (Malcolm Bruce). It would not be unreasonable for the Government to offer an opportunity to debate the G8 process and the Prime Minister's priorities, so I shall certainly discuss that with the business managers.

The hon. Member for Gordon also made a good critique of the situation and raised important points about such matters as co-firing. Co-firing has excellent

*[Mr. Elliot Morley]*

potential in relation to biomass and the timber industry, so we are keen to encourage it. Indeed, we are keen to encourage all forms of renewables and technologies, which include combined heat and power. The Government are examining the barriers to the development of CHP to find out how we can assist the situation. I accept the points that he made about nuclear power. The costs are enormous, so perhaps money could be better spent on other renewables at this stage of energy development. However, some of the problems with nuclear energy might be resolved down the line, which could lead to a different argument and changed priorities. We keep an open mind on the pros and cons of all technologies.

My hon. Friend the Member for Brighton, Kemptown (Dr. Turner) made several excellent points about climate change and talked about the importance of fiscal measures. I accept his point and shall return to it. The hon. Member for Guildford (Sue Doughty) mentioned housing standards, which are important. We plan to raise housing standards and to apply and develop the new code that was produced by the sustainable buildings task group. I understand her point about the report on adaptation and apologise for its having slipped. That is partly due to the work that must be done across government, but it will be available in May.

My hon. Friend the Member for Nottingham, South (Alan Simpson) talked powerfully about the international dimensions of the situation and mentioned building regulations. I am interested in the concept of white certificates when considering energy efficiency. We have a successful system of carbon trading and I look forward to the EU scheme. Of course, that is the trade in what are known as black certificates, because carbon is being sold. There is a suggestion that bodies that meet standards of energy efficiency and carbon reduction could receive white certificates, and I think that such a scheme would address the points that my hon. Friend made.

The hon. Member for Ceredigion (Mr. Thomas) was right to talk about the realities of wind because wind is crucial if we are serious about meeting renewable targets. Given market preferences and the establishment of necessary technology, it is thought that wind will make up about 70 per cent. of renewables. If we turn our back on wind, we are turning our back on renewable targets. I do not know whether the Conservative party is turning its back on renewable targets, but that is the end result of rejecting wind.

My hon. Friend the Member for Morley and Rothwell (Mr. Challen) said that industry predictions are often exaggerated—we know of examples of that. He also talked about contraction and convergence. Such concepts have a considerable following, so we must examine them carefully, even though, like all such matters, they have pros and cons.

There was, however, some misinformation in the debate. I am genuinely interested in some of the Conservative party's positions, but find them a little confusing. Since 1997, $CO_2$ has risen overall by about 0.4 per cent. It has gone up and down over the years. Other greenhouse gases, such as methane, nitrogen oxide, sulphur hexaflouride, hydrofluorocarbons and perfluorocarbons, have all decreased by about 6 per cent. since 1997. The UK and Denmark are the only two countries in the EU that are meeting their Kyoto targets. We have a good record on Kyoto, but if I were asked whether that was good enough, I would say no of course it is not, and that we have to do more to reduce greenhouse gases and $CO_2$. That is the whole point of the ongoing climate change review.

On our commitment to a 20 per cent. reduction in $CO_2$ by 2010, the modelling is predicting that we will achieve a 14 per cent. drop—first an increase and then a falling away. However, that does not take into account the impact of the European emissions trading scheme, which will be significant, or other measures that we may bring forward as a result of the climate change review. I think that we can get on track to achieve a 20 per cent. reduction by 2010, and it is our intention to do so.

I am genuinely confused by some of the points that have been made in the debate, such as the Conservative proposal to abolish the climate change levy. The levy is revenue-neutral in the sector, because companies that are part of the scheme receive a reduction in employer's national insurance, and money goes to the Carbon Trust. The hon. Member for South Suffolk (Mr. Yeo) gave an assurance that a future Conservative Administration would maintain the funding that goes into the Carbon Trust, which currently comes from the climate change levy. On that logic, the Conservatives are suggesting moving away from making the polluters pay to putting the burden on the taxpayer. That does not strike me as a good sensible green fiscal tax.

**Mr. Yeo:** I do not know why the Minister is expressing such surprise, because it has always been our position that once emissions trading is fully under way, the principal reason for a climate change levy is removed.

**Mr. Morley:** The hon. Gentleman is ignoring the fact that the climate change levy is a revenue-neutral tax: it goes back to the sector to improve energy efficiency. It is a green fiscal measure. I support what he said about the scope for extending green fiscal measures, and there is further debate to be had, but such comments are undermined by his point on the climate change levy. It does not make any sense; it is a contradiction.

Let us take the Conservatives' position on wind power, which is an important renewable. It is a myth that wind power is the Government's only policy. We are spending £50 million on marine energy—£42 million on tide and wave—£60 million on biomass, which does not include the reduction in duty, £31 million on photovoltaics, £171 million on offshore wind—there is no spending on the development of onshore wind, because that is well established—and £12.5 million on community and household schemes. So let us not hear the myth that the Government's one approach is through wind power and that we are not supporting other forms of renewable energy.

**Mr. Carmichael:** Will the Minister give way?

**Mr. Morley:** I am sorry, but I have only a couple of minutes left.

The hon. Member for South Suffolk seems to be suggesting that he would give local communities a right of veto over every wind farm development. I make it

clear that I am not against planning procedures properly taking into account people's representations, but the proposal would mean no onshore wind development in this country. If there is no onshore wind development, there is not the slightest chance of meeting the renewables targets, because all independent analysts predict that 70 per cent. of renewable energy will come from wind power. That is a resource that we in this country should exploit.

Although I welcome the consensus shown by this debate and the thoughtful and considered contributions that were made to it, there is a contradiction at the heart of Conservative policy. If the Conservatives oppose renewable energy, abandon targets and give up any pretence of sharing the commitments that we have made to reducing greenhouse gas emissions, they should be honest and admit that they have caved in to industry pressure and given up the green agenda.

*Question put and agreed to.*

*Resolved,*

That this House endorses the comments of Sir David King that climate change is the most serious threat facing the planet and congratulates him on his work in this area; welcomes the Prime Minister's commitment to make the tackling of climate change a top priority for the United Kingdom's presidencies of the EU and G8 this year; reiterates the UK commitment to a 60 per cent. reduction in carbon emissions by 2050; strongly welcomes the coming into force of the Kyoto agreement on 16th February and the strong role the European Union has played in achieving this; believes that it is vital that, post-Kyoto, the international community works to reach agreement on the action needed to tackle climate change, which should engage the United States but which should also recognise the importance of the energy choices which face many of the major developing countries; calls on the global community to work with them in addressing those choices; rejects the notion that tackling climate change will of necessity damage the economy and indeed suggests that it is failure to do so that will lead to that result; believes that all parties in this House should by their own actions help convince the public of the need to take environmental matters seriously; and therefore condemns Conservative plans severely to weaken the Environment Agency through the massive and debilitating cuts proposed for the Agency by that party, and its damaging plans to abolish the climate change levy.

## Belmarsh Judgment

**Mr. Deputy Speaker (Sir Alan Haselhurst):** I advise the House that when debating the motion hon. Members should take care to avoid referring to individual cases that may be before the courts. The Chair will be particularly attentive in that respect.

I should also inform the House that Mr. Speaker has selected the amendment in the name of the Prime Minister.

4 pm

**Mr. Mark Oaten** (Winchester) (LD): I beg to move,

That this House calls on the Government to respond to the House of Lords judgment on Belmarsh with a system of dealing with terror suspects which does not require a derogation from European Convention on Human Rights obligations and which enshrines the principle that decisions on restrictions on individual liberties are taken by the courts and not politicians.

A couple of weeks have passed since the new Home Secretary came to the Chamber and announced his proposals on how to respond to the Law Lords' judgment. There has been a fair amount of media speculation and debate in the press and we Liberal Democrats felt it was important to bring that debate to the Floor of the House. We had the first opportunity to call a proper debate to scrutinise the Government's plans, and we have taken it.

**Mr. Patrick McLoughlin** (West Derbyshire) (Con): When was that principled decision made? Last week, we were told that there would be a debate on crime today.

**Mr. Oaten:** I think that I decided on Thursday morning, when I was struck by the enormous amount of media debate on the subject. I thought that the Chamber was the proper place for that debate, which is why we are discussing the Belmarsh judgment today. I see the Minister nodding.

This is an early opportunity to explore some of the issues, but first let me make two things crystal clear. First, we welcome the fact that the Home Secretary came to the Floor of the House to announce his proposals. For too long, legal judgments and the rulings of the Law Lords were dismissed or ignored by the previous Home Secretary. At least we now have a Home Secretary who is prepared to engage in debate. We do not agree with the proposals, but we welcome the opportunity to participate in debate and find a sensible solution.

Secondly, the Liberal Democrats in no way underestimate the seriousness of the threats facing this country. The fact that we differ from the Government on how to tackle those threats does not mean that we do not recognise that the world has changed since 9/11 and that we now face a different problem of international terrorism. It is worth putting on the record our acknowledgement of the fact that we all owe our intelligence services an enormous debt of respect and gratitude for their achievements in the past three or four years. It is nothing short of remarkable we have been able, with the help of their work, to avoid the type of atrocity that we have witnessed in other parts of the world.

*[Mr. Oaten]*

The question before us is one of balance. We all walk a tightrope: on the one hand, we must ensure that we have in place the proper protections in a changed world; on the other, we must protect the very liberties that the terrorists would take away from us. In our judgment, the Government have got that balance wrong in the past three years, and the measures proposed by the new Home Secretary a couple of weeks ago will make the position worse in many ways.

Let me examine some of the ideas and propose some alternatives in a constructive way, to see whether we can achieve a measure of consensus on the way forward. Before doing so, I wish to make an observation about the level of threat. Although I do not question the general threat facing this country, questions have arisen about the threat posed by the individuals held in Belmarsh. I am mindful of your ruling, Mr. Deputy Speaker, about being careful in our remarks, and as an Opposition Member who does not have access to full information about those individuals, I accept that Ministers might know more than we do, but the release last week of the former detainee known as C raised some concerns.

I understand that intelligence and information can change. I understand that the Special Immigration Appeals Commission reviewed the case on a couple of occasions. None the less, it seems strange that one day an individual is regarded as being so much of a danger to this country that he can be held without charge, but the next day that individual can be released without any conditions. That seems like an extraordinary shift from black to white.

**David Davis** (Haltemprice and Howden) (Con): My understanding of that case is that there was not a change in the evidence; there was simply a change in the judgment to the effect that the evidence was not good enough.

**Mr. Oaten:** The shadow Home Secretary makes an interesting point about the transparency in respect of understanding why such decisions are taken. The more we hear about C, however, the more the impact on me and perhaps others is that we want to understand more about the intelligence and the reasons why some other detainees are held. That prompts the question whether some of those individuals are such a danger to society that they should be kept in the way in which they have been kept.

**Mr. Tim Boswell** (Daventry) (Con): Does the hon. Gentleman also agree that under the present arrangements, now overturned by the House of Lords, it would have been open to any of those detainees to go to any country that was prepared to take them? If they were a danger to this country while they were present, would they not equally pose a significant danger not only to this country, but to the wider western world, if they were to find such a country to take them without further detention?

**Mr. Oaten:** The hon. Gentleman makes a very interesting point. Of course, one of the aspects of 9/11 and of terrorism now is that terrorism is global. The ability to operate in different countries means that we cannot simply assume that a threat will change if somebody is removed to a different country.

**Mr. Tom Harris** (Glasgow, Cathcart) (Lab): Will the hon. Gentleman give way?

**Mr. Oaten:** I want to make bit of progress.

As for the Government's approach, for the past three years, as we know, detainees have been held without charge. The cases have been under review from the Special Immigration Appeals Commission. As a result of the Government's actions, there has been a need to seek annual review by this House of a derogation from the European convention on human rights. It is fair to say that there were many in the first six months and each year thereafter who were prepared to accept that the Government were dealing with a difficult situation and to give them some leeway, but three years on, that mood has certainly disappeared, and the Liberal Democrats made the judgment last spring that we would vote against that derogation.

The Newton committee has been extremely critical of what the Government have said. In December 2003, the committee, which comprises some of the most senior Members in all parts of the House, including my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith), who is sitting on the Benches behind me, said:

"We strongly recommend that the powers which allow foreign nationals to be detained potentially indefinitely should be replaced as a matter of urgency".

Furthermore, some of the individuals who sit on the Special Immigration Appeals Commission resigned. Mr. Macdonald, who represented the interests of five detainees, became an advocate when SIAC was purely an immigration court dealing with cases that involved national security. He described it as becoming an internment court, however, and said:

"I was increasingly uncomfortable at my position in there, and after the government's reaction to the judgment, I decided it was time to go . . . It's something I've been thinking about for some time. The House of Lords' judgment was so very clear about the need to defend the rule of law and I felt that our role is legitimising something I don't think can be legitimised."

Of course, the Law Lords' ruling was made at the end of last year. They ruled by a majority of eight votes to one that allowing suspects to be held in the way in which they have been held was in breach of their human rights. Lord Nicholls, for example, said that

"indefinite imprisonment without charge or trial is anathema in any country which observes the rules of law."

Lord Hoffmann said:

"The real threat to the life of the nation comes not from terrorism but from laws such as these."

The Government have had many warnings, and they have now at last decided to respond. I want to look at their response, but before I get on to the individual measures, I want also to suggest that we should judge those measures on the basis of two overriding principles. From the Liberal Democrat perspective, those principles are as follows. First, we should not have measures that give the Executive alone the power to take these decisions. Secondly, we should not have to seek a derogation or opt-out from our international

responsibilities and from conventions. Those two principles should be the benchmark for deciding what Government measures we can support and which ones we will reject.

Let us look and see how the measures match up against those two criteria. The Government have suggested that house detention be used as part of a control order. We think that that is unacceptable. First, we believe that it would require a further derogation, and the Home Secretary said as much when he came to the House and was questioned by the Opposition parties.

I do not know whether the Minister can say whether further legal advice has been taken, but the Home Secretary indicated that house detention would probably require a derogation and Liberty and other organisations think that it would fall foul of our international responsibilities.

The second problem with house detention is that it covers UK nationals, which is totally unacceptable. The third problem with house detention is that it still leaves the power purely with the Home Secretary. If it were to get through the House, the detainees would be likely to challenge it, in which case the Law Lords would probably vote against it three years down the track after various cat and mouse rulings, and the Government would be no better off than they are at the moment.

Irrespective of those legal concerns and the likelihood that house arrest would be challenged, do we want to live in the kind of society in which the Home Secretary has the power to hold people under house arrest or house detention? Whatever the Government call that policy, that is what it is about. The issue may not involve this Home Secretary, but surely we have a responsibility to legislate for what future Home Secretaries might wish to do. When we legislate in this House, we should legislate not for today, but for what might happen in the future. Giving the Home Secretary the power to hold individuals in that way is totally unacceptable.

**Mr. Graham Allen** (Nottingham, North) (Lab): I congratulate the hon. Gentleman on how he has conducted the debate, and his party on choosing this important subject for half of its precious Supply day. As well as worrying about how future Home Secretaries might use that power, is it not apposite to consider what recent Home Secretaries—for example, the right hon. and learned Member for Folkestone and Hythe (Mr. Howard)—might have done with it? It would be benign in some hands and a frightening prospect in others.

**Mr. Oaten:** Even that former Home Secretary finds the measures unacceptable, which demonstrates how scary they are. The most compelling argument is the list of other countries that use house arrest. Do we really want to be grouped with Burma, Zimbabwe and North Korea? I do not want to be part of the family of countries that have house detention.

Last Friday, I was shadowed by a newly elected member from the Maldives Parliament, who won his seat despite being held under house detention. He found it remarkable that I was spending part of my Friday dealing with the prospect of having to debate house detention in this country. The Liberal Democrats will certainly not support the Government on house detention.

**Vera Baird** (Redcar) (Lab): I apologise for not being present from the outset, and for being very stuffed up. The comparison with North Korea, Myanmar and Zimbabwe is not correct. Nobody has suggested for one second that the courts would not closely supervise such a power, if it were necessary to take it. There is no reason why a decision by the Home Secretary should not include an automatic and immediate right of appeal, which does not exist in any of the three countries mentioned by the hon. Gentleman.

**Mr. Oaten:** I respect the contribution from the hon. and learned Lady, who makes an awful lot of sense on those issues. However, a full judicial process has not been promised as part of house arrest, and the Home Secretary will make the ultimate decision. What the hon. and learned Lady has described is not a full and proper judicial process.

**David Davis:** I want to help the hon. Gentleman, albeit that the hon. and learned Member for Redcar (Vera Baird) is right about the comparison with North Korea. He has discussed one case in which the evidence probably turned out to be inadequate. If that individual is innocent—we do not know—he has been in jail for three years with no trial and no rights. Without the latest judgment on that case, he might have been held for much longer. From his point of view, the situation is not much different from that in North Korea.

**Mr. Oaten:** The right hon. Gentleman has made a good point.

The Government's second suggestion is control orders. I have a little bit more sympathy with the ideas of control orders, when they do not involve house detention. Lower forms of control orders would probably not require a derogation—again, legal advice would be required on that point—so they tick that particular box, although they might give the Executive too much power. That is an important issue, and it may be a way forward, particularly in respect of how we can use tagging, limits on access to communications—to phones and computers—or perhaps even restrictions on access to financial services.

We would support the measures on control orders if a number of conditions were met. First, they should be issued by judges. Secondly, there should be absolute confirmation that they would not require a derogation. Thirdly, they should be time-limited and renewable with judicial oversight. Fourthly, they should not be used if there is a proper prospect of prosecution taking place. That is a perfectly sensible way forward, through which we could achieve the balance that is being sought between having some control and building in the judicial process. I hope that the Government will consider those suggestions on control orders.

On whether control orders should be used as an alternative to prosecution, we differ an awful lot from the Government. This is a key issue. As the Newton committee said,

"Terrorists are criminals, and therefore ordinary criminal justice and security provisions should, as far as possible, continue to be the preferred way of countering terrorism."

*[Mr. Oaten]*

We strongly agree. Surely the right way to deal with the situation is to seek prosecutions in the normal way. I note that the Home Secretary said in his statement that that was his preferred starting point.

It has been possible to achieve that in some cases. In January 2002, two Algerians were charged with membership of al-Qaeda, and although the case was dropped, a year later they were jailed for 11 years. We know that that can be done, so the critical questions are these: why cannot we do that on more occasions, and why is the Home Secretary ruling it out so clearly at this stage? In part, that hinges on concerns about whether one reveals sources, and the protection that one wants to give them. However, I note from the Home Secretary's remarks that he believes that prosecution probably would not be effective in securing a conviction in relation to the existing cases. That may be so, but we should not rule it out on that basis; surely we should also be legislating for future cases, for which we should legislate to allow intercept evidence to be used.

There must be a way forward to achieve more prosecutions. The Law Commission agrees, as does, interestingly, the new chief of police, Sir Ian Blair. He said:

"I have long been in favour of intercept evidence being used in court. The court can then weigh it up. At the moment nobody can test it."

There are models throughout Europe; individual countries have found a way to get prosecutions and achieve a proper court process. So what are MI6 and GCHQ telling the Home Secretary that is making him so nervous about allowing that? If there is nervousness about the kind of information that is allowed in court, why are the Government not looking into alternative ways in which we could set up the court process? For example, what about specially trained and security-cleared judges, who could prepare a case that could then be heard by a different judge? What about smaller juries, or special security-cleared juries? Or—I do not like this, but if it is a way forward, perhaps we could look into it—a jury could hear the evidence, but not have the source material that it has come from. The Government should try to find a way forward on this important principle, so that we can get more prosecutions, as we did in the past.

I come on to two further issues that concern new offences and relate to ideas that the Government appear to have rejected. The first is the idea—again, used in several European countries—of making planning for terrorist activity an aggravating factor when sentencing, by allowing courts to pass longer sentences for non-terrorist crimes where there is clear evidence that the offender intended to go on to commit an act of terrorism. In essence, if it can be proved that some terrorism is attached to a criminal activity, a longer sentence can be obtained. Why have the Government rejected that as a model?

Why have the Government rejected the idea of introducing new offences to deal with loopholes that mean that an individual could be preparing for a terrorist attack that is not covered by legislation elsewhere? We argue that both those proposals should be included in discussions and may be a way forward.

Let me deal with the Government's final suggestion of deportation. I greatly welcome the Home Secretary's announcement that Ministers have spent some time visiting countries to ascertain whether they can gain agreement on improvements in human rights. All parties welcome that. It should be everyone's long-term objective to try to ensure that individuals are free to go back to countries because their human rights record has improved. However, I would be worried if the Government introduced deportation on the basis of flimsy agreements on a ministerial visit when a memorandum had been signed. That is not good enough and would not persuade us that a robust system was in place to test whether the human rights record had improved sufficiently to allow deportation.

The Government know that if the system were not sufficiently robust, the detainees could test it in the courts. We make the simple suggestion of legally binding framework agreements with the relevant countries that are pre-tested in the courts to ascertain whether they are robust enough. Until those agreements are in place, no deportation should happen.

**Mr. John Bercow** (Buckingham) (Con): The hon. Gentleman is making a good speech and a reasonable suggestion. May I take it from his remarks that he has in mind the prudent notion that, in addition to any framework agreement, there should be an observable record of respect for human rights rather than merely a rhetorical expression of support for them?

**Mr. Oaten:** The hon. Gentleman is right. I do not want a piece of paper but a track record that has been tested, approved and signed by international organisations that we respect for their ability to investigate whether human rights are respected. Only that sort of track record would give me confidence that a deportation could be safe.

**David Davis:** I thank the hon. Gentleman for his generosity in giving way again. I am straightforwardly seeking information. The French are known to have sent back at least one suspect to Algeria, which is one of our problem countries. Does he know what arrangements they have and whether we can use them?

**Mr. Oaten:** I do not know the arrangements and I would be nervous about assuming that simply because another EU member state had sent an individual back to a country, we could tick the box for this country. I want to ensure that we have gone through the process properly. Other arrangements exist, but I want them to be of such a high standard that this country would be happy to sign them. We cannot assume that it is safe to send individuals back simply because other countries have done that.

It is difficult to summarise such a complex issue in 20 minutes. We believe that we should seek a cross-party consensus on such matters. The leaders of the two main Opposition parties will see the Prime Minister about the issue and I hope that we can make some progress. However, time is against us. We are required to renew the derogation in March. As things stand, the Liberal Democrats will vote against it. The Government have had three—nearly four—years to resolve those issues and progress has been too slow.

We want a balance between security and the important principles of justice. I hope that progress can be made, but the Government's proposals so far fail to achieve the balance. In many ways, they make a bad position worse by continuing to undermine the strong principles of justice that have served this country so well for many years.

4.23 pm

**The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears):** I beg to move, To leave out from "House" to end and add:

"notes with approval the Government's intention to respond to the House of Lords judgment on Belmarsh by continuing to take all necessary measures to protect the security of the country and its citizens while acting in compliance with the European Convention on Human Rights."

I thank the Liberal Democrats not only for giving up their Opposition time for an important debate, but for the genuinely open and constructive way in which the arguments have been presented. I am keen to develop as far as possible some cross-party consensus about the serious, difficult and complex issues that face the country. I hope that, through debate, argument, discussion and consideration, we can find our way through some of them. We will not always agree and, as the hon. Member for Winchester (Mr. Oaten) said in his closing remarks, we are discussing the balance between security and liberty. It is a difficult balance to strike and we may strike it in different places, depending on our perspective. However, I hope that we will act in a spirit of seeking the best solution for the future of this country. I take on board the hon. Gentleman's comments that he takes the threat seriously and that he has regard to the challenges that currently face the country.

The Home Secretary would have been present for the debate, but he is giving evidence to the Select Committee on Home Affairs on the subject of our discussion. Otherwise, he would have been here.

**Mr. Allen:** I thank my hon. Friend for generously giving way so early in her speech. The point that she made about cross-party consensus can also be made about internal consensus within a party, and I think that such consensus can be found. An example would be when the Home Secretary, in his previous job, faced the very difficult issue of student fees. He took a great deal of time to talk to everyone, and used his ministerial team to do so, and a more consensual approach was arrived at, although it remained a difficult issue. Such balances can be struck, both inside and across the parties.

**Ms Blears:** My hon. Friend is right. When dealing with difficult issues, dialogue usually helps. Being open to other considerations is also important.

As the hon. Member for Winchester suggested, we are under certain time constraints, and time is not always on our side. If we are to renew the part 4 powers, we shall have to do so by 13 March, which is why we have had to lay the order in that regard. We hope that our new proposals will mean that that will not be necessary, but we are constrained by the legislative process. We need to get on with this, but the time constraints do not mean that we should not have extensive discussions with people on these issues. I certainly give my commitment to do that.

I want to set this matter in context by saying a few words about the threat. The hon. Member for Winchester said that he did not doubt that the threat faced by this country was serious, and that it was of a different order since 9/11. That threat comes not only from foreign nationals, among whom it was concentrated immediately after 9/11. As a result of various operations that we have carried out, and because we are now uncovering more about the extent of the threat and know far more about the networks of terrorism, we understand that the threat comes not only from foreign nationals but, increasingly, from British citizens who are involved in this kind of activity. The threat remains serious, and it is the duty of the Home Secretary to protect the security of the nation. At the end of the day, that is probably his most important task, and he clearly takes it extremely seriously.

**Mr. A. J. Beith** (Berwick-upon-Tweed) (LD): It is perhaps worth making the point that 9/11 did not demonstrate a threat that had not existed previously. The threat had indeed existed. The events of 9/11 told the people of the United States of America that it was a very real threat against them—a fact that they had not appreciated—and demonstrated the extent to which the sources of the threat could be hidden in the country that was being threatened, as they were in the United States.

**Ms Blears:** The right hon. Gentleman is correct. Clearly, that threat was real and serious before 9/11. Incidents had taken place that revealed that. I am seeking to show that that threat is developing as we learn more about the activities that go on. The threat remains serious, but it is also becoming more complex and more textured as we learn more about the different individuals involved and approach the issue from different angles. The right hon. Gentleman is absolutely right, however. The threat was clearly there before 9/11.

The Home Secretary has regular, frequent discussions with the director general of the Security Service and the Commissioner of the Metropolitan Police. He also receives regular updates on the level of the threat from the Joint Terrorism Analysis Centre. He is in no doubt—and neither am I—that the threat remains, and that nothing has happened to diminish it or to call into question the Government's assessment that a public emergency is threatening the life of the nation. The judgment in the House of Lords found by a majority of eight to one that that was the case. They certainly came to different conclusions on proportionality and discrimination, but they confirmed that a public emergency was threatening the life of the nation.

That is my starting point for this debate, because it sets out the context of the threat. That necessarily shapes the action that we need to take to meet the threat and to protect the security of this country and its people. We need to strike the right balance between security and liberty, but my personal starting point is that terrorism poses a real and serious threat to the structures and people of this country. We have to put in place a framework that addresses that threat as proportionately as we can, and without discriminating, if we are to meet the terms of the Law Lords' judgment. We are currently engaged in a process to try to find our way through this legal system—with regard not only to our own legal system but to the interaction with the European convention on human rights—to find the way forward.

*[Ms Blears]*

The hon. Member for Winchester said that we had taken an awfully long time to come forward with our proposals, but I take issue with him on that point. The Law Lords' judgment was made on 16 December, and the Home Secretary made his statement in this House on 26 January. That was not a huge amount of time in which to deal with complex issues such as these. I entirely take the point that there were recommendations from the Newton committee, which sparked off the publication of our consultation paper and the wide-ranging debate about the balance between security and liberty. However, the Law Lords made their decision only in December, and the Home Secretary made his statement as soon as he could, on 26 January, to give some flavour to the proposals that we want to introduce.

The hon. Gentleman also said that he could not possibly support the proposals made by the Home Secretary. That is a little premature. We have had the ministerial statement, but we have not seen the legislation and he has not seen the detail. I appreciate his support for some ideas around control orders, but I ask him to hang fire on judging entirely the proposals that we hope to make in the next few weeks rather than months.

The 26 January statement set out our decision to respond to the Law Lords' ruling by including these proposals for control orders. The part 4 powers were designed to protect us against the particular threat identified from foreign nationals whom we could not deport because we were worried about the infringement of their rights under the European convention—the likelihood that they could be subject to torture and ill treatment should they be deported.

We tried at that time to get a tight-focused response to the threat that was there. We used the Special Immigration Appeals Commission, because it was already in existence and it provided a way to take closed evidence, as well as open. It was chaired by a High Court judge and it had a structure to enable us to deal with the problem. Although the part 4 powers have since been traduced and parodied in some quarters as the Home Secretary's huge, broad-brush attempt to lock people up and throw away the key, nothing could be further from the truth.

We really tried to target the threat, which was mainly from foreign nationals. We could not deport them, so we used some immigration powers that were already on the statute book. That is why we went for that model. Clearly, the House of Lords has decided that that is incompatible with the European convention on human rights, although it has not decided that it is unlawful. Therefore, it is a matter for Parliament to decide how we respond to that.

There were two main complaints: the House of Lords did not feel that the detention powers were proportionate to the public emergency that we face and thought them discriminatory as they applied only to foreign nationals, rather than to British citizens as well. In a way, part of that argument is circular, because the Law Lords also expressed the view that, if the proposals applied only to foreign nationals and there was a threat from British citizens, was it not the case that they were disproportionate if we were not applying them across the board? Although they had concerns on those two separate limbs, there was also a connection between whether the powers were discriminatory and whether there was a similar threat from British citizens—were they therefore disproportionate because we had not exercised them against British citizens in such a way?

**Mr. Boswell:** Is not this the dilemma that the Minister faces? If the detention orders apply to only a handful of foreign nationals, for the reasons she has given, and if the terrorism threat to this country is much more extensive—for the purposes of the debate, we must accept that it is—it seems almost paradoxical to say that the existence of those powers, confined to foreign nationals, is in any way sufficient or appropriate to meet the threat that the country faces. It seems to be partial because it is discriminatory. If she argues that only a few people are involved, that in a way weakens the case that she has to make. I expose that as a dilemma, without necessarily resolving it.

**Ms Blears:** This whole area is full of dilemmas for us to try to resolve. They are not easy issues. We have said that the part 4 powers were exercised very sparingly indeed; we only ever certified 17 people. Equally, when we introduce control orders, we do not want to use this as a broad-brush measure. We want to target it on the threat. At the moment, all we have are powers of detention or no powers at all. That makes a good case for control orders, because we could have a spectrum of powers tailored individually to the threat that we face, which I hope will help us to meet the claim made by the House of Lords on proportion—this was a matter of all or nothing. The House of Lords did not feel that detention was proportionate in those terms.

Clearly, the case for control orders should be more reassuring to the country, as we shall be able to tailor the web of restrictions to meet the threat that we face, which inevitably will arise at different levels. As a general matter, as the Home Secretary said in his statement, we want control orders to be very tightly focused. We do not envisage using them in such a broad-brush way.

**Simon Hughes** (Southwark, North and Bermondsey) (LD): I accept what the Minister says, and the House of Lords judgment was clear, but what we have at the moment is what this Government have given us. She was not a Home Office Minister at the time, but the law that we have was introduced by a Labour Government and passed by Parliament. Some of us opposed it, saying that there were other measures—not all-or-nothing measures. That has always been an agenda option, but the Government decided not to choose it when it was available the first time round.

**Ms Blears:** The existing powers have been subject to appeal. The Court of Appeal supported them unanimously; the House of Lords took a different view. Clearly, therefore, these are controversial matters, in both legal and political terms. The hon. Gentleman decided at the time not to support that way forward, but that way was taken and was supported by the Court of Appeal. We now have the Law Lords' judgment, and we are responding to that.

**Jeremy Corbyn** (Islington, North) (Lab): I was one of those who did not support the legislation when it was first proposed, not because I want there to be any terrorist outrages—quite the opposite—but because I want a process of law, not of Executive detention. The Minister must address whether it is right, in a democracy, for a Government to take on themselves powers to detain people without charge, and without knowledge of the evidence against them—indefinitely, in the case of foreign nationals. The response to the Law Lords' judgment must be that we accept the point of an independent judicial system—independent of the political process.

**Ms Blears:** Yes, I shall come to those points. As my hon. and learned Friend the Member for Redcar (Vera Baird) pointed out in her intervention, we want rigorous independent judicial scrutiny of the proposed powers, but I shall come to those.

The proposals for control orders therefore address the issues highlighted by the House of Lords head-on: in relation to proportionality, as we will have a tailored suite of measures; and in relation to discrimination, as they will apply to British citizens as well as foreign nationals. They will apply regardless of the type of terrorism in which people are involved. The proposed restrictions will range from not associating with certain people to not having access to the internet or mobile phones, notification as to an individual's whereabouts and not visiting particular premises or areas. The Home Secretary has made it clear that the decision to make a control order would not be taken lightly and, rightly, would not be unfettered. Safeguards are important, and will include independent judicial oversight of the Home Secretary's decision to make or vary a control order. In addition to the right of appeal immediately against the order, there will be regular independent reviews, not just of the fact that the order has been made but of any conditions attached. Circumstances might change, so different conditions might be appropriate at different times.

The hon. Member for Winchester referred to the revocation of the certificate in relation to C, asking whether one day this person was a huge threat to the security of the nation, and the next day he was not. I shall not comment on his individual case, but circumstances might well change and people's networks of contacts might get degraded through disruption by police operations, so there might no longer be a need for the most rigorous conditions in a control order. It is right that one should be allowed to apply to vary and change the conditions envisaged in the control order at that time.

**Lembit Öpik** (Montgomeryshire) (LD) *rose—*

**Ms Blears:** I shall make one further point, as it may help hon. Members. I am conscious of the time.

It is important to take the issue of who makes the orders head-on, as that is a difference between us at the moment. The Home Secretary said in his statement that

"to surrender the responsibility of the Executive to the courts to take decisions on these matters, it would in the most real sense be a betrayal of the responsibility that I as Home Secretary and any future holder of this office bear for the security of the state. That responsibility must lie, and in my opinion rightly, with the Executive and in this case with the Home Secretary."—[*Official Report*, 26 January 2005; Vol. 430, c. 318.]

The role of the courts is properly to reach a view on the decisions of the Executive in accordance with the law. That is the position that we take in relation to that. Clearly, we shall continue to discuss and debate this matter. As the Home Secretary is responsible for the country's national security, he feels that abrogating those decisions to the judiciary is not the appropriate way to proceed. That does not mean that rigorous, independent judicial oversight cannot be done to make sure that any decisions taken are in accordance with the law. Our motion makes it clear that we want a system that is in compliance with the European convention on human rights. It was this Government who passed the Human Rights Act 1998, and we take our responsibilities incredibly seriously in that regard. We want to make sure that we are in compliance.

**Lembit Öpik:** As I listen to the Minister, I find her comments increasingly reminiscent of the similar arguments that were used to defend detention without trial in Northern Ireland. Leaving aside the political and legal questions, does she accept that plenty of evidence from Northern Ireland suggests that even control orders have the adverse effect of turning such individuals into martyrs in the eyes of the very people whom she is trying to deter from terrorist activity? May I suggest that many of the proposals, especially on detention, could end up becoming a recruiting sergeant for the terrorists?

**Ms Blears:** We are conscious of those arguments, and we have learned from the experience of trying to deal with terrorism over many years. I am sure that the hon. Gentleman would accept, however, that some individuals are committed to taking action that would strike at the very heart and fabric of the values that we hold dear in our democracy. They are out there. How do we strike a balance and operate a system that enables us to contain the threat against this country and, at the same time, maximise the rule of law?

We must try to ensure that we comply as much as we can but, at the same, we recognise that there are circumstances in which there is not sufficient admissible evidence. If evidence were used, it could reveal the techniques and capabilities of the Security Service, to the detriment of our ability to thwart and disrupt terrorists of that nature. That is an extremely difficult balance to strike. I am afraid that the hon. Gentleman is in danger of painting a black-and-white picture: either we let everyone out or we lock everyone up; either we comply with the rule of law or we completely abrogate it. There is a shade and a spectrum—we can seek to maximise our compliance with the rule of law while at the same time providing a rigorous framework that protects this country.

**Lembit Öpik:** I do not intend to embark on a dialogue with the Minister, but I would point out that everyone agrees that detention without trial in Northern Ireland was ultimately counter-productive. I am merely suggesting that much of the language and the

*[Lembit Öpik]*

justification that she is using for Government policy sounds exactly like the justification used before detention without trial was repealed.

**Ms Blears:** The hon. Gentleman repeats his remarks, but I do not think that it would be useful for me to repeat mine.

When the Home Secretary makes the orders he is not passing a sentence on someone; he is taking action to prevent them from threatening the security of this country. The decisions that he makes under part 4 of the present legislation have been subject to review by the Special Immigration Appeals Commission, which is a court chaired by a High Court judge who has seen the evidence, both open and closed. We therefore have a system of good, rigorous, independent judicial oversight, and we would certainly want to have at least as robust a system for the control orders, and to make sure that judges are involved in scrutinising the Home Secretary's decisions.

**Mr. Beith:** Surely the Minister appreciates that there is a difference between oversight and judicial decision making. There would be no abrogating of the Home Secretary's responsibility for security if he initiated a process in which the decision was made judicially and not as part of a lengthy subsequent review. There is surely room for the Government to move and recognise that most of the public would be much happier if the decision were in the hands of the judiciary and the Home Secretary merely initiated the process.

**Ms Blears:** I accept the right hon. Gentleman's point, and I am trying to be as honest and straightforward as I can. The Home Secretary makes the decision because it is right, given his personal responsibilities for the security of the nation, for him to do so, rather than give that decision and responsibility to someone else. He accepts that it is right to have good judicial oversight, but he does not think that those decisions should be made by the courts. He thinks that initially they should be made by him in exercising his responsibility on behalf the Executive. I am sure that we will continue to have this debate, but it is right to be open about the matter.

**Mr. Robert Marshall-Andrews** (Medway) (Lab): Will the Minister address two related questions? First, will the judicial oversight or review to which she referred be based on matters of fact as well as law? Secondly, is it proposed that judicial review by the High Court be excluded, as it has been in the past?

**Ms Blears:** I am sorry to disappoint my hon. and learned Friend, but I am not in a position to make proposals on those matters of detail, which need to be finalised. What is the standard of proof required? What is the extent of judicial oversight? Should there be a judicial review or an appeal? Is the process based on fact and law? Those are all perfectly legitimate questions, but I am not in a position today to give the House the information requested by my hon. and learned Friend. Those matters, including whether judicial oversight will be as robust as we want it, will be properly and fully explored.

**Simon Hughes:** The Minister has admitted that this is a really important matter. Would it not be far more acceptable, and better meet the Home Secretary's objectives, if the police were able to arrest someone if they believed that they were conspiring to commit an offence related to terrorism? That is what happens now, and as long as the police officer has a reasonable suspicion, it is not necessary to go to the courts every time the police want to arrest someone. Why cannot we have the same process, which would be open to judicial oversight if the police overstepped the mark?

**Ms Blears:** I understand the hon. Gentleman's point, but I have already said that I am not in a position to provide a final view on the matter. The debate about the right process will continue. My main point is about who initiates and who makes the orders, and we seem to take different views on that. We are happy to discuss these matters as the debate develops on how the process should work.

I want to explain our approach more fully. It has been said several times that the most appropriate way to proceed is to prosecute. I want to put on record the fact that we absolutely share that view. Whenever we can, we want to prosecute, bring people to trial, adduce the evidence and let the court decide. It is only when we cannot prosecute because parts of the evidence are inadmissible or would reveal the capabilities of the Security Service that we find ourselves in the position of requiring some mechanism and machinery to enable us to protect the people of this country through a series of orders, while at the same time ensuring that we comply with the rule of law as much as possible. We always prefer to prosecute when we can. A number of prosecutions have already been launched and hon. Members may be aware of the comments of the new Metropolitan Police Commissioner, who expressed his frustration at how little detail we have been able to provide because these matters are sub judice. The public do not know the extent of the arrests, operations and work that have been carried out in order to bring people to trial. Prosecuting is, as I said, always our preferred option.

Some people are highly exercised about why we decided not to allow intercept to be used as evidence. It is right for me to provide hon. Members with some of our detailed thoughts on that matter. First, it is not a magic bullet. We have said time and again that the review examined whether we would be able to bring more serious criminals and terrorists to trial if we used intercept as evidence. The review found that that would not be the case and it examined the cases of individual detainees. As I understand it, it would not have been possible to bring any of those cases to a formal trial by using intercept evidence.

This country has a unique system of co-operation between our intelligence agencies and the police. It does not exist in many other countries. The sharing of intelligence product with our law enforcement agencies is second to none and there is a genuine worry that if we were to allow intercept to be used as evidence, that unique and close working relationship could be jeopardised. Some of the intelligence product might not be able to be shared with law enforcement in any case. I would be seriously concerned if the excellent disruptive work that currently takes place were to be put at risk

because intelligence agencies felt it impossible to share their intelligence product with the police service. Indeed, if we allowed that to happen, as some have proposed, we would be taking a retrograde step. Once again, these are matters of fine balance and our decision is that, on balance, the benefits do not outweigh the costs at this time.

**David Davis:** I want to question the Minister on the sensitivity of our allies in the war against terror. Most of them allow intercept evidence, so it seems strange that those who use it themselves should object to our using it. I have always found the argument unpersuasive since the time when I worked in the Foreign Office.

**Ms Blears:** The right hon. Gentleman may find the arguments unpersuasive, but I find them quite persuasive as they are put to me at the moment. Clearly, we all have to make our own judgment about where the balance is drawn. We have a unique system of very close co-operation, and I am worried that we would jeopardise it if we used intercept as evidence. Secondly, we have an adversarial legal system, in which the defence has the right of full disclosure. If the security services were to use those parts of intercept that supported their case, they could be accused of cherry-picking the evidence. Quite rightly, the defence would seek to follow the whole chain of events in respect of the intercept that had been obtained.

Our adversarial system complies with the European convention on human rights and contains a number of hurdles that make it very difficult to use intercept as evidence. Moreover, technology is changing very fast indeed. We have been working to develop a legal model containing a system of checks and balances that would enable us to use intercept as both intelligence and evidence. However, the speed of technological change means that any model that we might develop would not be robust enough to interact with our legal system.

Other hon. Members have asked whether public interest immunity certificates would suffice to enable us to keep sensitive information about the security services' capabilities outwith disclosure. Again, the risk is that the courts would not support the PII certificate. If that happens, a capability that is disclosed is disclosed for all time. That is a major difficulty with using intercepted evidence.

I am not saying that the Government will not keep under review a matter that has been reviewed five times in the past 10 years. On each occasion, it was decided that intercepted evidence should not be used. I appreciate that people argue the other side of the case firmly, but the Government are not convinced that intercepted evidence could be used to fight terrorism more effectively than is the case at present.

**David Davis:** I thank the Minister for giving way yet again; she has been very generous. I want to ask a question about the use of PII. Other nations, particularly America, have very formal structures to arbitrate between the interests of the state and of the defendant, and they work well. If the Minister is so doubtful about using PII certificates, why can this country not adopt such a structure?

**Ms Blears:** All these matters have been examined. We have looked at other legal systems and protection mechanisms, as we are keen to find a way forward. However, we cannot simply transplant other systems into our law, as it operates in a different way. We are not convinced that we could achieve a system that was robust enough to protect the security services and at the same time allow us to use useful product.

In some countries that use intercept as evidence, the product is fairly minimal. Because it is used as evidence, other people are unwilling to share their product. That is a real concern for the Government. At the moment, we get excellent product because we are able to use it in surveillance and other activities that enable us to disrupt much of what might otherwise happen. The whole House will agree that the record of our intelligence agencies and police force in disrupting some of what might have happened in this country is second to none.

I apologise to the House for dealing with intercept at length, but the matter has been raised in a number of debates recently, and it was important to go through the issues associated with it.

The hon. Member for Winchester asked whether we would consider the Newton committee's recommendations in respect of looking at other offences committed preparatory to the commission of terrorism. We are actively looking at those recommendations. Control orders are our priority at the moment, as we want to have something in place before the part 4 powers expire. However, if there are other steps that we can take to make our judicial system more effective in fighting the threat of terrorism, we will of course look at all of them.

Mr. Deputy Speaker, I think that I have dealt with most of the issues raised by the hon. Member for Winchester. With your leave, I shall try at the end of the debate to cover any other matters that come up. I am pleased by the tone of the debate so far, and I am sure that all hon. Members will continue to co-operate in the search for solutions to the very difficult problems with which we are faced.

4.53 pm

**David Davis** (Haltemprice and Howden) (Con): I begin by commending the hon. Member for Winchester (Mr. Oaten) on the tone that he set for the debate. This is one of those debates in which hon. Members will not engage in political combat so much as seek to persuade each other. The opposing principles involved—the preservation of life, or the preservation of our way of life—are fundamental, and that is something that we should not underestimate.

I also want to commend the Home Secretary on the long overdue action that he has taken to make deportation possible. As I said to the hon. Member for Winchester, the French seem to be able to deport people to Algeria, which is one of our problem countries. Why can we not do so, not necessarily using the same mechanism, but using our mechanisms? As a former Foreign Office Minister, I recognise that this is a difficult but nevertheless creditable process.

**Jeremy Corbyn:** As a former Minister, the right hon. Gentleman is aware that the Foreign Office monitors human rights issues in all countries and that the Home Office has its own internal system, although I believe that it is slightly different. Is he satisfied that if someone

*[Jeremy Corbyn]*

is deported to Algeria—there are plenty of other examples—they will not be subject to abuse or Executive detention, not necessarily on arrival, but later, which may be why they left that country in the first place?

**David Davis:** The hon. Gentleman has raised a good point, and it is the sort of matter that the Minister would have to address in the memorandum of understanding. I do not agree with the hon. Member for Winchester that there has to be a legal framework, because a memorandum of understanding can be binding between countries. It should address torture and execution, which are the two primary issues, but also Executive detention. A judgment must be made, and it will be a better judgment than the one we have had so far.

I want to read some extracts from the minority opinion of Lord Hoffmann, who made some pertinent points that go to the core of the issue. He said:

"This is one of the most important cases which the House has had to decide in recent years. It calls into question the very existence of an ancient liberty of which this country has until now been very proud: freedom from arbitrary arrest and detention. The power which the Home Secretary seeks to uphold is a power to detain people indefinitely without charge or trial. Nothing could be more antithetical to the instincts and traditions of the people of the United Kingdom."

As I develop my argument, I shall explain how the Government's proposal still falls within the description of the old system.

What Lord Hoffmann went on to say is important in the context of the Minister's reasonable comments about a state of emergency. He said:

"This is a nation which has been tested in adversity, which has survived physical destruction and catastrophic loss of life. I do not underestimate the ability of fanatical groups of terrorists to kill and destroy, but they do not threaten the life of the nation. Whether we would survive Hitler hung in the balance, but there is no doubt that we shall survive Al-Qaeda. The Spanish people have not said that what happened in Madrid, hideous crime as it was, threatened the life of their nation. Their legendary pride would not allow it. Terrorist violence, serious as it is, does not threaten our institutions of government or our existence as a civil community."

In conclusion, he said:

"The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these. That is the true measure of what terrorism may achieve. It is for Parliament to decide whether to give the terrorists such a victory."

I would not have chosen that phrasing, but Lord Hoffmann is saying that terrorists may destroy our buildings and our lives, but without our help they cannot destroy our way of life. That is what this debate is about today.

**Simon Hughes:** Does the right hon. Gentleman agree that the implication of that very good summary of the position is that there was not and still is not a case for derogating from our obligations under the European convention on human rights, because it allows flexibility in certain cases? That means that his party, like ours, will hold to the view that we must stay within the European convention and not seek to derogate again, which would be a different position from that taken by his party during the last Parliament.

**David Davis:** I take the hon. Gentleman's point. I support the thrust of the argument urged by his party today. He will not be surprised to hear that I would have phrased it in terms not of the ECHR but of our fundamental rights, which are of longer standing. Let us consider how the Government can deal with the matter in a way that meets the fundamental rights about which I am concerned and the concerns that he is expressing.

Although I realise that there is a good reason why the Home Secretary cannot be in the Chamber today, I am sorry that he is not here, as I was going to tease him slightly. When he and I first knew each other more than 30 years ago in the 1960s the most fashionable writers were revolutionary left-wing writers, such as Guevara and Frantz Fanon. Some of the writers that the Home Secretary would have read made it clear that one of the main aims of revolutionary terrorist acts is to provoke a reactionary response from the state, to recruit new people to their cause. We must bear that in mind when addressing these issues so that we do not inadvertently do what the terrorists want us to do—in effect, that is what Lord Hoffmann was talking about.

The Home Secretary's proposed actions may not only be in breach of hundreds of years of our ancient British liberties, they may also be counter-productive. I do not normally quote Frenchmen, but in the words of Talleyrand this is, in terms of the war against terror,

"worse than a crime, it is a mistake".

That is the risk we face. As I said about house arrest when the Home Secretary made his statement to the House on the matter, he may lock up one known terrorist but he will create 10 unknown terrorists. Although house arrest is marginally less draconian than being in prison, the irony is that it may act as a stronger recruiting agent because it is in the middle of the community from which the person comes.

I am not the only person who takes that view—the most eminent ally I have found over the past few days is the chairman of the Bar Council, who said:

"Disproportionate measures risk radicalising the community from which a detainee comes. That may make this country less rather than more safe."

It is important that we keep that in mind.

**Mr. Tom Harris:** I assume that the right hon. Gentleman is talking about the current situation in Belmarsh rather than the Home Secretary's new proposals. Can he put that scepticism in the context of his support for the Anti-terrorism, Crime and Security Act 2001? In December, he told Morgan and Platell that he could not remember whether he supported the Act. Is his memory any better now? Can he tell us whether his new position is a U-turn or what he always believed?

**David Davis:** If the hon. Gentleman wants us to return to political combat I am happy to do so, but I am not talking about the old system, I am talking about what is now being proposed. The Minister could not elaborate in detail on that set of proposals, but we shall no doubt hear more over the next few weeks. We shall have to assess the proposals in terms both of the fundamental human rights in which I believe, even if the hon. Gentleman does not, and of the safety of our country. I happen to believe that the proper action will maximise both and will not act as a compromise between them, as I shall explain.

We should address the principles of justice that are being jeopardised by the Government's proposals. The first is the presumption of innocence. Then there is the person's right to know the charge against them, the right to know and challenge the evidence against them and the right for the case against them to be proven beyond reasonable doubt. It was failure on all those counts that led Ian Macdonald to resign from his position as a lawyer serving the Special Immigration Appeals Commission. He talked about the new proposals as follows:

"They are really using detention rules which have been declared unlawful. At the end of the day if you're going to keep people in some sort of house arrest or in prison, you really have to take account of what I think is a fundamental principle, that people are presumed innocent. If they're really dangerous they should be charged under criminal law."

That is the key point before us today.

Objections to the SIAC procedures apply equally to the new proposals.

**Vera Baird:** Although Ian Macdonald resigned, that was surely triggered by the House of Lords judgment. I have known him for many years, and he is a man of the highest calibre. He served in his role for more than two years, feeling, as he made clear, that he had been doing something helpful and that he had been able to assist the defendants, which shows that SIAC is not a hopeless and futile pursuit but that it can in fact play an important role. That is not something that should be diminished.

**David Davis:** The hon. and learned Lady makes an important point. I think that I am right in saying that Ian Macdonald said when he resigned that he had joined up because he thought he could help by doing a good job. The circumstances that he describes sound like a slow process of becoming more and more disaffected with the operation of the procedures, which, as she suggests, precipitated his resignation after the House of Lords decision. In fact, he was not the only one who felt that way: at least one other resigned and a number of others considered resigning, and for good reason.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): My right hon. Friend knows that I am against the Government's proposals in principle. Will he also address the Minister's statement to the effect that there will be rigorous legal supervision of the control order process? He will bear in mind the fact that she was unable to answer the question that the hon. and learned Member for Medway (Mr. Marshall-Andrews) asked about whether the judicial review would extend to facts or only to law. She said that she had not made up her mind. Until we know what her mind is on that matter, she is in no position to say that the judicial supervision will be rigorous.

**David Davis:** I start further back than my right hon. and learned Friend. First, I do not like the idea of the Executive taking such decisions. Even under the current procedure, people have been in prison for three years, and perhaps longer in one case—we do not know—so I do not like it from that point of view. I do not like the state taking those decisions into its own hands. As I am about to explain, I also think that the standards applied on questions not only of law but of fact are very important. That is where the primary criticism of SIAC lies, in my judgment.

After all, the purpose of the Newton committee, which was set up at the beginning of the process when the 2001 Act first came into effect, was to assess how the legislation was working and to ensure that the House received a report on its operation. At the beginning, as the hon. and learned Lady made clear in her intervention, many people did not quite know how the system would work, but they wanted to try to make it work. They were very good, high-quality people, but they have reached the conclusion, as Newton did, that the system is not working well.

Let us bear in mind the fact that the Newton committee included several ex-Cabinet Ministers and ex-Ministers who had responsibility for security in Northern Ireland—not people who would normally be viewed as a pushover for the civil liberties lobby. They reached a series of conclusions and a number of principled objections to the operation of detention established by the 2001 Act. Essentially, the committee noted that the suspects faced no specific charge and were not presented with, and given the opportunity to refute, all the evidence against them. It reached the judgment that that increases the risk of a miscarriage of justice—the point that came up in the Liberal spokesman's comments.

The report also suggested that that risk is compounded by certain features of the certification and adjudication process. For example—in my view, this is almost the most important thing at the centre of the issue—the standard of proof involved in the SIAC procedure is "reasonable belief and suspicion". That is an incredibly low standard of proof on which to undertake the incarceration, certainly of a citizen of this country, but frankly, of anyone. Let us understand that point. We talk about the terrorist destroying lives, but incarceration is a way of destroying a life, too. Such people cannot work or do anything. Even if people are incarcerated in their own homes, it still involves the destruction of the life that they have a right to expect if they are innocent.

In addition, the current SIAC rules do not oblige the Home Secretary to reveal all the material that could help the suspect, even in summary form. Sometimes, the vast majority of the details of a case are closed, so the open case might be an unreliable indication of the basis of the closed case. The report also noted that detention under part 4 can be for an indefinite period—one of the more Kafkaesque aspects of the current system.

The problem with the Minister's inability to reply to the hon. and learned Member for Medway is that, as my right hon. and learned Friend the Member for Sleaford and North Hykeham (Mr. Hogg) points out, we must assume for the moment at least that the same approaches, criticisms and concerns will apply to the review process that will follow on from Executive detention or control orders in the looser sense. In my view, that is, frankly, unacceptable. It is not consistent with the long-term liberties of British subjects, and as I have said already, it may be counter-productive.

**Vera Baird:** I have heard all the right hon. Gentleman's reservations about SIAC, but if the same system carries on, surely the answer to the question asked by my hon. and learned Friend the Member for Medway is yes, because the new court to replace SIAC will, as SIAC does, review the facts as well as the law.

**David Davis:** The hon. and learned Lady is right, but part of the problem is that the facts will be reviewed using a lower standard of proof. Additionally, in some instances, much of the case might be the secret case rather than the public case. The procedure is poor.

**Mr. Allen:** Will the right hon. Gentleman give way?

**David Davis:** In a moment, because the hon. and learned Lady raised a serious and important question. The procedure is poor for a country that has long stood by the presumption of innocence, the right of people to know the charge and evidence against them, and to be able to refute it beyond reasonable doubt.

**Mr. Allen:** People of good will on both sides of the House are trying to help the Government to reconcile the awful dilemma between terrorist threats and attacks on civil liberties. Is not one way forward the fact that few cases have resulted in people being incarcerated in Belmarsh? There have not been several hundred cases, but instead only a relatively small number, so surely that gives us more leeway to use procedural sophistication to try to overcome the dilemma.

**David Davis:** I do not think that it does. Obviously it is better to have few cases rather than many, but even one case of injustice is sufficient to warrant the serious attention of the House. It takes only one case of injustice to act as a recruiting sergeant, as I said earlier. That is why I am worried and why I want to outline what I believe is the right procedure for the Government to pursue, which I hope will meet the requirements for both national security and our liberties.

**Mr. Oaten:** Is not the other problem with the point made by the hon. Member for Nottingham, North (Mr. Allen) that although the Home Secretary initially said that he thought that control orders would rarely be handed out, he gave media interviews in which he said that they might have to be handed out to relatives, friends and associates? We might be dealing not with a limited number of control orders, but with a large number.

**David Davis:** That is true. The simple fact of the matter is that the House could not pass a law on the presumption that it would apply to only one or two people. It must use the presumption that a law will be used to its maximum. If we look back at the case that the hon. Gentleman raised, I recall that the evidence had not changed but was found to be too weak to sustain the case against the individual. It is implicit in that that a person was locked up wrongly for three years. If only one person is locked up wrongly, let alone hundreds, it is too many.

The Newton committee made several proposals, two of which stand out in the context of today's debate as offering the Government a way forward. It recommends developing a body of counter-terrorist law that is specific to the problem that we face, but capable of being enforced without compromising our criminal justice system. I agree with that, and the Liberal Democrats' proposal was in part a development of it. However, I got the impression that the structure could be wider than that, and if we hear from the right hon. Member for Berwick-upon-Tweed (Mr. Beith), a member of the Newton committee, he might clarify that point. I thought that the committee had in mind a complete body of law applying to terrorist offences that would be part of the criminal law, but separate from it. For example, when the American authorities had trouble securing effective prosecutions against gangsterism and racketeering in north America, they introduced the RICO—Racketeer Influenced and Corrupt Organisations—Act. Perhaps such an approach should be considered for terrorist offences.

The most important suggestion made by the Newton committee was the proposal to render terrorist suspects capable of being brought to trial under the normal British system of justice. It suggested that intercept evidence should be allowed in court, and proposed—I thought that this was the most important aspect—that an investigating judge who was different from the trial judge should sift the sensitive evidence.

The presumption so far seems to have been that such evidence would be only intercept evidence, but the proposal was for assessing and checking sensitive evidence—intercept and all other intelligence-based evidence—before presenting it to the court in a way that protected the intelligence source, human or technical, and at the same time protected the rights of the defendant.

The Minister spoke about public interest immunity certificates. I am not a fan of them. When I have been asked to sign a certificate, I have refused because I have taken the view that they were being used to avoid embarrassment for the Department concerned rather than to pursue justice. Given the Minister's concern about PII certificates and the right of a judge to overrule them, that is the area where the Government's focus should be sharpest, because it is where we have the greatest opportunity for advancing the case for the possibility of prosecuting terrorists while at the same time protecting our services.

I talked privately to the Home Secretary about the matter and, as far as I can without giving away any confidences, I will replicate that conversation. The Home Secretary said, as the Minister has said, that it may not even be primarily intercept evidence that is involved in tracking down suspected terrorists and determining who they are. Let me put the most difficult case and see how we can pursue it under the Newton rules. Let us assume that the data are not intercept data but from an informer whose life might be at risk in a terrorist organisation and who is so nervous that he will not even meet the investigating judge to be interviewed. What will happen to that person if they are not put under house arrest?

The first thing that we must understand is that if the person concerned is a threat to the state and to our citizens, they will be under the most intensive surveillance—what the agencies delicately call technical attack: bugging, video surveillance, human surveillance, intercepts of mobile, landline and satellite telephones,

and of e-mails and bank accounts, and the tracking of vehicles. There is a vast range of facilities available to the security services.

If at the end of that process there is no evidence, we are talking about locking somebody up as a result of an uncorroborated comment from an informer who might be an enemy, might be in political opposition to the person, might have been bribed or might merely hate the person. Either one can develop the evidence and determine that the person is a terrorist or one cannot. Given the intensive nature of the surveillance that will be ranged against somebody who is a serious threat to the state, it is untenable that a case could not be built even if the original data that allowed the individual to be targeted were not used.

**Simon Hughes:** The countries on mainland Europe that use such a system do so because they have an inquisitorial tradition, where it is acceptable to have an examination by somebody competent to filter out the evidence that can go to stage two. Such a change might require us to alter our mindset and do some jobs not adversarially but by an inquisition. I and my colleagues are up for that, because it preserves a proper legal process and ensures that sources are protected where necessary.

**David Davis:** The hon. Gentleman is absolutely right. He probably understands how big a jump it is for me to go to a continental inquisitorial system from the normal adversarial systems that I prefer. The simple fact is that the judge, who will presumably be a specialist in the area, would be duty-bound by the requirement not only to protect absolutely the lives and technical sources of the security services, but to ensure that the defence is not prejudiced in the evidence presented to the court in summary or in total. That seems to me to be a perfectly acceptable system. It will be of a higher quality, and in the long run more effective than our present system, and it will be entirely defensible to the communities that might otherwise be radicalised by inappropriate measures.

**Mr. Boswell:** Does my right hon. Friend agree that in the scenario he paints involving the single informer who might have a prejudicial interest in the person in question, it would be unacceptable, under the system that the Government propose, for Ministers to conclude that that person was a threat if that was the sheer weight of the evidence available to them? Unless there is some way to test the accusation and to do so objectively, it is not acceptable to put people in prison or to some other inconvenience simply by administrative fiat.

**David Davis:** My hon. Friend puts the argument better than I could. We are, in effect, discussing sending someone down on the uncorroborated say-so of a single informant. I defer to my right hon. and learned Friend the Member for Sleaford and North Hykeham, but I spent about nine of 13 years dealing with the agencies involved in this issue, and they were very clear that the people they dealt with did not always demonstrate the most saintly calibre in providing information. The agencies had to corroborate the information that they gave—a matter with which the House has become all too familiar in the past year.

**Ian Lucas** (Wrexham) (Lab): The right hon. Gentleman correctly identifies one of the great difficulties: the inability to establish what information can be released to the defence so that the accused is aware of the allegations being made against him. What is not clear to me is how the process that he describes would enable more information to be released to the defence than would be possible under the Government's proposed system.

**David Davis:** The process would allow more information to be released to the court—not to the defence—because, to be frank, it would not allow a fishing expedition to be conducted into the totality of the intelligence agencies' data. As things stand, a defence lawyer would be able to say, reasonably, "We have been given only half the evidence. Now, I need to see the other half." Our aim is to ensure that the balance is maintained.

The second difficult case that I wish to put relates to the Liberal Democrats' proposals for milder methods—using tagging and other sorts of control order. I gave the matter extensive thought in the weekend following the Home Secretary's statement. I started from the presumption that whichever standard of proof was applied to the Government's proposal of house arrest would be applied to control orders—in effect, suspicion. That is a concession in terms of our law and our fundamental liberties.

I then thought what advantage would arise from the Liberal Democrats' proposed method. Tagging is clearly a valuable technique in dealing with criminals. I suspect that the Minister for Crime Reduction, Policing and Community Safety knows more than most about it. Criminals tend to come from a community and to have family in the country, so if they break their tag, they will be found again at some point and go to jail. However, the first thing that a terrorist whose only connections in this country are those of a terrorist network will do when he or she is tagged is cut the tag and vanish. A proposal that appears to provide greater security but, in fact, does not, and which sacrifices normal standards of proof as well, is dangerous.

**Mr. Beith:** The right hon. Gentleman gives me the opportunity to make it clear that the Newton committee did not recommend house arrest. It recommended movement restrictions. Such restrictions have to have purposes, primary among which would be to prevent a person who is suspected of associating with terrorists from doing so or furthering their objectives. A combination of restricting a person to a specific locality at certain times, excluding him from certain types of communication and tagging him to determine where he is would provide a basis on which a measure of liberty could be restored to that person, but would also give us some means of knowing that he is not resuming associations of which there is some reasonable evidence.

**David Davis:** I accept that that was the argument made in the Newton report, but it is the one aspect of that report by which I was not persuaded, mainly

*[David Davis]*

because it seemed that there was the ability to escape at some point. That is the difficulty. We cannot take such a risk with someone who presents a lethal threat to the community. I grant that there is a trade-off with regard to allowing more liberty, but against the standards of proof that that are being talked about, I would not make that trade-off. That is my argument. I say to the right hon. Gentleman that I found the Newton report a formidable document and was unpersuaded only by that one small component. That is why, after some deliberation, my party has come to the conclusion that has been set out today.

**Mr. Oaten:** Just to be clear, the right hon. Gentleman's position is black and white: the person is either in jail or they are released.

**David Davis:** In essence, that is right. With regard to the prospect of a terrorist offence, we concluded that the terrorist must either be under control or not. I do not think that the proposal that the hon. Gentleman made, which I accept is new, is one that we can accept.

The issue comes back to the sacrifice that has to be made, which is a sacrifice of standards of proof and the presumption of innocence, which I think are fundamental—in other words, the basic standards of liberty that we determine here. Incidentally, I am not at all sure where the requirements for the standards of proof and control orders would fit into the human rights issues raised by the hon. Member for Southwark, North and Bermondsey (Simon Hughes).

**Simon Hughes:** First, I am told—I have not done the research—by somebody who I know has talked to members of the right hon. Gentleman's party, Professor John Spencer in Cambridge, that in other European jurisdictions, there are control orders that have been found to be European convention-compliant. Secondly, like my hon. Friend the Member for Winchester (Mr. Oaten), I ask the right hon. Gentleman to keep the door open, to use a phrase that the Home Secretary used. If we are going to get agreement across parties, we need to be prepared not to close doors at this stage of the debate.

**David Davis:** I accept that and hope that the hon. Gentleman recognises that I have tried to speak in precisely that tenor. As he refers to keeping doors open, let me raise with him a serious problem that arose from the comments made by the hon. Member for Winchester. I was not going to deal with the matter, but I shall do so now. The Liberal Democrats are saying that they are going to vote against continuation of the part 4 order. That gives us one month to come to a conclusion on an issue that is undoubtedly one of the most difficult that the House has faced for some years. I am entirely open-minded in this matter. I have some very strong views about the principles, but we come to the matter with an open mind to try to get some sort of conclusion in the national interest. I have tried to lay out precisely why I have serious concerns, and I say to the Liberal Democrats that I have not come to a conclusion about what we are going to do on part 4, but I would not want to impose an artificial deadline on a decision about the liberty and safety of the British public on terms such as those that have been mentioned.

**Mr. Oaten** *rose—*

**David Davis:** I shall give way, since I have taken the hon. Gentleman on directly.

**Mr. Oaten:** As we are all trying to be helpful to each other, let me be helpful to the right hon. Gentleman. If we ran out of time and could not reach an alternative before the derogation was required, one of the things on which we would wish to engage with the Government would be seeking not an annual derogation, but some sort of ring-fenced period for the derogation, on the understanding that we would seek an agreement before the derogation was allowed to continue.

**David Davis:** I am glad that I have made some progress on behalf of the Government.

If we implement the Home Secretary's proposals, inasmuch as we know the detail at the moment, there are still likely to be terrorist acts. There is no doubt about that. If we do not implement the proposals, there are still likely to be terrorist acts. The raw truth is that whichever way we go, there will be terrorist acts. People from all parties have said, "Oh, surely you can't disagree with the Government on this, because you'll be blamed the next time there is a terrorist act." I think that that is ridiculous and I do not think that the Home Secretary would take that stance either; he has effectively told me so already.

My judgment is that, if we take the route of protecting our way of life, it will be the best way of protecting our lives as well. That is the way around the matter. Quite understandably given his task and job, the Home Secretary talks all the time about protecting lives, but we have to protect the way of life as well as lives. If we protect the way of life, we will create fewer recruits for terrorist organisations and actually protect our lives better.

**Mr. Marshall-Andrews:** Before the right hon. Gentleman concludes, will he speculate on one matter relating to the Government? Before the House of Lords judgment, there was no indication—perhaps he can help me on this—from the Government or anybody else that it was considered necessary to extend detention without trial to British subjects. The House of Lords judgment was then made and we are now told that it is necessary to extend detention without trial to British subjects. Can he speculate on what has happened in truth during that time?

**David Davis:** The hon. and learned Gentleman tempts me too much. I could speculate about the perverse effects of human rights legislation, but I shall not go down that route.

Terrorism is not new to this country and we have faced it down before without giving up our fundamental rights. We did not give up our fundamental rights after an almost successful attack on the Cabinet and the Prime Minister in the Brighton bombing, the assassination of a member of the royal family,

the Omagh bombing or the deaths of many soldiers and civilians in Northern Ireland. We did not give them up then and we should not abandon them now. In this debate, we have tried to maintain an open and persuasive approach. We will try to be as constructive as possible in the coming weeks, because the issue is fundamental to all our constituents. I reiterate that the best way in which to defend our lives is to defend our way of life.

5.31 pm

**Mr. Tom Harris** (Glasgow, Cathcart) (Lab): I shall begin by responding directly to some of the comments made by the right hon. Member for Haltemprice and Howden (David Davis). The fallacy that we have faced the threat of terrorism before and that we can face it this time has been raised on many previous occasions. People who make that claim fail to understand the nature of Irish terrorism, which we faced before, and Islamist terrorism, which we face now.

We were able to "face down" Irish nationalist terrorism because the previous Government, in which the right hon. Gentleman served, and this Government sat round a table with IRA representatives and reached a political agreement. Disagreements arose about exactly how to proceed, but given that the IRA had a political aim, it was possible for elected politicians to sit down with its representatives and ask, "What can we agree on? Where is the common ground?" Through that process, which has been long and hard, we have managed to face down the reality of Irish nationalist terrorism in this country.

I am amazed that the shadow Home Secretary has failed to grasp that, by definition, the people who now plan to engage in terrorism against our people and our nation cannot be reasoned with. On a number of occasions, Osama bin Laden has said that it is perfectly acceptable to kill all American citizens and all Jews, and to destroy the state of Israel. At what point do we sit down around a table to negotiate and ask, "Where is the common ground?" There is no common ground. For the right hon. Member for Haltemprice and Howden to claim that there is any similarity between what we faced in the '60s, '70s and '80s and what we face now, especially since 11 September 2001, is wholly untrue, and I am surprised that he has tried to advance that particular argument.

I am disappointed that the title of the debate is "Belmarsh Judgment" and that the Home Secretary had to come to the House with new proposals to replace the existing arrangements on the detention of terrorist suspects in Belmarsh. I have absolutely no doubt that their lordships made the correct decision as far as the law is concerned, but I am disappointed that we must water down and compromise our arrangements.

**Simon Hughes:** I am surprised by the hon. Gentleman's view. I hope that all hon. Members accept that laws passed in this place must comply with our national and international obligations. If the Law Lords, who are judges from all over the United Kingdom, say that something is illegal, I hope that he accepts that that is the final say and that it is right for us to re-examine the matter.

**Mr. Harris:** Perhaps I did not make myself clear. I was not suggesting that the Government should ignore the House of Lords ruling—I was expressing disappointment that the Law Lords made that ruling in the first place, because I had hoped that taking the legal framework into account they would conclude that the existing arrangements were legal. However, I entirely understand that we are a responsible Government and have to abide by the rules and laws of the land as decreed by the House of Lords.

I have a question for my hon. Friend the Minister. In Belmarsh there are a dozen or so terrorists—people who were planning to kill and maim citizens of our country, but were free to leave the country at any time simply because they are foreign nationals. The nub of the Lords' objection to the new arrangements is that they do not apply to British nationals. Will my hon. Friend clarify the new arrangements that will apply to foreign nationals and to British citizens? Presumably, British citizens will not be able to escape control orders by leaving the country. Will the provision allowing foreign nationals to leave the country if they wish apply under the new arrangements? In other words, will they be able to escape tagging orders or house arrest by leaving the country?

Since this is the Liberal Democrats' motion, I should like to deal with some of the points raised by the hon. Member for Winchester (Mr. Oaten). Many people taking part in this heated debate will claim that there exists no threat to our nation, and that these measures and others introduced by the Government are therefore unnecessary, or will claim, as I do, that there exists a very real threat and that not only are the proposed measures absolutely necessary, but we may have to consider even more strict measures in future if we are to protect our country.

**Jeremy Corbyn:** I am listening carefully to what my hon. Friend is saying. In the light of this threat, how does he justify the detention of people without trial and without knowledge of the charges against them, given that there is a danger that they have been incarcerated on evidence that would not stand up in court, which leads to the self-serving belief that the guilty are being held in jail, when they may well be innocent? That is a much greater threat than that which exists at present.

**Mr. Harris:** I am not entirely surprised that my hon. Friend expresses that point of view. Looking at the 12 detainees in Belmarsh, any reasonable person might think that there was not enough evidence admissible in court—that is different from flimsy evidence—to bring about a conviction, while others may think that they have been done bang to rights because they are obviously a clear and present danger to our nation, but it is difficult to understand how anyone could believe that the only reason that they are there is because a vindictive Government is picking on 12 innocent people.

**Jeremy Corbyn:** I did not say that.

**Mr. Harris:** My hon. Friend says that he did not say that, but that is what he suggested in his intervention.

**Jeremy Corbyn:** My point, which perhaps I did not make very clearly, is that security services information can be wholly inaccurate. It can be based on people pursuing a vendetta against somebody else in a particular community, and then becomes very dangerous when it gets a life of its own based on a fundamental inaccuracy. I am not suggesting that Ministers go around perversely saying, "I want to imprison X, Y or Z," but they might be advised that there is evidence against that person, and that ends up with their imprisonment.

**Mr. Harris:** The Home Secretary has already said that, as with the current system, the new system will be subject to independent judicial oversight. There is nothing more certain to obtain a round of applause during "Any Questions?" or "Question Time" than a member of the panel saying, "The security services got it wrong on Iraq, so they must be wrong here." That is a nonsensical argument. As we have seen, it is very difficult for the security services of any country to come to hard conclusions about the threat that a nation poses to another nation. It is a different ball game altogether to come up with the conclusion that an individual is planning to be a threat to a particular nation. That evidence is much easier to come by. It is wrong to compare the security services' record in Iraq with their record in the context of the Belmarsh detainees.

**Mr. Allen:** Does my hon. Friend accept that the risks in getting the matter wrong are immense for any Government and any responsible political party? If people perpetrated a 9/11-style atrocity in the UK and the Government had not taken advantage of the ability to take them out of commission, that Government would never be forgiven. However, does he accept that one of the best ways of gaining public and cross-party support is to ensure that our democracy defends itself in the most democratic way possible, given the constraints? Will he therefore keep his mind open to the possibility of pushing back the Government's view a little on some matters, on which we could achieve broad consensus and so keep our people on side on the important issue of ensuring that terrorists do not have a free rein in this country?

**Mr. Harris:** My hon. Friend has perfectly expressed the nub of the argument. I agree that it is important for the protection of our culture and our nation to defend our rights in as democratic a manner as circumstances allow. I believe that the Government's proposed measures do exactly that. That is our fundamental disagreement with the Liberal Democrats. Despite the new-found atmosphere of cross-party co-operation, of which I have never been a great fan, I do not have much confidence in the Liberal Democrats' claims to give the nation's security as high a priority as they should, given the comments of the hon. Member for Winchester.

**Mr. Oaten:** Will the hon. Gentleman give way?

**Mr. Harris:** Well—

**Mr. Oaten:** It is important to give way.

**Mr. Harris:** Of course I shall give way, but I note before I do so that the hon. Gentleman refused to give way to me twice. However, I shall show him the courtesy that he denied me.

**Mr. Oaten:** I appreciate that. However, I should like the hon. Gentleman to acknowledge that I spent four or five paragraphs of my speech emphasising that the Liberal Democrats do not for a single moment underestimate the security risk to this country. It is disingenuous of him to claim something completely different.

**Mr. Harris:** I am sorry that the hon. Gentleman has thrown his rattle out of the pram. If he had not interrupted me, I would have got around to a more in-depth analysis of his comments.

I began by saying that people in this country will say either that there is no threat and the measures are unnecessary or, as I do, that there is a huge threat and they are necessary. The Liberal Democrats, unsurprisingly, say both. They claim that there is a threat but that we need to devise new measures. What measures? They spoke about the balance between security and civil liberties. It seems to me that they strike that balance much more at the civil liberties end. That is understandable, given the traditions of the Liberal party. There is nothing dishonourable in that position but I have the right to say that, if their proposals were implemented, it would have a negative effect on security. That is my position.

**Patrick Mercer** (Newark) (Con): The hon. Gentleman's understanding of Northern Ireland history is fascinating if rather different from mine. I remember that negotiation was based on hard-nosed military activity as well as other aspects.

I am interested to hear his comments given that, when the Home Secretary announced the new measures, the Government were most anxiously repatriating British citizens from Guantanamo Bay while the American Government were proving that some of those whom they had set at liberty from Guantanamo Bay had been either killed or captured in subsequent terrorist actions. Is not that an anomaly?

**Mr. Harris:** I am not clear about the hon. Gentleman's point. I have always rejected comparisons between Belmarsh and Guantanamo Bay. I receive many letters claiming that Belmarsh is Britain's Guantanamo Bay. That makes no sense and I have always avoided making that comparison. Would the hon. Gentleman like to intervene again to clarify his point?

**Patrick Mercer:** If I understand the hon. Gentleman correctly, he is suggesting an extremely hard line to protect this country by taking measures that some would view as illiberal, at the same time as the Government suggest that individuals who have been suspected of terrorism should be returned to this country and put at liberty.

**Mr. Harris:** Yes, the hon. Gentleman is absolutely right. I continue to oppose the US Administration's illegal detention of people at Guantanamo Bay. The Supreme Court of the United States has decreed that those detentions are illegal. Our Government, however, brought proposals to the House of Commons that were voted on, passed by the upper House, and became law. That is somewhat different from what President Bush

did in regard to Guantanamo Bay, which was to detain combatants from the Afghan war in a geographical location specifically chosen because it was outside the legal remit of the United States. That is very different, which is why I have always rejected any comparisons between Guantanamo Bay and Belmarsh. I hope that that clears up the matter for the hon. Gentleman.

The hon. Member for Winchester came out with a curious phrase when he said that we should seek prosecutions "in the normal way". This brings me back to the fundamental issue in the debate that we have been having ever since 11 September 2001. I guess that most people said at the time that the world had changed and that it would never be the same again. A few months later, however, most people said, "I didn't actually mean that. It was the appropriate thing to say at the time. Now let's get on with our lives. Nothing has really changed." I like to believe that this Government—especially the Home Secretary and his predecessor, my right hon. Friend the Member for Sheffield, Brightside (Mr. Blunkett)—actually meant it when they said that the world had changed for ever. That means that we now have to look again at some of our fundamental liberties, and to decide whether they will help or hinder terrorist networks.

Surely the purpose of any Government must be to try to obstruct and to collapse all terrorist networks operating in their country. Nothing that the hon. Member for Winchester said would lead me to believe that terrorists would be quaking in their boots at the thought of any new proposals introduced by the Liberal Democrats. Nothing that the hon. Gentleman is proposing would have a serious effect on the terrorists.

**Mr. Beith:** What would the hon. Gentleman say to the right hon. Members for Islington, South and Finsbury (Mr. Smith) and for Gateshead, East and Washington, West (Joyce Quin), who served with me on the Newton committee, and who felt that, although there was a serious threat that required measures to deal with it, the measures that the Government had put into force—which we were reviewing—were unsustainable, and that other measures therefore had to be found?

**Mr. Harris:** That is why we are having this debate. The right hon. Gentleman should concede that my view on this matter is pretty unambiguous—*[Interruption.]* I am an elected Member of this House and I am entitled to my opinion. The decisions facing all democratically elected politicians since 9/11 were always going to be extremely difficult. We were not elected to this House to make easy decisions. We were elected to make very difficult decisions, and sometimes they are unpopular. My views on this do not concur with those of the right hon. Gentleman and his right hon. and hon. Friends—

**Mr. Beith:** And some of yours.

**Mr. Harris:** Indeed. I have no problem with that. I am prepared to stand up here and argue my corner. Let us have a vote on this, and we shall see whose view prevails.

The right hon. Member for Haltemprice and Howden said that a suspect's right to a trial and to know the charges against them were fundamental. He said that they were the fundamental rights of a free citizen in this country. Well, he was half right. Those rights are fundamental. People have the right to a fair trial and to know the charges against them, but another right has much greater priority: a far more fundamental right is the right to life.

Occasionally, I have been a tad unfair in this House to those who have had a legal training—I do not include myself in that number. I hope that my hon. and learned Friend the Member for Redcar (Vera Baird) will forgive me for saying this; she and I served on the Standing Committee for the Proceeds of Crime Bill—we sat through 39 sittings—and that was the first time that I had experienced this lawyerly culture. The Proceeds of Crime Bill was designed to allow the Assets Recovery Agency to confiscate such proceeds from people who had not been found guilty of anything in a criminal court, through a civil procedure based on the balance of evidence. That was the fundamental point of that Bill, and it was fought against root and branch by the Liberals and the Conservative party on that particular legal point.

It was claimed by those with legal training that it was unfair for the Assets Recovery Agency to confiscate anything from someone who had not been proven guilty in a court of law. Perhaps they were right; perhaps they were wrong. I certainly had no problem in supporting those measures, and today the Assets Recovery Agency—in Scotland the Crown Office—is confiscating millions of pounds a week from drug dealers who have not been found guilty in court. We do not have enough evidence to convict them, but nevertheless we are confiscating their homes and cars. We are freezing their bank accounts and taking money from them, then distributing it in the communities that their activities have most damaged.

Lawyers among us may say that that process is not particularly fair, just as they are making the same arguments today. If the priority of the Government is to safeguard the lives of our citizens and the fabric of the nation, arguments about due process are the equivalent of arguing about the number of angels dancing on the head of a pin.

**Mr. Allen:** My hon. Friend has been very generous in giving way a second time. Was he as surprised as I was to hear from Opposition Front Benchers the implication that none of the people in Belmarsh should have been detained, rather than a suggestion that there should have been greater democratic safeguards or a further judicial or parliamentary review, which some of us would be happy to see? I am sure that the hon. Member for Newark (Patrick Mercer) will jump to his feet if I am wrong in that assumption, but I got the strong impression that they think that all those people should be let out under some free market justice system to do what they may have intended to do.

**Mr. Harris:** I get the feeling that the hon. Member for Newark may be about to intervene. The Liberal Democrats challenged the right hon. Member for Haltemprice and Howden during his peroration on whether it should be jail or nothing, and he agreed on that. That leads me to the inevitable conclusion that under a Conservative Government the legislation that all those Members voted for in December 2001 would be scrapped and all the people in Belmarsh,

*[Mr. Harris]*

or those who might subsequently be held under house arrest, would be allowed to go free because the threshold of acceptable evidence that they say legal process demands had not been met.

**Patrick Mercer:** I am most grateful to the hon. Gentleman for his generosity in giving way. My right hon. Friend the Member for Haltemprice and Howden was making the point that, above and beyond everything else, it must be clear to the terrorist that our values remain constant and proper, no matter what threat is thrown at us If that means that we have to examine due process and the constitution as it stands, and if it means that those held without charge who cannot logically be brought to court have to be released, so be it. If we do not do that, we give away one of the fundamental freedoms that terrorists are trying to assault.

**Mr. Harris:** I am sure that the many dozens of people watching the debate live on television will reach their own conclusions based on what the hon. Gentleman just said.

I want to address the issue of wire tap or intercept evidence. I was extremely concerned when the Government announced last year that they were considering the possibility of allowing wire tap evidence in court. The security services were extremely concerned that a crucial source of counter-terrorist information would dry up if wire tap evidence were permissible in court. The right hon. Member for Haltemprice and Howden legitimately pointed out that many other countries, including some of our closest allies, allow intercept evidence in court.

Let us look at the American example. In many states in America where wire tap is allowed, that source of information has all but dried up because criminals—members of the mafia and terrorists—understand that things that they say on the telephone will inevitably be used against them in court, and are extremely careful not to say anything on the telephone. That is exactly why, I am glad to say, the Government have been very reluctant to conclude that the law should change.

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): Had the current legislation continued, as the hon. Gentleman wishes that the Lords had allowed, would not such people say to themselves, "What I say on the wire tap could be used to hold me in Belmarsh"? Surely whether it is used in court, or as part of a wider net to capture them, they will still know, or assume, that they are being tapped.

**Mr. Harris:** One of the most unhelpful aspects of the wire tap evidence debate is that it has become so high-profile that what the hon. Gentleman says is probably half right. I would have preferred it if this debate about wire tap intercept evidence had a lower profile. I remain firmly of the belief, however, as do the security services, that admitting that type of evidence in court will do nothing to increase the number of convictions, and will result in information that the security services currently use to avoid terrorist atrocities no longer being available. That is a very important point. I firmly believe that terrorist attacks of the order of Madrid, Istanbul, Bali or even 11 September in New York and Washington have already been avoided in this country thanks to the measures introduced in the 2001 Act. I believe that all the 12 people in Belmarsh were involved in conspiring in some kind of terrorist activity, and at least some of them would by now have carried out attacks on this country.

Given that wire tap evidence is not admissible—and should not be admissible in my view—what should the Home Secretary do when confronted with evidence that a particular individual poses a genuine threat to this country? Should he say, "We don't have enough evidence to convict him in court, so let him go free"? Then, 12 months later, when we have an attack on the London underground or anywhere in the country, the Home Secretary could turn around and say, "Well, it could have been worse. We could have locked him up without trial." That seems to be the position of some Opposition Members, and people who are paying attention to this debate will find that incredible.

The people we are facing—the terrorists who hate our country and culture so much—are willing to risk everything: their possessions, their friends, their family, their lives. It is quite acceptable, and incumbent on us, to realise that in return we should accept a sacrifice. If that sacrifice compromises the level of civil liberties that we enjoy, that is what must happen. The Government are sometimes guilty of claiming that these measures do not represent any kind of compromise on our civil liberties. We must be honest and say that they do. That is what happens when we are in a fight against this kind of terrorism—we compromise our civil liberties, because the alternative does not bear thinking about. There is no point claiming that we have the same civil liberties today as we did three years ago, and neither should we have.

The hon. Member for Winchester said that the Government were given leeway for three years, following the passage of the 2001 Act. The mood to give the Government leeway, however—I presume that he means the derogation from the European convention—has disappeared. He should admit that the reason that that mood has disappeared—I agree that it has—is that we have not suffered that kind of terrorist atrocity in the past three years. Some, such as the *New Statesman* last week—a magazine to which I am ashamed to be a subscriber—argue that because there has been no terrorist attack on Britain in the past three years, the threat does not exist and we should not bother with any kind of framework for preventing terrorism. The fact that there has not been a successful attack on British soil does not mean that the threat does not exist—it means that the security services have been successful in preventing an attack. No one looking at the events of 9/11, Madrid, Bali and Istanbul could conclude that there is not a threat. That does not make sense. Instead of assuming that a threat does not exist—my comments are not directed at the hon. Member for Winchester—the editor of the *New Statesman* should run a feature next week paying tribute to the work of the security services, which have saved God knows how many lives as a result of their intelligence work.

In conclusion, the right hon. Member for Haltemprice and Howden repeated something that is often said in this debate. He said that by compromising our civil liberties we are giving some kind of victory to the terrorists—that

changing our way of life and giving up some of our freedoms is a victory for terrorism. No, it is not. *[Interruption.]* I am not speaking on behalf of the Home Secretary—I am expressing my own opinion. There would be a victory for terrorism if a massive bomb went off in a crowded location in one of our capital cities or in any other city. There would be a victory for terrorists if a jumbo jet crashed into the Palace or any other location in the country. Terrorism can be defeated by political, military and intelligence means. Claiming that we would give terrorists the final victory if we denied people held in Belmarsh a trial may receive a round of applause on "Any Questions?", but it does not sit right with the vast majority of my constituents or, I suspect, the constituents of other hon. Members.

**Mr. Deputy Speaker:** Let me point out to the House that approximately 40 minutes are left, with four hon. Members seeking to catch my eye. Perhaps they would show a little more restraint than we have seen so far.

6.2 pm

**Mr. A. J. Beith** (Berwick-upon-Tweed) (LD): The hon. Member for Glasgow, Cathcart (Mr. Harris) has invented a category of people—none of them have attended today's debate—who do not believe that there is a serious terrorist threat to this country. I have heard no such person speak today, and I have more reason than anyone else in the Chamber to be aware of the extent to which the work of our security and intelligence services has preserved us from major terrorist actions over a considerable period. My hon. Friend the Member for Winchester (Mr. Oaten) made that point in opening the debate, and we all join together in paying tribute to their work. However, that does not absolve us from the need to examine the legislation and see whether it is right, whether it serves its purpose, whether it deals with the full range of threats and whether it is sustainable over a period of time.

The key phrase in the legislation is about the nature of the threat as a

"public emergency threatening the life of the nation".

The threat that faces us is not short-term, and we cannot envisage its early cessation. Indeed, it is difficult to envisage the circumstances in which the loose al-Qaeda network and other groups loosely connected with it would want to desist from their terrorist activity. We cannot act, therefore, on the basis of emergency short-term legislation such as regulation 18B, which was used in the second world war. I was only a baby at the time, but people knew that the war would be over in two or three years, and that we would either win or lose it. We do not know when the present terrorist threat will end, so we need sustainable legislation. There are not many Members in the Chamber, with the possible exception of the hon. Member for Glasgow, Cathcart, who believe that the legislation that the Lords recently challenged and effectively overruled is sustainable. There is a widespread view that we cannot maintain a system of indefinite detention without trial on a ministerial decision. The Government clearly now accept that view, and are working on that basis to devise alternative proposals.

I served as deputy chairman of the Newton committee, but I did not have to work very hard in that capacity, as the committee was well chaired by Lord Newton and we were well supported by the group of senior Members, Privy Councillors of all parties, and one who had no political affiliation. It was wide ranging in its experience and there was no fundamental disagreement over the conclusions that were reached. I give away no secrets when I say that the only subject on which we had real difficulty reaching an agreed wording was what we debated last night—incitement to religious hatred, and how far legislation should go in attempting to deal with it. There was relatively little difficulty in reaching agreement on the matters that we are debating today and what we should propose to the Government.

We found many other things wrong with the Anti-terrorism, Crime and Security Act 2001. The Newton committee was set up because the 2001 legislation was rushed through both Houses of Parliament on the basis that its purpose was to deal with a short-term emergency. In fact, it was stuffed with measures that had nothing to do with short-term needs and nothing to do with terrorism, which further inhibited the ability of the two Houses to get it right at the time. The committee was set up because it became clear that the measure could not be passed through the other place unless some concession were made. The concession was steadily tightened up: first, it was a review committee, then a review committee whose report had to be debated in both Houses, then a committee whose report would, if it were not debated, lead to the entire lapse of the legislation. That reflected the degree of concern felt in both Houses that, because of the immediate circumstances, they were being pressed to push through a measure that they were deeply unhappy about, which required much further and more detailed consideration.

The one point of anger that I would like to express at this stage, before returning to the happy consensual atmosphere of the debate, is that the Government's initial response to the Newton report was misplaced macho posturing. Their initial reaction to the report seemed to suggest that none of the recommendations were of any value whatever and that the Government would carry on very much as they were. I realise that the present Minister for Crime Reduction, Policing and Community Safety took no part in that, but it set a tone for relative inaction over the next 12 months. The committee had proposed that the Government should prepare an alternative to the 2001 legislation, which would need to be renewed or replaced because the derogation would come up in just over a year's time and the legislation would lapse.

I am pleased that things seem to have moved on, largely because of the House of Lords judgment and the coincidental change of Home Secretary, which has also helped. I very much welcome the way in which the present Home Secretary is approaching the matter. That is not to say that I disagreed in all respects with the previous Home Secretary. He made it pretty clear on the record that, in respect of an issue that we shall come to in a few moments, he would have welcomed the ability to use intercept evidence in court, but had to be satisfied that he could secure general agreement among the various Government bodies concerned. He certainly showed continuing interest in intercept and set up further consideration of it even before the Newton committee had raised it.

*[Mr. A. J. Beith]*

The Newton package had two main aspects: making prosecution easier and more feasible, and proposing alternative measures where prosecution could not be pursued. The measures to make prosecution more practicable included new offences and offences that could be aggravated by connection with terrorism. The committee drew from experience in other countries and in other areas of law. One important aspect of pursuing prosecution was the idea of having a security-cleared investigating judge as part of the process, and another was using intercept evidence.

I continue to believe, as Newton recommended, that we should remove the blanket ban on the use of intercept evidence. The law should allow it, but that is not to say that it will solve either the existing Belmarsh cases or all the cases in the future. In many circumstances, it would be prejudicial to use it. The main purpose of intercept activity is the gathering of intelligence, which, as the Minister rightly said earlier, plays a valuable role in disruption. It is not collected on an evidential basis, but it is possible to collect it on that basis and use it in certain limited circumstances. We should not preclude it, because there may well be cases in the future where it would be both relevant and helpful. The present blanket ban is difficult to accept.

In my two capacities, I am aware of at least five different reasons why various parts of the system are uncomfortable about the use of intercept evidence in this way. I am not certain about the current balance of opinion about which reason the Government regard as the most important. They are important reasons, but in my opinion, none outweighs the benefits stemming from limited availability of the intercept option. It should be part of the package.

On the other side of the page, as it were, the committee proposed a series of measures that have been echoed by both the Minister and the Conservative spokesman, although the latter questioned them in one respect. The measures deal with people about whom serious suspicions exist, but in respect of whom there is insufficient evidence to lead to a successful prosecution.

The measures did not include house arrest, but did include restriction of movement. That was chosen because it allows potential links with other terrorist activists to be broken—links that could allow the person who would otherwise be detained to have a role in the preparation of further terrorist acts. The Government's proposals include many of the committee's proposed measures.

However, the question then facing the committee has been raised several times in the debate. It is, "What about UK citizens?" That is one of the most difficult issues. When we asked "Are there no UK citizens about whom similar suspicions are held?", we could not get a negative answer. That is, no one could say "No, we have only ever come across foreigners about whom we have such suspicions."

My judgment is that there are UK citizens about whom similar suspicions have been raised. They will have had to be dealt with in other ways, such as by prosecution for other offences, or by surveillance or preventive and disruptive activity of various kinds. There is therefore both an anti-discrimination argument and a practical argument against the use of measures exclusively against foreign citizens. The Government were really saying, "We can get this little group under these measures, but not really anyone else by the use of even remotely similar measures."

It must have been clear to everyone, as soon as the Lords' judgment was delivered, that we could not extend to UK citizens detention without trial on the decision of a Minister. That is so foreign to everything that we—with the possible exception of the hon. Member for Glasgow, Cathcart—believe and accept that there is no way that either House of Parliament could admit it into the range of anti-terrorism measures.

It is all right for Members of Parliament or television commentators to say, "This is an important thing that we have to do to fight terrorism." What about a Muslim who, by some happenstance of association, is threatened with Executive detention without any due process? The whole picture is very different for a person like that. The same was true for quite a few Irish people, both in Northern Ireland and in Great Britain, when they were subject to other limitations. In their situation, matters looked rather different.

It was essential to the basis of our civil liberties that other measures be found, and the committee felt that the Government should have been looking for measures appropriate for dealing with UK citizens about whom there was the suspicion of terrorist activity.

In the interests of time, I shall turn now to my final point—the key concern that we cannot be content with ministerial decision and subsequent judicial review, especially in respect of a process as hidebound as that of the Special Immigration Appeals Commission. The reason is that the people concerned are unable to see the evidence against them. They cannot produce an alibi against a piece of evidence used in SIAC, because they do not know that it is alleged that, say, they attended a particular meeting on a particular day. Therefore, because they do not know the evidence involved, even the most cast-iron alibi cannot be used.

My fundamental point is that making it possible for a Minister to lock up or otherwise restrict the liberty of a UK citizen because it is thought that that person might have terrorist associations—even though the evidence looks promising—will not be acceptable in either House of Parliament.

I therefore want to challenge an important statement that the Minister made. She said that, if this matter were to be given over to the judiciary, the Home Secretary would be abrogating his responsibility for the security of this country. That is not the case. We give the Home Secretary responsibilities to carry out, and he and the police have to bring people to court. He is not abrogating his responsibility for the safety of citizens against crime if he does not pick out a dangerous violent criminal or a repeated sex offender and say, "We're not going to try you because I know you're guilty, so I'm going to put you in prison."

That is not abrogating his responsibility. The Home Secretary allows the police to arrest a person and due process to take place. Therefore, it is no more true that he would be abrogating his responsibility if he ensured that it was a judicial decision and not an Executive decision that might lead even to the limitations that we have talked about today. Obviously, he or the police

might initiate that process—it could go as high as the Home Secretary—and he might be abrogating his responsibility if he ignored the repeated pleas to set the process in motion for an individual or group. However, he is erecting a false argument—and he cannot be guilty of the charge—by saying that he cannot give the responsibility to a judge because that would be failing the nation. He would be serving the nation, although judges might not want to be put in that position. However, the public would have much more confidence, and the legislation would be more sustainable, if a judicial and not an Executive decision were made to take away someone's liberty in circumstances where they had not been found guilty of anything, but there were reasonable grounds for suspecting that they may be about to do something very dangerous.

We all recognise how difficult such decisions are, but we want a process in which the public and both Houses of Parliament can have confidence. We are starting a process that might lead us there within a reasonable period. I just wish that it had started when the Committee first reported.

6.15 pm

**Ross Cranston** (Dudley, North) (Lab): I congratulate the hon. Member for Winchester (Mr. Oaten) on the measured way in which he made his proposals, although I do not accept all of them. The only blot was when he bracketed us with Burma and North Korea, which is simply incorrect.

Much of the debate about this issue is simplistic. As my hon. Friend the Member for Glasgow, Cathcart (Mr. Harris) said, it often equates Belmarsh with Guantanamo Bay, but they are entirely different. It also engages in rhetoric when the Government are accused of betraying human rights.

My hon. Friend the Minister was absolutely right to start with the threat, which is the position taken by many of my constituents when I talk to them about it. They start with the threat demonstrated by 9/11, Spain, Bali and Istanbul. They also refer to what is, in my terms, the pre-enlightenment, anti-democrat, religious fanaticism under which this country is targeted. They also take up the point made by my hon. Friend the Member for Nottingham, North (Mr. Allen) that, at most, this country has detained only 17 people. The comparisons with other countries, such as France and so on, are often false because considerably more people are detained there, even though there is an investigating judge. I am not suggesting that we should react in a populist or utilitarian way. We should approach the issue pragmatically, but as a matter of principle. The Government's critics often approach the matter in absolutist terms and do not engage with the debate.

The shadow Home Secretary started with Lord Hoffman and his account of individual rights, but that is only half the story. Too often these days, we focus exclusively on individual and human rights, but that fails to take account of the history of civil rights and liberties in this country. To put it crudely, in the 19th century, the struggle was for democratic institutions and for whole groups of people to vote, assemble and join associations of workers, so that everyone and not just an elite could benefit. We must take into account the fact that we have democratic institutions. We must also take into account the fact that when we talk about rights and liberties, we mean the rights and liberties of groups of people, not just individuals. The Labour party had difficulties with that during the 1930s when Sir Stafford Cripps said that the democratic legislature could overcome property rights. That was an unacceptable position. However, we have a democratic system—a great achievement. It may be flawed, but accounts that state that we have an overpowering Executive are lazy and do not take account of reality.

That 19th-century struggle was also about individual rights, which have of course been overlaid by the great human rights documents of the 20th century—the universal declaration and regional documents such as the European convention on human rights and fundamental freedoms. In the 20th century, we had to reconcile democracy and individual human rights.

The shadow Home Secretary spoke of the great harm caused to individuals by imprisonment. There is no doubt about that, but in our society we have always accepted that we can deliberately impose grave harm on individuals to lessen the risk to others—we do that every day in the criminal courts; I do that when I send people to prison— because it is done in accordance with certain fundamental principles. The human rights documents themselves accept that democracy and individual liberty have to be reconciled. For example, as we know, there are provisions whereby Governments can act in ways that are necessary for a democratic society, so rights have to give way to that.

It is possible for democracy and human rights to be reconciled, but my main point is that we must take into account democratic institutions and the great 19th-century struggle, so that we have a system in which all can participate democratically. Instead of seeing democratic institutions—in this case, the Home Secretary, accountable to Parliament—as a blot on the system, we should applaud them. As we are debating a Liberal Democrat motion, I shall quote what Lord Carlile said recently in *The Guardian*:

"A great deal of rhetoric has surrounded this subject. The demonisation by some commentators of"—

he referred to my right hon. Friend the Member for Sheffield, Brightside (Mr. Blunkett), the former Home Secretary—

"over the issue is totally contrary to my observation, occasionally at close quarters, of a Home Secretary giving honest primacy to national security and public safety."

I certainly agree with those sentiments.

How do we reconcile democratic institutions acting for the collective good with the human rights of individuals? There are three overarching principles. First, actions must be justified democratically, in Parliament and to the public. Secondly, we cannot put security concerns in an absolute and unqualified way, which accords with another principle—that of shared humanity, recognised in the Human Rights Act 1998. A corollary of that is that any response by the Government must be balanced and proportionate, and take individual rights into account. Thirdly, we must act in accordance with law. That does not mean that we must necessarily act in accordance with the way in which the ordinary criminal courts operate.

*[Ross Cranston]*

In the article to which I referred earlier, Lord Carlile said, when talking about the steps that might be taken to address the problem of the Belmarsh judgment:

"The second step might be to develop a trial procedure that would ensure the protection of sensitive intelligence. This may mean thinking beyond the conventional reliance on jury trial."

He went on to say that although he, as a criminal practitioner, believes fundamentally in trial by jury, in some cases that may have to give way. We do not necessarily need to have an adversarial system. The shadow Home Secretary said that it might be possible to have a two-judge process, whereby one judge screened the evidence before it went to court.

I do not have time to comment on the Government proposals in detail. The Liberal Democrat suggestion about deportation—that somehow we should have memorandums and framework agreements with other countries and not act until they are tested—is not sensible. We need also to think about creating new offences and a reformed judicial process. The control orders suggested by the Government also seem a sensible way forward.

I do not believe in absolute solutions to such difficult questions. There are no easy answers, but I am right behind the Government in their attempt to grapple with these difficult issues.

6.24 pm

**Mr. Tim Boswell** (Daventry) (Con): I have no particular expertise to offer the House in relation to terrorism, and no legal qualification, but we all have a common duty to address the civil liberties of this country's subjects, as has been done eloquently in this debate. It has been generally accepted, with possible reservations, that we all know that there is a problem with terrorism, and it is possible to have slightly different interpretations about how best to deal with it.

I commented in an intervention that only a handful of people at Belmarsh had been subject to detention orders, and I am very doubtful whether that covers the whole population of potential terrorists—I think not—so that would not be a sufficient reaction even if it were necessary. There is an argument for having terrorists out in the community where they can be surveyed and we can keep an eye on them, but it is quite proper at least for the Home Secretary, who is a politically accountable officer, to consider whether detention should be part of the portfolio of measures that can be used against terrorism. I may have reservations about how to do that, and about the process, but it at least should be considered.

In some matters, Back Benchers and loyal Opposition parties have to defer to and trust Ministers in relation to the conclusions that they reach, if only because more evidence is available to them than to those outside the loop. I certainly do not question Ministers' motives, and I welcome the tone of the Minister for Crime Reduction, Policing and Community Safety in this debate. We are all trying to feel our way towards an acceptable solution, but the fact that we start with that presumption of trust should not entitle us to give Ministers a blank cheque to do whatever they wish.

Like my right hon. Friend the Member for Haltemprice and Howden (David Davis), I am concerned that there is a risk that we might stimulate terrorism in the act of trying to overcome it. Beyond that, there is also the possibility of paying too high a price for any element of extra security that we may gain by taking certain actions. I have experienced the uncomfortable position of lobbying Ministers and getting them to lobby the Egyptian authorities in relation to one of my constituents who was detained for a very long time and eventually tried and convicted in Cairo, on evidence that would not have been acceptable to the House or to the British courts, for membership of Hizb-ut-Tahrir, and then being told by an Egyptian official, "Well, you lock up people like that as well, don't you?" I found that very uncomfortable.

We should all remember that any action that we decide to take—even if we take it for good reasons—is not cost-free to the citizen. I had the interesting and somewhat disconcerting experience exactly a month ago of being peremptorily stopped in my car and being searched by Ministry of Defence police in uniform under the provisions of the Terrorism Act 2000. All I hope in that matter is that they acted perfectly correctly, that they were not acting on information relayed to them, and perhaps that their action was proportionate and targeted to the matter at hand—I had some doubts about that—but that shows what can happen to any of us. That was a very trivial matter, and I am willing to pay that price, but of course the process on which Ministers' views were overturned by the Lords, and which they are seeking in a sense to replicate with control orders, would greatly increase the inconvenience to citizens.

I must say, even as an amateur in the field of human rights, that at the time of the initial emergency legislation, when it was confined to foreign nationals, I anticipated what would happen in the Lords three years later, when it was struck down on the grounds of partiality. Of course, the collective approach of Ministers has been to say, the answer is to make whatever we come up with applicable to British nationals as well.

I emphasise to Ministers that, even if they do not intend, for example, to use powers to lock up the shadow Cabinet on 1 April—I notice that the Minister is responding with interest to that, but I am making a serious point—any redress by way of appeal would take place ex post facto by judicial review, and would not be immediate. If there were a delay, it would not be cost-free. Of course, foreign nationals have been detained under the existing legislation, with all the horror involved, yet they have had no redress for some considerable time.

Conservative Members have what my right hon. and learned Friend the Leader of the Opposition described as "serious misgivings" about the process. Given that there is a common objective, process is central to the debate. My reading is that the Government object not to the concept of a trial and judicial process but to the malign consequences that might arise from that, such as damaging sources or risking individuals, and the possible inability to adduce certain kinds of evidence to the satisfaction of a court.

I have taken some notice of the deliberations of the Newton committee of Privy Councillors of all parties, partly on the back of the extremely eloquent speech made by the right hon. Member for Berwick-upon-Tweed (Mr. Beith), and also because Lord Newton was

my first boss nearly 40 years ago—I echo the accolades that have been given to him. The committee made a careful effort to examine the possible constraints in the use of intercept evidence and the judicial process, and tried to find out whether they could be overcome. The Government should consider more carefully the possibility of preparing or filtering evidence through a judicial process before it is considered by a judge.

If there is evidence out there, it must be considered by someone. We hope that it would be considered by a judge before any detention or serious constraint were contemplated. The alternative choice would be for a Minister to consider it, but I would prefer a judge to do that, given the right safeguards. Ministers must remember—as we all must—that however high they might be, the law is above them. Frankly, the Government, to put it delicately, have not been blind to the real threat to our society, but they have evinced an authoritarian attitude. I find that rather distasteful, and it is one reason why I have signed up to the Conservative civil liberties group. It is important for hon. Members on both sides of the House to take such matters seriously and to witness to them. Ministers should not have a free run in this.

Ministers, especially, should understand that there is no middle way between the right thing to do and authoritarianism—they must do the right thing. It would be much better to find a system that strives to achieve judicial results and goes on to punish wicked people for what they are doing wrong, but does not achieve that by extending the powers of individual Ministers. We need a measure of self-restraint. There must be a better way than allowing the Home Secretary to lock people up without giving us evidence that would stand up in court.

6.32 pm

**Vera Baird** (Redcar) (Lab): I want both Front-Bench spokespersons to be able to deal with all points raised, so I shall be brief. However, whatever hon. Members do, they should not think that I am being brief because my hon. Friend the Member for Glasgow, Cathcart (Mr. Harris) said everything that I would have said.

Everyone agrees that prosecution is the game of choice. The Tories, however, have to accept that realistically there must be a fall-back position in case prosecution is not practical. Their inquisitorial model does not help in the slightest. It would be difficult to graft it on to our system. We have never had an inquisitorial model. Although we have coroners, both sides are represented during proceedings, so there is an adversarial aspect there. What would happen if there were an appeal under such a model? Proceedings in the Court of Appeal would be adversarial, as would an appeal in the House of Lords, so the model would not slide into the existing system.

The analysis of the right hon. Member for Haltemprice and Howden (David Davis) did not help us. He seemed to think that the calibre of judge would somehow improve if the procedures were swapped. At present, the Special Immigration Appeals Commission gathers all the material, perhaps subject to public interest immunity certificates. However, no Minister would sign a PII certificate while knowing that it covered material of benefit to the defendant. SIAC in effect receives all relevant material, and then both sides get it, subject of course to the special advocate procedure. The Home Office gets it all and the defence, in one way or another, gets it all.

The special advocate has to take his instructions first, which is very difficult, and then cannot speak once he has seen the material. When not in closed session, the procedure is ordinary. The defence barrister deals with all the open evidence, and then the special advocate deals with all the closed evidence and tries to attack it as best he can on the limited instructions that he has been able to receive. Key to that is that SIAC is well aware that the material has not been properly and thoroughly cross-examined—it is aware of the limitations.

The right hon. Member for Haltemprice and Howden argued that an inquisitorial judge might somehow be able to make up for the deficiencies that fall to the defence, but that is not correct. SIAC knows that the material has not been scrutinised as fully as it would have liked, and must take it on that basis. I know the judiciary involved with SIAC, and I am satisfied that they also adopt an extremely high standard, and I will be very surprised if they do not insist that the material must satisfy them beyond reasonable doubt. Therefore, we must look, as everybody agrees, to prosecution, but we must do so within our own court system model.

I make the serious suggestion that it would be prudent for the Home Secretary to send all the material about all these people to the Director of Public Prosecutions as quickly as possible to see whether the appropriate independent key professional can decide to prosecute all, one, none or any of them. That would clearly appear to be an independent decision based on the evidence, which had nothing to do with the Home Secretary. That should be done straight away.

The Home Secretary also has the power to order further investigation. That is an important point, because it is far from clear that there has been a thorough investigation with a view to prosecution. One sees press reports and one hears lawyers acting for the Belmarsh detainees saying clearly that the detainees have not even been interviewed. If there had been an investigation with a view to prosecution, they would have been interviewed. I am not suggesting that they would have confessed, but interviews can be extremely important. If that position is correct—it comes from the mouths of lawyers whom I know well and who I cannot imagine are saying what is incorrect—there has not been an attempt to investigate properly with a view to prosecution in at least all the cases of the people in Belmarsh. That is crucial.

If the DPP finds in given cases that he cannot prosecute, he should be asked whether any of the proposals of the Newton committee assist him in doing so. He should make recommendations about that. If, even with all the widening that Newton advocates, with independent scrutiny by the DPP, and given the procedures under the Criminal Justice Act 2003, which allow more hearsay and bad character evidence to be considered, it is not possible to prosecute and we cannot deport all the people, we will have to fall back on some restraint. The Tories will have to accept that that is realistic, as they were ready to accept the point in debate on part 4 of the Anti-terrorism, Crime and Security Act

*[Vera Baird]*

2001. They must keep an open mind on that, as the right hon. Member for Haltemprice and Howden said they would.

The issue of control orders—possibly falling short of house arrest—may boil down to who comes first: the Home Secretary making a decision that is scrutinised by a judge, or the Home Secretary making an application and a judge conducting the initial scrutiny. I appreciate and understand why the Home Secretary thinks that the defence of the realm is a responsibility of the Executive and not of the court. I would prefer the first decision to be taken by the court, but if that is not the Home Secretary's view, and in the end he and the Government find that incompatible with their responsibilities, my right hon. Friend has a duty to shoulder the entire burden of safeguarding the defence of the realm. If it has to be that way round, and so long as there is an appeal that is automatic, immediate and covers all the facts, perhaps even such a suggestion could be acceptable.

I have a strong sense that somewhere in one or other of the strands that we have debated today we will find a common answer. The very fact that we are debating this issue and seeking consensus on it means not that our values have been undermined but that we are determined that democracy will find a way.

6.39 pm

**Mr. David Heath** (Somerton and Frome) (LD): What a fine note on which to end the Back-Bench contributions. With perhaps one exception, I am grateful to all the right hon. and hon. Members who spoke in an excellent debate, which shines as an oasis of rationality in the turmoil and pre-electoral bombast in which we so often indulge.

My hon. Friend the Member for Winchester (Mr. Oaten) and the Minister for Crime Reduction, Policing and Community Safety set the tone of the debate in seeking consensus and points on which we could agree on the appropriate responses to what we all acknowledge is an extremely serious problem and a difficult dilemma for any Government. The right hon. Member for Haltemprice and Howden (David Davis) continued in the same tone and I am grateful to him for his remarks. He identified some of the same problems as we do with the present position and, indeed, some of the same responses to it. He stated the problem clearly at the outset when he said that the balance we had to strike was between defence of life and defence of way of life.

We have to consider the proposals before us and their deficiencies when measured against our norms of justice in terms of the standard of proof, reasonable belief and the rights of the accused to know the case against them, to argue the case and to be proved guilty beyond reasonable doubt. We would normally expect all those things of a judicial system in this country and we should surrender them only with great care.

My right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith) made a thoughtful speech, in which he brought to bear the knowledge that he has gleaned from and contributed to the Newton committee in his plea for sustainable legislation, which we have not had until now.

The hon. and learned Member for Dudley, North (Ross Cranston) spoke of reconciling the different pressures on the Government and referred to three tests of action—that it should be justified, proportionate and in accordance with law. I cannot disagree with his scholarly analysis.

The hon. Member for Daventry (Mr. Boswell) made, as usual, a sensible and reasoned speech. We do indeed have to accept that there is a presumption of trust in the Minister and her colleagues. They are in possession of information that we do not have, so in some respects we have to trust their judgment of what is best. However, that does not remove from us the responsibility of questioning their judgment and testing it against the norms of a democratic society.

The hon. and learned Member for Redcar (Vera Baird) brought the Back-Bench contributions to a fitting conclusion. She restated our primary point, that prosecution must be the preferred option. It must always be better to put someone before a court of law, if we can find the right means of doing so.

The hon. Member for Glasgow, Cathcart (Mr. Harris) had something of the air of a braggart swaggering into a bar looking for a fight with anyone he could find. He was to be disappointed. Today, we are looking not for a fight, but for a reasoned argument regarding the way in which we should proceed. Most of those present in the Chamber are not prepared to throw away 1,000 years of British history and British jurisprudence simply to satisfy what might have been interpreted as prejudices on the hon. Gentleman's part. We seek a more reasoned way through the morass.

What is in the proposals? My hon. Friend the Member for Winchester made a strong case that house arrest is not an acceptable option, but simply imprisonment by another means. We believe, and I think that many people would agree, that for that to be imposed by ministerial fiat, without judicial oversight and without the safeguards that we normally build into the law, is a dangerous course. If we are to imprison people, let us say that we are doing so and let us have a judicial process that makes it appropriate for us to deprive them of their liberties, but let us not pretend that we are not doing that.

I can understand why Labour Members bridled at the comparison with totalitarian countries that employ house arrest—we are not that sort of country, and neither should we ever be. But let us also recognise that if we were to ask, say, the Government of Burma what their system was for house arrest and they replied, "Of course, it is entirely done through judicial oversight, because although the decision is made by a Minister, it can be reviewed by a hand-picked panel of judges who will meet in secret and not tell the person involved what evidence is before them and what the charge is," we would raise our eyebrows. We would say that we were not convinced that that was an entirely democratic or judicial system.

There are serious arguments against house arrest, but control orders are a different matter. I was disturbed when the right hon. Member for Haltemprice and Howden appeared to take what was described as a black-and-white view and said that we should either lock people up or let them go. There must be gradations below that and safeguards that we can use to protect our

citizenship. If we are to have control orders, they must be under judicial oversight. My hon. Friend the Member for Winchester made the point that we should formulate them in such a way as to ensure that they do not require derogation from the European convention on human rights, which is clearly possible in light of the experience of other countries. If they are to be reviewed, we must be clear what the terms of the review are. Whatever form of judicial system is used to review, will it look into matters of fact or simply matters of law? That is a critical question on which the Minister needs to respond. If it is essential, as the Minister says it is, for the Home Secretary himself to control the process of control orders and initiate them, is it still the Government's view that an order should extend to the family and friends of the person upon whom it is placed? Is that an essential element of the Government's package?

By far the favourite option is that of prosecution, as the hon. and learned Member for Redcar said. We have had a series of debates about the use of intercept evidence and I still do not understand the arguments about the intrinsic difference between intercept evidence and electronic surveillance evidence, for example, and why one is admissible and the other is not. I am still not clear why such evidence cannot be used in some cases to ensure that somebody who should be prosecuted is prosecuted and imprisoned if they are found guilty. That extends well beyond terrorism to serious organised crime and other offences.

If we believe that terrorists do not think that their phones are being tapped, we believe in a very different world fron the one that I think we live in. Equally, if we need new offences, let us look at new offences. One of the problems is that we can prosecute for a conspiracy, but not for a conspiracy of one. If there is a lacuna in the law, let us fill it. Let us look at the suggestions from the Newton committee and do as the hon. and learned Member for Redcar said—pass the matter to the Director of Public Prosecutions and let him give an opinion as to what would make the prosecution that much simpler.

We need to look at novel judicial methods as well. The right hon. Member for Haltemprice and Howden said that he was not attracted to European models, and we know why. Let him look at Scotland, a jurisdiction a little closer to home. I mischievously suggested that we extend the jurisdiction of Scotland to England and Wales in order to have something on which we could build a part-inquisitorial model. Let us have the proposals at the earliest opportunity. Ideally, let us have them before 13 March, so that we can discuss them. If that is not possible, let us at least make progress in that direction.

I need no reminding about the dangers of terrorism: I was in Congress on Capitol hill in Washington DC on 11 September 2001 and saw the evidence of terrorist action with my own eyes. We face a serious threat, and the difficulty is finding an equilibrium between providing freedom from fear or worse for our citizens, which is every Government's duty, and providing freedom under law, which is what we are looking to the Government to provide.

6.50 pm

**Ms Blears:** With the leave of the House, Mr. Deputy Speaker, I shall reply to the debate.

I shall try to address as many of the issues raised by hon. Members as possible. The debate has ranged across a number of important, complex matters that go to the heart of our legal and constitutional framework. I am not sure that I can do all those issues justice in the 10 minutes allowed to me, but I shall do my very best.

This afternoon's excellent debate has been filled with considered views, and some challenging issues that go to the heart of how we organise ourselves in this country have been raised. We have had the benefit of the expertise of hon. Members whose knowledge is more extensive than mine. In particular, the right hon. Member for Berwick-upon-Tweed (Mr. Beith) is a member of the Newton committee and the debate benefited enormously from his contribution.

A number of my hon. Friends have made useful contributions. Given his robust approach, I am pleased that my hon. Friend the Member for Glasgow, Cathcart (Mr. Harris) sits on the Government Benches. I have no doubt that I shall call on him to be my champion when I face a formidable array of Opposition Members. I am delighted that he felt able to make such a robust contribution.

Several hon. Members, including the hon. Member for Winchester (Mr. Oaten), raised our move to obtain, where appropriate, memorandums of understanding with third countries on the deportation of some foreign nationals. We have made contact with several Governments and are now actively engaged in discussions. I am pleased to say that those discussions are going well, but more remains to be done. We want to secure an overarching memorandum of understanding with each country to allow us to make tailored agreements for individuals. Such agreements will not be legally binding, but those countries will enter into them. We cannot pre-test those agreements—I do not know how we could do so—but if we were about to deport somebody, they would have a right of appeal and the decision to deport under the memorandums of understanding would be subject to intense judicial scrutiny at that point.

**Jeremy Corbyn:** Will the Minister confirm that any agreement reached in those discussions with other countries will be compatible with the European convention on human rights, particularly in respect of the death penalty and the use of torture against detainees?

**Ms Blears:** Yes. That is exactly the kind of territory in which we are seeking proper assurances. The Government want to abide by our international obligations and we want reassurances on those points, which is why the discussions are so active.

My hon. Friend the Member for Glasgow, Cathcart made some useful points about the different threat posed by international terrorism as compared with domestic terrorism, which we have faced in the past. He made three points. First, it is difficult to conduct political negotiations with people who want to destroy our way of life and values. Secondly, the terrorists whom we face are committed to mass civilian murders rather

*[Ms Blears]*

than small, targeted terrorist events. Thirdly, those terrorists are not averse to using suicide bombers. In the past, terrorists tried to maximise their chances of survival, but we now face mass civilian casualties and suicide bombing. The nature of the threat is significantly different from that which we have faced in the past.

My hon. Friend asked whether the travel restrictions would apply to British citizens and foreign nationals. In respect of control orders, we will consider the appropriate conditions to meet the threat that faces us. Travel restrictions on foreign nationals and British citizens would be part of that consideration, because we do not want to discriminate against people inappropriately. We would consider whether the conditions were targeted at the threat that we face from those individuals.

The right hon. Member for Berwick-upon-Tweed rightly said that the threat will go on for a long time. That is why we need sustainable legislation in this field, rather than simply responding and reacting to every event as it occurs. Through the legislation that we are formulating, we are trying to come up with a framework that can be adapted to events. That is why we are saying that it should apply to all forms of terrorism that face us—not only international terrorism, but domestic terrorism—and to British citizens as well as foreign nationals. In that way, we can tailor the control orders that we make in accordance with the threat.

I am pleased that the right hon. Gentleman acknowledged that intercept is not the solution in every case. He was careful to try to confine it, and I am glad that he said that it is limited in its use. The costs and benefits of using intercept are a matter of judgment. We have taken our decision, but we will keep the matter under close review. I was pleased that the Newton report made a number of recommendations, which the Government looked at carefully in formulating current policy, and that it said that steps short of detention, such as tagging, curfews and restrictions on movement, could well be appropriate. I understand the right hon. Gentleman's party's difference with us on who should make the initial decision and I am sure that that will continue to be a matter of debate. Clearly, as he suggested, judges will have a view on whether they welcome taking on the decision making or whether that might be appropriate for the Executive.

On intercept, it may be useful for the House if I say that America does not have the same co-operation between intelligence and law enforcement agencies as there is in the UK. In fact, in some cases the intelligence services in America are prohibited by statute from passing intelligence on to law enforcement. The unique, close relationship between the police and intelligence agencies in this country is not mirrored in America, and there is no evidence that America or other European countries can use intercept and get more convictions against terrorists than we can. The review considered that.

My hon. and learned Friend the Member for Dudley, North (Ross Cranston), in an excellent and thoughtful contribution, showed us not only his knowledge but his insight into and understanding of the issues. His analysis of the justification for action, our shared humanity and the need for balance and proportionality was excellent, and I am grateful for his measured and sincere support.

The hon. Member for Daventry (Mr. Boswell) made a typically thoughtful contribution. He said that he would trust Ministers, but not offer us a blank cheque. I entirely understand that he will want to scrutinise exactly what goes on. He raised the important issue of whether the control orders risk stimulating terrorism and further radicalisation. I am acutely conscious of that issue and one strand of our counter-terrorism strategy deals with prevention. That is not just about the harder measures, but working with the Muslim community in particular, and with young people, on solving some of the international issues that lead to radicalisation. It is important that we do that in conjunction with a range of other measures.

My hon. and learned Friend the Member for Redcar (Vera Baird) again rightly emphasised that prosecutions are our preferred route. She said that the Conservative Opposition would need a fall-back position. We have all been worried by the polarisation of the Conservatives, who said simply that we should either proceed through trial and prosecution or release with no controls. That is not a tenable position.

We propose a spectrum of measures through the control orders to allow us to tailor the measures so that they are proportionate to the threat, thus meeting the concerns of the House of Lords about disproportionality. Simply having a system whereby we either lock people up through a conventional judicial trial or allow them to go completely free with no controls will not meet the threat, in the view of the people of this country. I am worried about that.

My hon. and learned Friend gave an excellent explanation of the Special Immigration Appeals Commission. We conduct investigations and we will refer matters to the Crown Prosecution Service, if that is the right thing to do.

We have had an excellent debate. It is always our approach to prosecute when we can. We believe that the control orders are a proper response to the House of Lords. They are proportionate and not discriminatory.

*Question put*, That the original words stand part of the Question:—

*The House divided:* Ayes 172, Noes 285.

**Division No. 76]** **[6.59 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Bacon, Richard
Baker, Norman
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*

Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cook, Frank *(Stockton N)*
Corbyn, Jeremy
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Foster, Don *(Bath)*
Gale, Roger *(N Thanet)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Hague, rh William
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jenkin, Bernard
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Laws, David *(Yeovil)*
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Oaten, Mark *(Winchester)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hartford)*
Pugh, Dr. John
Rendel, David
Robathan, Andrew
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'rns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Ayes:**
**Mr. Roger Williams and Mr. Alan Reid**

**NOES**

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dodds, Nigel
Donaldson, Jeffrey M.
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hinchliffe, David
Hoon, rh Geoffrey
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stratford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*

Jones, Jon Owen *(Cardiff C)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKenna, Rosemary
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Merron, Gillian
Milburn, rh Alan
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pound, Stephen
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robinson, Geoffrey *(Coventry NW)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Singh, Marsha
Skinner, Dennis
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stinchcombe, Paul
Strang, rh Dr. Gavin
Stringer, Graham
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Mr. Tom Watson and**
**Ms Bridget Prentice**

*Question accordingly negatived.*

*Question,* That the proposed words be there added, *put forthwith, pursuant to Standing Order No. 31 (Questions on amendments), and agreed to.*

MR. DEPUTY SPEAKER *forthwith declared the main Question, as amended, to be agreed to.*

*Resolved,*

That this House notes with approval the Government's intention to respond to the House of Lords judgment on Belmarsh by continuing to take all necessary measures to protect the security of the country and its citizens while acting in compliance with the European Convention on Human Rights.

## BUSINESS OF THE HOUSE

*Motion made, and Question put forthwith, pursuant to Standing Order No. 15 (Exempted business),*

That, at this day's sitting, proceedings on the Motion in the name of Mr Peter Hain relating to Standards and Privileges may be proceeded with, though opposed, until any hour.—[*Gillian Merron.*]

*Question agreed to.*

## DEFERRED DIVISIONS

*Motion made, and Question put forthwith, pursuant to Standing Order No. 41A (3) (Deferred divisions),*

That, at this day's sitting, deferred Divisions shall not apply to the Question on the Motion in the name of Mr Peter Hain relating to Standards and Privileges.—[*Gillian Merron.*]

*Question agreed to.*

## Standards and Privileges

*Motion made, and Question proposed,*

That this House—

(i) approves the Third Report of the Committee on Standards and Privileges (House of Commons Paper No. 233); and

(ii) accordingly suspends Mr Jonathan Sayeed, Member for Mid Bedfordshire, from the service of the House for two weeks.—*[Gillian Merron.]*

7.15 pm

**Mr. Jonathan Sayeed** (Mid-Bedfordshire) (Con): I accept that a complaint was brought because of ineffective internal controls in a company in which I had an interest and that as a Member of Parliament I was negligent in not checking the actions of that company. For that I apologise unreservedly to the House.

To ensure that no such thing should happen again, I have relinquished my shares in the company and resigned as a consultant to it. As the commissioner's report suggests, I never became involved in the company to make money; rather I agreed to help a friend with a small business start-up.

It is a fact that I gave specific instructions to that company stating that nothing should be said or done by it that affected Parliament and furthermore that I was not permitted to use my membership of this House for personal gain. It is also a fact that my consultancy with the company was strictly limited in scope and did not include any element of company management or the vetting of promotional or other material including that on a company website in the United States.

However, while I had no contractual responsibility in those areas, and was assured that my instructions were being followed, I should have recognised that as a Member of this House I needed to do more. I should have checked what was being done by the company in the United States. I did not do that, and that is why this complaint has occurred.

In addition, I misclassified my constituency assistant. The misclassification did not attract additional allowances and had no effect on the public purse. There were late registrations in the Register of Members' Interests, and I accept that it is my responsibility to ensure that the register is accurate and kept up to date. However, I never sought to hide my involvement in the company. For both these errors, however, I apologise to the House

I am pleased and relieved that after a five-month investigation the Standards and Privileges Committee has confirmed that

"there appears to be no basis for the newspaper assertions that The English Manner Ltd. charged substantial"—

and, may I add, nor any other—

"sums for arranging access to the House"

and that

"there is no evidence that Mr Sayeed received any direct benefit from any of the occasions on which he entertained in the House guests who had links with The English Manner ".

That refutes the main part of the complaint that has been made against me.

I can assure the House that I have never used my access to the House or its facilities for direct or indirect commercial benefit and I have never solicited or received any payment for any tour or entertainment within the Palace of Westminster. I can also assure the House that the Palace of Westminster did not comprise any part of a programme offered to a guest or form any part of their expectation of their visit to the United Kingdom, nor did it constitute any part of a programme for which they paid.

Some colleagues may not be aware that the findings of the Standards and Privileges Committee are not seen by the subject of the complaint until one hour before their publication. Consequently, there is no opportunity to correct errors of fact. The report contains a few errors of fact. Paragraph 12 is materially inaccurate, the concluding line of paragraph 13 is wrong, and in paragraph 14 it is clear that there has been a misunderstanding between the Committee and myself.

Specifically, paragraph 11 states that the programme was circulated in advance to the group leader. That is wrong. The programme was not circulated in advance to anyone. As judgments appear to have been made as to whether I was an indirect beneficiary appear based upon these paragraphs, it is possible that the conclusions the Committee reached would have been different had I been able to correct those mistakes. The inability to correct errors of fact is a matter that the House might care to consider in the future. Whether or not that happens, I acknowledge that though I have acted in good faith throughout, a Committee of the House has found that I should have acted with greater care and that I may have risked damaging the reputation of the House. For that I apologise.

Had *The Sunday Times*, which ran the story nearly six months ago, been interested in the truth rather than its preconceived agenda it would have reflected accurately what it was told and would have disclosed that material it said was on the company website had been removed because it was contrary to my instructions. If it had acted responsibly, it would have found that no one who visited the Commons ever came because of the website, it would have recognised that none of the guests of The English Manner were under the impression or perception that they were paying for, and receiving, privileged access to Parliament, and it would have ensured that it contacted those who knew the facts before publishing a tissue of lies.

Whatever the deficiencies of *The Sunday Times*, I recognise that as a Member of Parliament I should have thought to do more to check what was happening in the United States than my contractual duties demanded. Although the specifics of the complaint have been shown to be false, had I been more vigilant the complaint might never have occurred.

I was first elected to this place in 1983. I have never even contemplated the possibility that anything that I did or did not do would call into question either my loyalty to the House or my use of it. That my lack of care has caused questions to be asked and judgments to be made about my conduct I find deeply humiliating, and for which I tender my profound and unreserved apology to the House.

7.21 pm

**Sir George Young** (North-West Hampshire) (Con): The hon. Member for Mid-Bedfordshire (Mr. Sayeed) acknowledged at the beginning of his remarks to some

*[Sir George Young]*

extent that the conduct that gave rise to the complaint fell below the standards of the House, and I welcome that. He has sensibly drawn back from last Thursday's complete public rejection of our report and, again, I am grateful for that. The Select Committee on Standards and Privileges will need to reflect on whether he has responded fully to our recommendations that he apologise fully to the House, in the light of some of his qualifications.

I commend to the House the motion to approve my Committee's third report, which it agreed unanimously on 1 February, and its recommendation that the hon. Member for Mid-Bedfordshire be suspended from the House for a period of two weeks. In supporting the motion, let me briefly remind the House of the background to our current regulatory regime. A decade or so ago, a series of incidents in which Members sought to exploit their position in the House for commercial advantage ended the careers of a number of colleagues and injured the reputation of others. More importantly, those incidents seriously damaged the standing of Members generally and of the House as an institution in the eyes of the public. Public confidence had to be rebuilt, and following recommendations by the Committee on Standards in Public Life—then known as the Nolan committee—the House adopted much more rigorous procedures involving, first, a code of conduct and, secondly, an independent commissioner to investigate complaints. At the heart of the new arrangements was a recognition of the overriding need to maintain a proper and visible distinction between our public duties as Members and our private interests. That need is underpinned by the Register of Members' Interests, the main purpose of which is defined in the guide to the rules as giving

"public notification on a continuous basis of those pecuniary interests held by Members which might be thought to influence their parliamentary conduct or actions."

I stress the words "might be thought", as the House accepts that there are occasions on which perceptions are a relevant factor.

As the code makes clear, Members must base their conduct on a consideration of the public interest, and avoid conflict between personal and public interests. They must also conduct themselves at all times in a manner that will tend to maintain and strengthen public trust and confidence in the integrity of Parliament as an institution, and never undertake any activity that would bring the House or Members generally into disrepute. Those two basic principles each have a bearing on the matter now before the House.

Before turning to the specifics of that matter, it might be helpful if I outlined the key elements of how the system works in practice. All complaints are made to the independent commissioner and it is for him alone to decide which merit further investigation and how they are investigated. The ultimate purpose of any investigation—he is an investigator, not a prosecutor—is to seek to establish whether or not the Member has breached the code of conduct. He seeks to agree with the Member concerned, wherever possible—and almost always does—the facts that have emerged from the investigation. He forms an opinion as to whether they reveal any breach of the code and he reports to the Committee, which always publishes his report in full, along with its own report to the House.

It is my Committee that reaches a decision on whether there has been a breach of the code and, in appropriate cases, recommends further action to the House. It reaches its decision on the basis of a thorough and critical examination of the facts reported by the commissioner and any further evidence that it has sought or that the Member has offered following confidential sight of the commissioner's full report. The Committee never simply rubber-stamps the commissioner's conclusions and recommendations.

I turn now to the specific case before us today. I have to say to the House that I was surprised that the hon. Member issued an embargoed press statement within an hour of seeing the Committee's report, denouncing the Committee's recommendations that he be suspended for two weeks as

"wrong, unjust and contrary to the evidence accepted by the Commissioner and recognised by the Committee".

The hon. Member is entitled to his opinion and he has at least been consistent in that matter, both in his written evidence and at the conclusion of his oral evidence when he made it clear that, in his view, it would be a gross travesty if the Committee upheld the complaint.

The Committee, of course, gave full weight to the hon. Member's points, as it did to all the other evidence before it. It none the less unanimously agreed with the commissioner that the evidence bore out the substance of his conclusions. I hope that the House will understand that, in seeking to rebut some of the points that the hon. Member advanced, I may need to speak at greater length on this occasion than on previous ones where our verdict was not challenged.

The hon. Member for Harwich (Mr. Henderson) sought in his complaint an investigation of whether the hon. Member had abused parliamentary privilege in respect of his association with The English Manner Ltd.—a company in which he has a 30 per cent. shareholding. The hon. Member for Harwich also asked for an examination of whether it was ethical for the hon. Member to employ Mrs. Alexandra Messervy as his constituency assistant when she was also the majority shareholder of The English Manner Ltd.—a dual role that, in the view of the hon. Member for Harwich, may have resulted in an unacceptable conflict of interest.

In support of his complaint, the hon. Member for Harwich sent the commissioner material gathered by *The Sunday Times* on the basis of which the newspaper had published articles in August 2004, asserting that The English Manner Ltd. charged substantial sums for tours of Parliament guided by the hon. Member in question.

The complaint was thoroughly investigated by the commissioner, whose report is published together with the Committee's. On behalf of the House, I should like to thank the commissioner for the care with which he investigated the complaint and formulated his conclusions. Besides the commissioner's report, the Committee received further written submissions from the hon. Member and from Mrs. Messervy, who is also one of two directors of The English Manner Ltd. It also took oral evidence from the hon. Member, at his own request.

Having given careful consideration to all the evidence before it, the Committee unanimously accepted the conclusions of the commissioner regarding the conduct of the hon. Member. For his part, and despite the protestations in his press release, the hon. Member himself accepted in giving evidence to the Committee that he did not exercise sufficient personal control over a company in which he had a financial interest.

The basic facts are not in dispute. The hon. Member is a substantial shareholder in The English Manner Ltd.—an interest that he properly registered from the outset. He is also a remunerated consultant to the company on marketing strategy. It is clear that he recognised the potential for conflicts of interest between those roles and his duties as a Member, both because of his oral instruction that neither his name, nor the name of Parliament was to be used in promotional material and because of his ticking of the relevant box when booking dining rooms in the House when his guests had The English Manner Ltd. connections.

It is also common ground between the Committee and the hon. Member for Mid-Bedfordshire that there was no evidence that he benefited directly from entertaining clients of The English Manner Ltd. in the House, nor any evidence that the company made a profit from that entertaining. The Committee states that explicitly at paragraph 40 of the report, and also that there appears to be no basis for newspaper assertions that The English Manner charged substantial sums for arranging access to the House.

Where, then, lies the root of the difference of view between the commissioner and the Committee, on the one hand, and the hon. Member for Mid-Bedfordshire on the other? In essence, the hon. Member takes the view that, as there is no evidence supporting the key assertions by *The Sunday Times* regarding charging for access to Parliament, that complaint must fall. Likewise, he maintains that as there was never, in his opinion, a conflict of interest between the role of Mrs. Messervy as his constituency assistant on the one hand, and her directorship and majority shareholding in The English Manner on the other, that complaint must also fall.

On those grounds, the hon. Member for Mid-Bedfordshire considers that the Committee should have explicitly rejected "the entire complaint, and that therefore the imposition of a penalty is unjust and wrong, and that the opinions of both the commissioner and the Committee fly in the face of the evidence.

I remind the House that the complaint, whose terms I outlined earlier, are set out in full on pages 40 and 41 of the Committee's report, and that they went far wider than the very narrow and specific points on which the hon. Member for Mid-Bedfordshire seeks to argue. The commissioner and the Committee considered that a broader view—of how The English Manner promoted itself, and of the relationships between those running the company—needed to be taken than the one apparently taken by the hon. Member. Given that the company sought, in large measure, to market itself by word of mouth and personal recommendation, that broader view should also apply to the likely reaction of those clients who were entertained at the House.

The commissioner consistently presented the complaint to the hon. Member for Mid-Bedfordshire in those broader terms, as did the Committee when it took evidence from him. In a nutshell, it is that different view of the scope of the complaint that lies at the heart of the different conclusions reached by the hon. Member on the one hand, and by the Committee and the commissioner on the other.

The hon. Member for Mid-Bedfordshire believes that the key question is, "Was either I or The English Manner paid for taking people round the House?" Both the Committee and the commissioner see the matter differently. They ask, "Did the hon. Member break the code by allowing his privileged access to the House and its facilities to be exploited for the commercial benefit of a company in which he had a clear financial interest?"

Much of the evidence, and many of the press allegations, centred on material placed on the company's website. The hon. Member for Mid-Bedfordshire does not dispute that some material on the website gave the impression that The English Manner could arrange privileged access to Parliament. However, he then contends that much of the material behind the complaint was posted on the website without proper authorisation, and that its removal by the company was recognition that it should not have been used in that way. That, of course, avoids the question about the purpose for which the company had prepared the material—something on which the hon. Member was silent.

Such evidence as there is suggests that the documents concerned did form part of the company's marketing strategy. More seriously, however, the review of a visit that included the Palace of Westminster, to which the Committee referred in paragraph 19 of its report, and which explicitly connected the hon. Member for Mid-Bedfordshire, Parliament and the expression "fabulous English Manner adventure", was clearly written for promotional purposes by no less a person than the director of the company and a fellow shareholder. The hon. Member is also silent about how that happened. The evidence clearly suggested that the company—or, at least, its marketing end—considered privileged access to Parliament to be a marketing point, whatever the protestations to the contrary.

The first defence by the hon. Member for Mid-Bedfordshire is that he had made it clear that neither his name, nor that of Parliament, should be used in the company's marketing. He argues that, having instructed that his name should not be used, why should he have had to check?

Is that view sustainable? The hon. Member for Mid-Bedfordshire is an experienced business man. As a Member of the House, he knew of the sensitivities and risks involved in being seen to market Parliament for commercial advantage, and he was remunerated as a marketing consultant to the company.

Both the commissioner and the Committee agreed that the hon. Member for Mid-Bedfordshire should have done more to avoid such conflict, and that he should have taken a far closer interest in the company's marketing strategy in that respect, including its use of the website as a promotional tool.

The hon. Member's second defence was that, on all occasions except one, the guests he entertained in the House who were in the country as clients of The English Manner were entertained as personal friends and not company clients. We explored that in evidence with him, and he agreed that in fact on each occasion only "at least

*[Sir George Young]*

one" of the guests was a "good friend". In essence, the hon. Member was entertaining groups on the basis of "know one, know all". While he may have known personally the organiser of the Garden Club visit, there is no evidence that he had any personal connection whatever with the club as an institution. He also accepted that there was no discussion with guests that might help them to appreciate what he saw as the distinctive status of their visits to the House. Several of them also got a bill for the meal from the company—an act unlikely to reinforce any perception that they had been personally entertained by the hon. Member—although we recognise that there is no evidence that the company added a mark-up.

The most blatant example of commercial exploitation was the familiarisation visit, which, as a whole, was self-evidently designed to promote the company. Neither the commissioner nor the Committee found sustainable the hon. Member's arguments that that entertainment in the House was purely a personal matter. Both concluded that, taken as a whole, the effect of those visits was to give credibility to the company's overall marketing claim that it could gain access for its clients to institutions, people and places that would otherwise be difficult. The hon. Member, as a major shareholder, would therefore stand to benefit indirectly from that promotion of the company.

Nor does the hon. Member's assertion, repeated in his press statement, that a visit to the House did not form any part of a programme offered to the guests, hold water. The Committee saw the programme for the Garden Club visit. It clearly included a visit to the House, and must have been made available beforehand to some, at least, of the party, as it included an option that had to be booked six weeks before the date of the visit. The hon. Member, in his evidence, could give no satisfactory explanation of that. In short, both the commissioner and the Committee rejected both defences, and concluded that he had failed adequately to prevent The English Manner from exploiting commercially his privileged access to the House.

Two other matters came to light during the commissioner's investigation. The first, which emerged very late in the investigation, was that the hon. Member had made six, not four, registrable visits to the USA paid for by The English Manner. The hon. Member had previously twice assured the commissioner that there had been only four such visits. It is regrettable that he misled the commissioner in that way.

The hon. Member accepted responsibility for the late registrations, and explained that they had arisen as a result of a staff member's oversight. The Committee noted, though, that the two previous visits, recorded in the current published edition of the register, had also not been registered within the one-month period, again by substantial margins.

The hon. Member had also on four occasions given incorrect information to the Department of Finance and Administration about Mrs. Messervy's employment status. The information was apparently given in good faith at the time, but should have been corrected when anticipated developments did not materialise. Those failures could have led to an overpayment of the staffing allowance, but in the event appear not to have done so. Although, in that sense, no harm was done, those lapses suggest a less than thorough approach to those important matters.

In both respects, the Committee considered that the hon. Member could and should have done more. He has apologised for his oversights in respect of the staffing allowance and accepts that ultimately he is to blame for the failure to register, in a timely fashion, the two past recent visits.

The Committee has given very careful consideration to the Commissioner's report, and to the further evidence provided by the hon. Member and by Mrs. Messervy. It has discussed the case on three occasions, and deliberated on it for several hours. I stress that the Committee was unanimous in its conclusions. I believe that the hon. Member takes too narrow and selective a view of the nature of the complaint and appears unable to recognise the breadth of the issues raised by his conduct. I take the view that the Committee's recommendation, in the formulation of which it took into account recommendations made in previous cases, is a proportionate response to the facts revealed in the evidence. I see nothing in the hon. Member's press release that leads me to think that either the commissioner or the Committee came to the wrong decision.

Looking at decisions in past cases involving failure to observe strictly the registration requirements, it is likely that the non-registration of the visits and the incorrect information given to the Department of Finance and Administration, both of which the hon. Member accepts, would themselves have led the Committee to call for an apology. When we add in the other matters, which risked damaging the reputation of the House by giving the impression that its facilities were for hire, I think that a recommendation for suspension was inevitable given the extent to which the hon. Member's conduct, as revealed by the commissioner's investigation, had fallen below the standard the House expects.

I commend the report to the House and the recommendation it makes that the hon. Member for Mid-Bedfordshire be suspended from the House for a period of two weeks.

7.40 pm

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): These are always unhappy occasions, but it is important that the House can operate proper and effective self-regulation. I thank my right hon. Friend the Member for North-West Hampshire (Sir George Young) for his chairmanship of the Committee. I also thank the commissioner and the other members of the Committee who work so hard on these difficult cases on behalf of all of us.

It is clear from the report and exhibits that the hon. Member for Mid-Bedfordshire (Mr. Sayeed) has conceded that he did not exercise sufficient control over the company he part-owned and that those using the company website had scope to believe that the company was in the business of providing access to the House of Commons. There was an appearance of conflict of interest in his staff employment arrangements. He has had to apologise for giving the Fees Office and the commissioner wrong information.

The Committee found that the hon. Member stood to gain financially from the benefits to the company of his involvement in visits to and entertainment at the House. As my right hon. Friend the Member for North-West Hampshire said, the Committee concluded that the hon. Member's conduct was well below the standards expected. Hon. Members will know that my right hon. and learned Friend the Leader of the Opposition has described that behaviour as wholly unacceptable. I support the Committee's recommendation and the motion before the House.

7.41 pm

**The Leader of the House of Commons (Mr. Peter Hain):** It is generally accepted that the House should move quickly to resolve recommendations from the Committee on Standards and Privileges. The Committee published its report last Thursday 3 February, and the Government have provided time for debate at the earliest opportunity.

I thank the Committee for its examination of this matter, and the Parliamentary Commissioner for Standards for his investigation. I believe that both have operated with commendable thoroughness and scrupulous fairness to the hon. Member concerned. I pay tribute in particular to the right hon. Member for North-West Hampshire (Sir George Young), who has demonstrated yet again why he is so appropriate a Chairman of the Committee.

The House will welcome the apology by the hon. Member for Mid-Bedfordshire (Mr. Sayeed) in what was a speech of some dignity, but as the right hon. Gentleman said, it is regrettable that the hon. Member's press release was so stridently different in content and tone. It is not clear whether he has actually accepted the Committee's recommendations.

In paragraph 15, the Committee found clearly that the hon. Member stood to gain, even if indirectly, from the benefits that accrued to the company from clients visiting the House. It found a clear risk to the reputation of the House, and the House has heard from the right hon. Member for North-West Hampshire a clear explanation of its reasoning, which we welcome.

I urge hon. Members on both sides of the House to endorse the Committee's report and accept its recommendation. Matters of this kind reflect on the integrity of the House and on each of us who are Members of it. They affect the way in which the public look at Parliament, encouraging cynicism about politics and politicians. They undermine all the good work that is being done to increase public engagement. It is important that we should be seen to respond to matters of this kind fairly but robustly.

I commend the motion to the House.

7.43 pm

**Mr. Paul Tyler** (North Cornwall) (LD): I, too, want to refer briefly to the Committee's report. I hope that the whole House will take this opportunity to express confidence in the commissioner, the Committee and the process for which they are responsible on our behalf. The integrity of our process is extremely important to the reputation of the whole House.

I hope that the Chairman of the Committee, the right hon. Member for North-West Hampshire (Sir George Young), may be able to confirm that the commissioner, as is normal practice, gave the hon. Member for Mid-Bedfordshire (Mr. Sayeed) opportunities to correct any factual inaccuracy. A rather misleading impression was given by the hon. Member in his contribution earlier. I hope that it can be corrected.

In response to the comments of the Leader of the House, perhaps the Chairman of the Committee might like to comment on the subsequent press release, which followed publication of the Committee's report. Did the Committee take that into account in considering this case and will it do so in any future cases? Clearly, a press release issued immediately after publication of a Committee's report can itself damage the reputation of the process and of the House as a whole.

The House should declare its confidence in our carefully designed disciplinary process and we should express our full support for those who undertake these difficult and sometimes invidious tasks on our behalf.

**Tom Levitt** (High Peak) (Lab): On a point of order, Mr. Deputy Speaker. I seek your guidance on a matter, but I am not sure whether what I have to say is a brief contribution or a point of order. I speak as a former member of the Standards and Privileges Committee, although I was not involved in this case in any way. Normally, the procedure adopted on such occasions is that the Member against whom a finding has been made will agree his statement with Mr. Speaker before presenting it to the House, as the hon. Member for Mid-Bedfordshire (Mr. Sayeed) has done—

**Mr. Deputy Speaker (Sir Michael Lord):** Order. A personal statement was not made today; we are simply dealing with the report of the Committee.

*Question put and agreed to.*

*Resolved,*

That this House—

(i) approves the Third Report of the Committee on Standards and Privileges (House of Commons Paper No. 233); and

(ii) accordingly suspends Mr Jonathan Sayeed, Member for Mid Bedfordshire, from the service of the House for two weeks.

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No.118 (6) (Standing Committees on Delegated Legislation),*

PREVENTION AND SUPPRESSION OF TERRORISM

That the draft Terrorism Act 2000 (Continuance of Part VII) Order 2005, which was laid before this House on 20th January, be approved.—*[Gillian Merron.]*

*Question agreed to.*

## DRAFT CHILDREN (CONTACT) AND ADOPTION BILL (JOINT COMMITTEE)

*Ordered,*

That the Lords Message of 2nd February relating to a Joint Committee of both Houses to consider and report on any draft Children (Contact) and Adoption Bill presented to both Houses by a Minister of the Crown, be now considered.

*Resolved,*

*[Mr. Deputy Speaker]*

That this House concurs with the Lords that it is expedient that a Joint Committee of Lords and Commons be appointed to consider and report on any draft Children (Contact) and Adoption Bill presented to both Houses by a Minister of the Crown, and that the Committee should report on the draft Bill by 26th May 2005.

*Ordered,*

That a Select Committee of six honourable Members be appointed to join with the Committee appointed by the Lords to consider the draft Children (Contact) and Adoption Bill.

That the Committee shall have power—

(i) to send for persons, papers and records;

(ii) to sit notwithstanding any adjournment of the House;

(iii) to report from time to time;

(iv) to appoint specialist advisers;

(v) to adjourn from place to place within the United Kingdom.

That the quorum of the Committee shall be two; and

That Vera Baird, Virginia Bottomley, Mr David Chidgey, Ann Coffey, Jonathan Shaw and Mr Clive Soley be members of the Committee.—*[Gillian Merron.]*

## Tree Protection

*Motion made, and Question proposed,* That this House do now adjourn.—*[Gillian Merron.]*

7.46 pm

**Mr. David Kidney** (Stafford) (Lab): It is a delight—I hope that the Minister agrees—to debate British trees. After all, they have been providing us humans with food, fuel, shelter, building materials, places of recreation and beauty in our landscape for millennia. Indeed, our quality of life is enhanced by the existence of trees, which absorb greenhouse gases that otherwise cause harm to us and our environment. Trees give us shade. They block out noise. They conserve biodiversity, as habitats for numerous animal and plant species. They aid the economy—timber and tourism, with visits to see trees, most immediately come to mind—and in my view, they make us happier.

Hon. Members can see a glorious row of trees close to the House in New Palace Yard. They can see an ancient hawthorn and a rare black poplar in Green park, and they can see the famous Elfin oak in a gilded cage in Kensington gardens. My constituency contains examples of the brilliance of trees—I am sure that those of many hon. Members are the same—and many contexts in which trees are valuable to our history. The Royal Oak public house is in Bishop's Wood in my constituency. Many pubs in the country have that name, but the one in my constituency is within a mile or two of the very oak where it is alleged that Charles II hid after his disastrous defeat at Worcester.

Trees are valuable to our heritage. My constituency contains parts of the wonderful Cannock Chase, which was once a great royal hunting forest but is today owned by the county council. It is a mass of sites of special scientific interest, an area of outstanding natural beauty and a special area of conservation for its heathland. Trees are valuable to our habitats. What a delight it was for me the day that I stood in Shugborough estate, viewing a lime tree that was home to enormous numbers of wasps. I assure the Minister that I watched from a safe distance. Trees are also valuable to housing—something that applies across the country. I refer in particular to urban areas: trees add to the delight of parks, grass verges alongside roads and housing estates.

I want to discuss the polices that we should implement to value and protect all kinds of trees, and the contribution that my hon. Friend the Minister can make in the Department for Environment, Food and Rural Affairs. Let me start with the brilliant reforms that we have had to the common agricultural policy since June 2003. It is great to see that woodland and trees are recognised for the part that they play in farmed landscapes. We have a glorious toolkit: the cross-compliance conditions, the entry level and the high-level schemes for the forest stewardship and woodland grant schemes. For goodness' sake, let us ensure that we use all those schemes to improve the country's trees—for example, by buffering important woodland sites from surrounding intensive land use.

The Department has other tools, such as its biodiversity strategy, which covers the conditions that are set to maintain the condition of SSSIs and the number of agri-environmental schemes to manage land. Another of the Department's tools is the plant diversity

challenge, otherwise known as the UK's response to the global strategy for plant conservation. The target for the sustainable management of plant products is relevant to that.

Training, skills and information services are a crucial tool for the Department. I believe that it is possible to fire the public's imagination and inspire people to work, including as volunteers, with trees. From my constituency experiences, I know that there would be a positive public response. When residents living near the ancient Fullmoor wood thought that it was under threat from works proposed by the Forestry Commission, they organised a huge campaign, which included public demonstrations and contact with their Member of Parliament. I praise publicly the response of the Forestry Commission because, through its openness and transparency, it resolved problems and soothed anxieties. It now has a positive partnership with the residents.

I shall cite a further positive example from my constituency. In the run-up to the millennium, all the residents of the village of Derrington got together to plant a millennium wood, which now stands as a fine tribute for centuries to come. It was a delight for me to join the residents one day in planting those trees, which they now tend to attentively.

The Office of the Deputy Prime Minister can make a contribution to all trees. I know that that is not my hon. Friend the Minister's Department, but I am sure that he can assist me. The current system of tree preservation orders is inadequate. There are explicit exceptions to their power. Trees that are dead, dying or dangerous are not protected. The removal of a tree can be authorised by an Act of Parliament—I suppose that the measures on high hedges in the Anti-social Behaviour Act 2003 would provide for that. An existing tree preservation order can be overridden by granting new planning permission for development. On top of all that, there is the obvious exception that a council may give permission to lop a protected tree, or even to cut it down.

In addition to those exceptions, there are obvious weaknesses and loopholes in the system. For example, only a fine can be imposed for breaking a tree preservation order and destroying a valuable tree. During my time as a councillor in Stafford, I knew of a developer who deliberately cut down protected trees and stood the fine because the profit on the houses that he subsequently built was miles greater than the fines.

**Tony Cunningham** (Workington) (Lab): Last Friday, my office received a phone call from a distraught villager of Clifton, which is just outside Workington, who asked me to make a visit. A large site was completely devastated because a developer had chopped just about every tree in it down. He had not received planning permission from the council and, indeed, the inspector had said that he should not get planning permission because the landscape and the trees, and especially the red squirrels that inhabited the trees, were too important. The developer destroyed all the trees either out of spite, or because he planned to put in a further planning application at a future date. The planning authority says that it is finding it difficult to prosecute the developer because he owned the trees and the land. Surely that example supports my hon. Friend's point.

**Mr. Kidney:** My hon. Friend is right, and I trust that he works hard to do his best to overcome such problems.

That takes me on to the second aspect of the weaknesses and loopholes in the system. Local authorities do not always enforce existing tree preservation orders. There can be a conundrum about whether accidental damage was caused during development, but local authorities often face other problems. I know from my casework of an allegation that a developer deliberately knocked down trees that were subject to tree preservation orders so that he could make way for houses.

There is a reverse side of the coin when considering tree preservation orders. Let us be fair to the owners of trees that are subject to such orders. I know from my casework about article 5 certificates, which allow local authorities to refuse permission to carry out work on trees, even for safety reasons. An article 5 certificate can be issued on a tree that is subject to an order made before 1999. The certificate absolves them from any responsibility for anything that goes wrong afterwards. That is clearly unfair. I note from my correspondence with the Office of the Deputy Prime Minister that the Government have a long-standing policy of ending that unfairness. I therefore ask the Minister: when will we end that injustice? While we wait to end it, can we not give local authorities guidance requiring them not to rely on article 5 certificates?

I also ask the Office of the Deputy Prime Minister to help local authorities rebuild their expertise in dealing with trees. Several local authorities have lost their ability to employ tree officers, because of previous financial restrictions, and although elected representatives are very willing to do more to help on the subject, they often lack the experience and expertise in officer support to do so.

I want to say something about ancient trees and ancient woodland in particular. It is estimated that the total area of ancient woodland in England is 334,000 hectares. Woodlands have some protection; felling licences are a good example, and there are designations such as SSSIs and special areas of conservation. I like to think that the UK has a special responsibility to look after ancient trees, based on the fact that about 80 per cent. of north Europe's ancient trees are in Britain.

Obviously, tree preservation orders do not protect ancient trees. I say obviously, because one of the exceptions to the order is if the tree is dead, dying or dangerous. Of course lots of ancient trees are dead or dying. There is an anonymous saying that an oak tree grows for 300 years, rests for 300 years and spends 300 years gracefully declining. The very fact that they are elderly and declining requires us to protect them.

I alert the Minister to the sometimes outrageous outcome of calling an old tree dangerous. I should like to give an example with a happy ending. The Redmire oak of North Yorkshire is said to be more than 500 years old. The Methodist preacher John Wesley was said to have preached under it in the 18th century. Despite the support of the parish council, there were increasing

*[Mr. Kidney]*

health and safety concerns about the tree. Although it is protected by a tree preservation order, the district council thought that it was helpless to save it because it was nearly dead. Yet, with a grant of just £200 from Yorkshire Water, the tree was protected and able to stand and continue to live. It is outrageous that an ancient tree could be lost for want of £200-worth of investment just because we do not have a robust system of protection. I suggest that the tree preservation order, which presently effectively excludes such trees, ought to be changed so that it explicitly protects them—perhaps with the new designation of an historic tree.

Although I was quick to praise the common agricultural policy reforms, I fear that in the case of ancient trees the CAP slightly misses the target. There is a welcome recognition of the value of ancient trees in the good agricultural environmental condition—GAEC—but, as I understand it, that covers felling licences, which relate to woodlands, and tree preservation orders. As I have just explained, tree preservation orders are not helpful to ancient trees. Will the Minister consider whether more needs to be done to ensure that ancient trees are covered by the CAP policy reforms that we have achieved? I accept that it is incredibly important to encourage the planting today of trees that will become the ancient trees of future generations. That is an important area of attention for the money from CAP reforms.

On the issue of planning law and protection for ancient trees, I refer briefly to what is to become planning policy statement 9. We currently have planning policy guidance note 9 on nature conservation, but that is soon to be PPS9 and entitled "Biodiversity and geological conservation".

Paragraph 10 represents a great step forward for ancient trees. It states:

"Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity. Planning authorities should encourage the conservation of such trees as part of development proposals."

That is excellent. Paragraph 10 continues:

"Ancient woodland is a valuable biodiversity resource both for the diversity of species and for its longevity as woodland. Once lost it cannot be recreated. Local planning authorities should identify any areas of ancient woodland in their areas that do not have statutory protection (e.g. as an SSSI)."

All of that marks a welcome shift in policy, but it ends with a caveat:

"unless the need for, and benefits of, the development in that location outweigh the loss of the woodland habitat."

Does the Minister accept that there is no need for that caveat? After all, the planning system requires planners to take all material considerations into account when dealing with an application. The point of the paragraph is to protect ancient woods and trees. I hope that my hon. Friend agrees that the caveat should be lost from the final text of PPS9.

At last week's meeting of the all-party group on conservation and wildlife, which I have the privilege to chair, we received a joint presentation from the Woodland Trust and the Ancient Tree Forum, in which there was strong interest among Members of both Houses. They showed us two new website projects. The first, at www.ancient-tree-hunt.org.uk, involves mapping all the ancient trees in the country. The second, at www.woodsunderthreat.info, is excellent: not only does it show any interested member of the public where there are trees and woods under threat from harmful development, but local residents concerned about their ancient trees can mail in information about trees under threat, which can be added to the project. I ask my hon. Friend whether there is any chance of DEFRA joining friends such as the Forestry Commission in funding the projects, which I believe contribute toward meeting the biodiversity strategy indicators and the plant diversity challenge targets by which his Department abides.

At last week's meeting, I was delighted to be able to introduce as one of our speakers the world-famous author Bill Bryson—the Minister will know of his great commitment to Britain and Britain's heritage. He described ancient trees and woods as important markers of our cultural heritage and spoke of the "scandalous" loss of ancient trees and woodland. He also made a comparison with historic buildings, saying that while there is protection for historic buildings, there is certainly no protection for historic trees. I urge the Minister to take action to protect our trees for today's and future generations in the same way as we protect our historic buildings. I believe that that would be an extremely popular cause and that a Minister and a Government who took such positive action would be widely acclaimed.

8.2 pm

**The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Mr. Ben Bradshaw):** I congratulate my hon. Friend the Member for Stafford (Mr. Kidney) on securing a debate on an extremely important subject and on delivering with such passion a speech full of information. It was well worth waiting through the little bit of business of the House to respond to it.

I share my hon. Friend's passion for trees. I spent some of the happiest times of my childhood up trees, and I remain something of a tree hugger. I continue to admire trees, and I strongly endorse everything he said about the contribution that they make to our landscape, our biodiversity and our psychological health, and simply as objects of enormous beauty. This evening, we are thinking particularly of ancient and veteran trees, which provide an extremely important genetic link to the wild wood that covered much of our countryside centuries ago. He acknowledged how fortunate we in this country are by citing a statistic that I was unable to lay my hands on—that 80 per cent. of Europe's ancient woodland is in the UK. That has come about partly for cultural reasons and partly because, by and large, we have done a good job of protecting our wonderful trees.

We have also done quite a lot to encourage new woodland creation through the Forestry Commission's woodland grant scheme and projects such as the national forest and the community forest. Contrary to popular perception, the area of woodland in this country is growing fairly significantly every year. Nevertheless, we must recognise that whenever trees and woodlands are perceived to be under threat, the adequacy of their protection comes into question.

We have in place a wide range of measures to protect our trees. As my hon. Friend mentioned, they include tree preservation orders, which give local authorities

wide powers to protect trees and woodlands in the interests of amenity. Work on those trees then requires the consent of the planning authority. I agree with him that the exemptions that he highlighted in the current system, which allow work on dead, dying or dangerous trees, should be tightened up, and not only in relation to veteran trees. I understand that, as he was kind enough to point out, a lot of the responsibility in this area lies with the Office of the Deputy Prime Minister, with which we work closely. It has responsibility for tree preservation orders.

**Rob Marris** (Wolverhampton, South-West) (Lab): Cross-cutting.

**Mr. Bradshaw:** Exactly: it is a good example not of cutting trees but of cross-cutting government. The Office of the Deputy Prime Minister is planning to address the issue as soon as parliamentary time permits. The Department for Environment, Food and Rural Affairs will certainly continue to press it to do so.

The removal of the exemption allowing work on dying trees would in particular boost the protection of veteran trees, which, as my hon. Friend also pointed out, often contain a significant proportion of dead wood, as they take a long time to die. He also mentioned the felling regulations, which require permission to be sought from the Forestry Commission when a landowner wishes to fell an area of woodland. These applications are carefully considered before a licence is granted. Restocking conditions can be attached to such licences, and in many cases, the new woodland that is established is an improvement in quality on that which it replaces.

As the House will be aware, many of our finest concentrations of veteran trees and ancient woodlands have extra statutory protection through designation as sites of special scientific interest. I am thinking, for example, of the New Forest, Sherwood forest and the trees of Windsor great park. More than a quarter of England's 4,000-plus SSSIs, making up more than 115,000 hectares, have significant woodland conservation interest. Almost three quarters of woodland SSSIs are in favourable condition, which is ahead of the average for all SSSIs. Some of the woodland SSSIs are also special areas of conservation under the habitats directive, which recognises their importance at European level.

Protection and enhancement of veteran trees and ancient woodland is, however, about much more than regulation and statutory designation. It is also about raising awareness—something that is partly helped by debates such as this—of the value of our trees and woodlands among all who can influence their management. That is why projects such as the one to which my hon. Friend referred, the Ancient Tree Forum's ancient tree hunt, is partly funded by the Forestry Commission, which is a member of the DEFRA family, as well as the work of the Woodland Trust to draw attention to the special value of veteran trees and ancient woodland, are to be applauded.

For our part, in 2002 we published the England biodiversity strategy, "Working with the grain of nature", which set out a programme of activity to ensure the integration of biodiversity into policy making and practice. One of the key aims in the strategy is to conserve and enhance the biodiversity of woodlands, and particularly ancient semi-natural woodlands, veteran trees and wood pasture. The woodlands and forestry workstream, which helped to prepare the strategy, is currently undertaking a detailed work plan to tackle important issues such as the protection of woodland from external threats, which my hon. Friend mentioned, conserving and enhancing the biodiversity of native woodland, and the conservation of woodland biodiversity in the wider landscape.

I turn now to one or two of the issues that my hon. Friend raised that are the specific responsibility of the Office of the Deputy Prime Minister. The new draft guidance in the planning policy statement for biodiversity, PPS9, which he mentioned, makes a big step forward in recognising the biodiversity value of ancient woodland. The draft PPS now requires local authorities to identify ancient woodland of highest biodiversity value that is not already protected by statutory designation. We believe that that identification process will assist local authorities in ensuring that the biodiversity value of such sites is fully considered in decisions on planning proposals. It will also ensure that development affecting ancient woodland is not allowed to go ahead unless any loss or deterioration is clearly outweighed by the need for and benefits of the proposed development.

I give my hon. Friend the assurance that we will not make any decision on the final wording of PPS9 until all responses to the consultation, including those from the Woodland Trust and the Ancient Tree Forum, have been fully considered. We expect to publish a final version of PPS9, together with its accompanying circular and a good practice guide, in mid-2005.

For many years, the Forestry Commission has recognised the value of our ancient woodlands, and it is preparing a new statement on ancient woodland policy. The new statement will confirm our commitment to the protection and enhancement of ancient woodlands and will be backed by new management guidelines for ancient and native woodlands that gives practical advice to woodland managers. The new English woodland grants scheme will provide a framework for the provision of incentives to encourage the management of ancient woodland and the creation of new woodland.

My hon. Friend referred to another way in which we are encouraging the management of individual trees and small groups of trees. DEFRA's new high-level scheme is one of our agri-environment schemes under common agricultural policy reform. It will provide incentives for various works to conserve and manage veteran trees, including pollarding, surgery and protection from encroachment. Although I appreciate my hon. Friend's concerns about designation, because we have such a large proportion of Europe's ancient and veteran trees—far more than any other country—our overall approach is concentrated on some of the very good schemes, rather than the labour and resource-intensive process of cataloguing every single veteran tree in the country. That policy is under constant review and I have heard his representations tonight. For the time being, however, our overall approach to building on our wonderful resource of ancient woodland and veteran trees is best done by building on the existing

*[Mr. Bradshaw]*

work, including tree preservation orders, planning policy statements, ancient woodland policy, agri-environmental schemes and woodland grants.

**Tony Cunningham:** My hon. Friend has mentioned tree preservation orders. I have heard of cases in which councils have received planning applications for 10 houses on a site that contains a tree. When people say, "We need a tree preservation order on that tree," the planning officer says, "That will cost the local authority £50,000 or £60,000, because the developer will say, 'I can only build nine houses rather than 10.'" At that point, councillors say, "That is a lot of money," and the tree is not preserved, although it is under a tree preservation order.

**Mr. Bradshaw:** My hon. Friend has made a good point—I was going to respond to his earlier point about a particular constituency case. It is extremely important that local authorities take their responsibilities for preserving ancient and important trees seriously. I take the point made by my hon. Friend the Member for Stafford about the need for local authorities to re-examine how they resource such work, and I undertake to ensure that the ODPM is aware of the concerns expressed today about how local authorities prioritise such work and the action that they take when developers behave unacceptably.

**Rob Marris:** Will my hon. Friend say a little more about what the Government are doing to encourage local authorities, particularly in England, to plant native species? We must protect ancient woodlands, but we must also protect native species. In recent years, there has been a trend to replace native species with non-native species, and I urge him to encourage local authorities to plant native species.

**Mr. Bradshaw:** We already encourage local authorities to plant native species. I am surprised by my hon. Friend's point, because my impression is that we have got the message across in recent years to both local authorities and private woodland owners that the grant schemes administered by my Department have moved towards the planting of native species rather than of non-native species.

The debate has been interesting and important. I hope that my hon. Friend the Member for Stafford accepts that DEFRA and I take the matter extremely seriously. Forestry in this country has a great future, partly because of the historic reforms of the CAP and partly because of the enormous potential for the production of renewable energy through afforestation.

We all value our ancient and historic trees, but we can always do more, and the package of measures that I have outlined can always be revised and improved to become more effective. As long as I am Minister with responsibility for forestry, I will ensure that we do all that we can to encourage the management of our wonderful trees.

*Question put and agreed to.*

*Adjourned accordingly at fourteen minutes past Eight o'clock.*

# House of Commons

*Wednesday 9 February 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## DEPUTY PRIME MINISTER

*The Deputy Prime Minister was asked—*

### Housing (Wales)

1. **Huw Irranca-Davies** (Ogmore) (Lab): What discussions he has held with the National Assembly for Wales Government on housing policy. [214868]

**The Minister for Housing and Planning (Keith Hill):** Ministers and officials in the Office of the Deputy Prime Minister liaise with the devolved Welsh Assembly Government at regular intervals. In particular, we held wide-ranging discussions with National Assembly officials in the preparation of our Housing Bill.

**Huw Irranca-Davies:** I welcome the fact that my right hon. Friend has given that answer. I shall deem him an honorary Welshman for the next few minutes by virtue of his having studied at Aberystwyth university back in 1966.

In housing policy, we often look far afield to try to find solutions, but does my right hon. Friend agree that Wales and England have much to learn from each other and that the innovative use of such things as starter tenancies, community housing mutuals and home buy schemes will provide useful icebreakers in his next chat over a cappuccino with his counterparts in the Welsh Assembly at Cardiff bay?

**Keith Hill:** Well, Duw, Duw. I am delighted to be named an honorary Welshman by my hon. Friend, and delighted of course with the high level of co-operation between my Department and the Welsh Assembly Government in pursuit of the Labour party's aims of expanding both the supply of homes for social renting and low-cost home ownership for first-time buyers. I welcome in particular the big improvements to homes in my hon. Friend's beautiful Ogmore constituency, resulting from the housing stock transfer in the Bridgend area. Of course, my hon. Friend and I know that in Wales and in England the James review would mean massive cuts in housing investment if the Tories ever got back to power.

**Mr. Win Griffiths** (Bridgend) (Lab): Has my right hon. Friend had an opportunity to look at the green pastures scheme run by Pastor Peter Cunningham in Southport? In *The Times* yesterday, it was claimed that there were no homeless people in the Southport area because of his scheme. He has bought some houses in Flint in north Wales, so can my right hon. Friend discuss with his counterpart in the Welsh Assembly whether there is something in that scheme? If so, it will certainly make a huge contribution to dealing with homelessness.

**Keith Hill:** I am grateful to my hon. Friend for his question. I did not spot that article in *The Times* yesterday, because my eye was caught by the front-page report of Labour's massive lead over the Conservatives in the opinion polls. Nevertheless, I undertake to follow up on the matter and find whether, working with the Welsh Assembly Government, benefits could be derived from that scheme.

### Social Home Buy

2. **Iain Wright** (Hartlepool) (Lab): If he will make a statement on social home buy. [214869]

**The Deputy Prime Minister (Mr. John Prescott):** Our new home buy scheme will offer more social tenants the choice to own a home. Tenants will be able to buy as little as half their existing home at a discount, with the opportunity to increase their share and become full owners over time. Home buy will put home ownership within the reach of up to 300,000 more social tenants. Unlike right to buy, the social home stays in the public sector and the local authority will be able to invest the full 100 per cent. proceeds in new housing, rather than 25 per cent. under the present right to buy scheme. We will consult on the details of the scheme before Easter.

**Iain Wright:** I welcome the Deputy Prime Minister's comments because social home buy provides people on low incomes with a real stake in their home and their communities. It provides a great opportunity to regenerate areas of low demand and exclude unscrupulous and profiteering private landlords. Does he agree that the siting of such schemes and homes is vital? I am thinking particularly of previously run-down town centre areas. Social home buy needs to ensure that such areas once again become vibrant places to live and that the doughnut effect of all new homes being located in the suburbs is avoided.

**The Deputy Prime Minister:** I very much agree with my hon. Friend. Indeed, our policy since 1997 has been to achieve greater growth in towns. Our first job was to reverse the increase in out-of-town shopping, which we have done, and for the first time more retail shopping is now being done in town centres than outside towns. That has brought a new lease of life to the centres of cities and towns. The home buy policy, which is our current housing policy, as well as the brownfield policy and sequential testing have all led to exactly what my hon. Friend wants—the rebirth of towns, for which he is a doughty champion, especially in Hartlepool.

**Mrs. Caroline Spelman** (Meriden) (Con): At the heart of the Government's plans to solve the housing crisis is the provision of cut-price houses for £60,000 each. The Swedish retail giant, IKEA, has a name for properties of

that sort: it calls them Bokloks. Given that the land that they would be built on has already been earmarked for sale by the Chancellor and the definition of "key worker" is at best muddled, does the Deputy Prime Minister agree that the term "Bokloks" just about sums it up?

**The Deputy Prime Minister:** Once again, the hon. Lady shows her ignorance of what is actually happening. If she had gone to the sustainable development conference, she would have seen the £60,000 house on display. It was a wow at that conference. The industry told me that it could not be built. We not only built it and displayed it at the conference, but it has now gone to Allerton Bywater and will be part of the development of a pit site of houses available at £60,000. It is a reality, and a lot of people who want to buy their homes welcome the fact that we have thought of new ways to provide affordable homes. That contrasts very well with the press report that I have seen in *Kent on Sunday* that the hon. Lady's first statement on housing arising out of the James review was that she would cancel the plans to build 130,000 new homes in Kent. That kind of message to the people in Kent and the south-east who are desperate for homes shows quite a contrast with what we are trying to do.

**Mr. Edward Davey** (Kingston and Surbiton) (LD): The Deputy Prime Minister knows that the size of the discount for social home buy is crucial in understanding what that policy means and how it will operate, and he is rightly consulting on that. However, will he say now who will pay for the discount? Will it be the housing association or the taxpayer? If it will be the housing association, does he accept that social landlords will end up building fewer affordable homes, when we need more? If it will be the taxpayer, what provision did the Treasury make for that in the spending review?

**The Deputy Prime Minister:** The financing is the same as we had before. If the housing association pays, it will be compensated by the Housing Corporation, whose funds come from the Government. There are varying amounts of subsidies, as the hon. Gentleman knows. The right to buy subsidy can range up to £40,000, which is the reason why we have lost 1.8 million houses from the public housing sector. The right to acquire subsidy is down to £16,000. As he rightly says, we are consulting on the subsidies involved, but it is important that by allowing people to buy equity in such situations, they can afford the mortgage price, and that is available to about 300,000 more people, whereas if I had extended the right to buy to the right to acquire situation, it would have benefited only 60,000 people. We are giving more choice to more people and meeting their demands.

**Lawrie Quinn** (Scarborough and Whitby) (Lab): Will the consultation that my right hon. Friend has announced on this welcome policy also allow people who live in rural areas who are equally under pressure in trying to get the first foot on the ladder and very much in need of good social housing to be included in the roll-out of the policy?

**The Deputy Prime Minister:** Yes, those people certainly will be included. In fact, one of the great difficulties of the previous Administration's policy on rural housing was that they limited it in certain circumstances where they believed that there was a housing crisis. The houses were supposed to be available to people in the local area. The trouble was that the younger people usually did not have the money to buy the houses, which usually went to people who lived in the area who used them for holiday lets. That is not acceptable. The opportunity extends to rural areas, but I go further and call on all local authorities to do the same. Indeed, to be fair, my mate the Mayor of London has just discovered an awful lot of plots of land that he can build on. Local authorities and Government agencies could go round looking for those plots of land and take this opportunity to build good, high-quality houses—by the way, the £60,000 house is up to the highest standards, saving energy and water—and give a real opportunity to people in rural areas.

**Dr. Howard Stoate** (Dartford) (Lab): My right hon. Friend knows that one of the main issues that affects public sector recruitment in areas just outside London, particularly in Kent Thameside, is the cost of housing there. Will he show how his policies will make more houses available, particularly to those key workers in nursing, teaching and the police whom we so desperately need if we are to continue the regeneration of areas outside London?

**The Deputy Prime Minister:** Absolutely critical for sustainable communities is, first, that we should not cancel all the houses that are being built, which seems to be the Opposition's policy.

**Mr. Edward Davey:** It is not the Liberal Democrat Opposition's policy.

**The Deputy Prime Minister:** I mean the real Opposition.

We will keep to the building programme. The second thing that we would do is to provide the opportunity for key workers to buy using that form of equity. Under the present key worker policy, we pay up to about £100,000 in subsidy to provide a house to maintain a hospital or teacher service. Frankly, that is not the best way to use money. With the equity shares that we are now using or by separating the construction price from the land price and using the Government land that we keep to our advantage, we allow key workers to have a mortgage price that they can afford.

## Social Housing (London)

3. **Jeremy Corbyn** (Islington, North) (Lab): What plans he has to increase the stock of council and housing association dwellings for rent in London. [214870]

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper):** We are investing £1.5 billion over two years to provide more than 21,000 affordable homes in London, of which 10,000 will be social rented, with 7,000 for key workers and 4,000 for low-cost home ownership. London will also share in the additional £430 million of investment in new social rented homes by 2007-08.

**Jeremy Corbyn:** I welcome any new housing for people in London on low incomes or in desperate

housing need. Does the Minister recognise that in inner London, especially, there is an absolute crisis due to the falling supply of council housing because of the right to buy and the small number of housing association properties being built? Many children live in disgracefully overcrowded conditions, but the only alternative that people are given by councils is to go away from London, and thus away from families, jobs and education. Does she realise that there is a crying need to invest in homes for rent for people in desperate housing need so that they can remain in their local communities rather than being forced out by wealthy, upwardly mobile people coming in?

**Yvette Cooper:** My hon. Friend is right that there is a need for additional investment in social housing in London. That is an extremely important issue, which I why I am surprised that there are only four Conservative Back Benchers in the Chamber for our discussion of it.

My hon. Friend referred to the need to provide affordable housing. We are increasing the rate of new social house building throughout the country by 50 per cent. over the next few years and we will shortly announce what that will mean for London. He is right that we also need to provide assistance for key workers and we are doing that to support our public services.

**Mr. Mark Field** (Cities of London and Westminster) (Con): Is it not the case that all housing in London is now less accessible and affordable than ever, thanks in no small part to the Labour Government's property taxes? Does the Minister realise that, since 1997, average stamp duty in London has risen from £1,280 to £9,296? What plans does she have to end that blatant discrimination against those who live in our capital city?

**Yvette Cooper:** I am intrigued that the hon. Gentleman is suddenly worried about housing in London, given that his party wants to cut the housing budget by £1 billion. When we accused the Conservatives of wanting to cut the budget by £400 million, they denied it, but that was because they actually wanted to cut it by £1 billion, as the James review says. The Conservative Front Bench must realise that houses cost money and we must invest in new houses. It would be utter madness to make the cuts that they propose.

## Social Housing

4. **Bob Russell** (Colchester) (LD): How many of the affordable rented houses to be built over the next three years will be council houses. [214871]

**The Minister for Local and Regional Government (Mr. Nick Raynsford):** The Office of the Deputy Prime Minister will be providing 75,000 new social rented homes over the next three years to 2007–08. Of those, we estimate that more than 3,000 will be provided by local authorities.

**Bob Russell:** I am grateful to the Minister, because the 3,000 council houses that he announced will match the 3,000 that new Labour has built in the past eight years, which is in stark contrast to the 350,000 that the Thatcher Government built over an eight-year period. Bearing in mind the success of the Attlee, Callaghan and Wilson Governments in building hundreds of thousands of family council houses, why is new Labour hostile to council houses through its systems of management, ownership and new build?

**Mr. Raynsford:** We are not. I am astonished that the hon. Gentleman did not refer to the Government's considerable investment in improving the stock in his area. We have invested £35 million to support the arm's length management organisation in Colchester, which will bring all the council houses in the area up to a decent standard by 2007. He would better serve his constituents if he argued the case for improving the condition of existing homes. He has forgotten that the Government inherited 2 million council homes in poor condition and one of our proudest achievements is bringing 1 million of them up to a decent standard.

**Mr. Clive Betts** (Sheffield, Attercliffe) (Lab): Does my right hon. Friend accept that we must not only build more affordable houses, but protect the affordable housing stock? Does he accept that the housing market has changed significantly in the past few years in areas such as Sheffield? As house prices have risen dramatically, more people have tried to rent and more have bought their council houses. The number of right to buys has gone up from about 400 in 1997 to more than 2,000 last year, which has created much longer waiting times. Will he consider extending the discount limits on the right to buy that apply to certain areas of the south to parts of the north in which there are real housing market pressures?

**Mr. Raynsford:** I had an agreeable visit to Sheffield recently and was delighted to see the impressive progress that is being made in renovating the existing stock and learn about the successful ALMO. I was also told about the opportunities for helping tenants to get an appropriate home through the choice-based letting scheme. My hon. Friend will know that people now want a range of choices and it is right that we should provide for people seeking good quality homes to rent, for those seeking homes to buy and for those seeking equity shares.

On right-to-buy discounts, my hon. Friend knows that the Government have taken steps to ensure that people should be able to acquire a home if they want to with a discount, but we also need to ensure that that is value for money, and that remains our objective.

**Sir Nicholas Winterton** (Macclesfield) (Con): I think that the Minister may be able to anticipate my question, which is straightforward. Does he believe that local housing authorities—that is, those that manage council housing, such as Macclesfield borough council, which by the way is debt-free—should be treated on exactly the same basis as registered social landlords? At the moment, they are not. Macclesfield is being forced to transfer its housing stock because the Government will not allow it to retain adequate revenue to keep to the decent housing standard. Will he look at this request, because I believe that council housing is important?

**Mr. Raynsford:** I agree with the hon. Gentleman that council housing is important, but equally important is

ensuring that housing is brought up to a reasonable standard. That is why we have required all housing authorities to carry out an option appraisal to look at the best way of ensuring that their housing is brought up to the decent homes standard in a reasonable period. I should have thought that he, like other Members, would want to support proposals that would achieve the decent homes standard in the quickest way, whether that is through retention by the local authority or a stock transfer to a registered social landlord. *[Interruption.]*

**Mr. Speaker:** Order. There is far too much noise in the Chamber.

**Mr. Harry Barnes** (North-East Derbyshire) (Lab): My right hon. Friend the Minister for Housing and Planning recently visited North Wingfield in my constituency, in connection with its pathfinder scheme, which hopefully is making progress. Would one of the Ministers on the Front Bench like to revisit North-East Derbyshire? There is a place called Clay Cross, which has a great deal of experience of council housing and we would really like to get into detail with Ministers about the future of council housing and the role it should play in Government policy.

**Mr. Raynsford:** I apologise for the fact that my hon. Friend is getting an answer from me rather than from my right hon. Friend the Minister for Housing and Planning, but I paid a visit to Derbyshire early in the lifetime of this Government and saw the terrible consequences of the dereliction by the previous Government, particularly in a number of former mining areas which had been abandoned and were disgracefully run-down. This Government have been investing not just in improving the quality of housing but in regenerating many of those former mining areas, including north Derbyshire, and I am proud of the record of trying to improve the conditions and prospects for people in such areas.

**Mr. John Hayes** (South Holland and The Deepings) (Con): If this Government's housing policy was not so tragic it would be funny. It combines dictating where people should live with the provision of low-value prefabs, like a mixture of Chairman Mao and Maplin's holiday camp. But what is not funny is that the Government are building half as many social houses as the last Conservative Government did and, under Labour, 100,000 people are stuck in temporary accommodation. Does the Minister understand that his Government's failure to build social housing deprives desperate people of the homes that they long for and that their only hope is his and his colleagues' swift and enforced return to the Opposition Benches?

**Mr. Raynsford:** What a risible contribution from a party with a disgraceful housing record and a current policy of cutting £1 billion out of housing investment while pretending that it can somehow offer more, even though it opposes the Government's actions to ensure that housing needs are met and has done nothing to support the improvement of the appallingly substandard council housing that it left as our inheritance. The Conservatives would serve the country better by a period of silence on this subject.

## Asset Inequality

5. **Dr. Brian Iddon** (Bolton, South-East) (Lab): What effect he expects the five-year plan will have on the level of asset inequality. [214872]

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope):** Our five-year plans will help to reduce asset inequality by offering more choice and fairness in housing, including new proposals to allow thousands of tenants to buy a share in their home, by recycling public assets, by tackling disadvantage and by promoting more prosperous regions.

**Dr. Iddon:** Has my hon. Friend seen the Shelter report "Know your place" on housing wealth and inequality? Is he as concerned as I am that, if action is not taken urgently, in 30 years' time the 10 per cent. of children in Britain's wealthiest areas will be in families that own more than 100 times the housing wealth of the 10 per cent. of children born in the poorest areas of the UK?

**Phil Hope:** My hon. Friend is right to highlight those inequalities in assets, which is why the five-year plan published by my right hon. Friend the Deputy Prime Minister is called "Sustainable Communities: Homes for All". It contains new measures to help first-time buyers on to the housing ladder and to extend home buying so that council tenants and tenants of social landlords—up to 300,000 people—have an equity share in their own home. Those are radical proposals to redistribute the assets of this country to help the poorest the most, unlike the policies of the Conservatives, whose £1 billion cut in housing would deprive those poor communities of the housing that they desperately need.

**Mr. Geoffrey Robinson** (Coventry, North-West) (Lab): Is the Minister aware that the Shelter report shows that home ownership—for those who have been able to do it—is a major factor in the growing inequality in this country? Is he also aware that his policies for social buy and affordable housing are welcome in Coventry, where I can assure him and his policies of a warm welcome and a total rejection of the Conservatives' proposed cuts of £1 billion?

**Phil Hope:** My hon. Friend is right. It is important that 100 per cent. of the proceeds of the sale of the new assets is reinvested in housing. Home buy will help social landlords to deliver new social homes for homeless households and others in priority need of housing. I am delighted that things are going so well in Coventry. I just hope that its people remember that when it comes to making a choice in a few months' time.

## Housing Market (East Lancashire)

6. **Mr. Gordon Prentice** (Pendle) (Lab): What assessment he has made of the progress made by Elevate, the housing market renewal pathfinder in east Lancashire. [214874]

**The Deputy Prime Minister (Mr. John Prescott):** Elevate has made a good start in dealing with the long-term problems of low housing demand in my hon.

Friend's constituency and across east Lancashire. We have allocated £68 million to Elevate for the period up to March 2006 and I expect the levels of both public and private investment to increase in future years. This investment is in addition to the extra funding we are already making available to east Lancashire through our decent homes and neighbourhood renewal programmes.

**Mr. Prentice:** That is good news, but surely one of the great ironies is that house prices drift up as speculators move in and buy up properties, hoping to make a killing. I know that we live in a nasty, capitalist world, but is there anything we can do about that?

**The Deputy Prime Minister:** My hon. Friend makes a serious point, bearing it in mind that houses could be bought in his area, and, indeed, in Oldham when I visited it recently, for £1,500. That is a collapse of the housing market and many houses are empty. If we are to make those communities decent and sustainable, some houses will have to be knocked down because they are unfit to live in and other areas will have to be improved, with green space provided. We are trying to create sustainable communities in which people are proud to live. One of the consequential effects of that is that house prices will rise from under £1,500.

### Student Housing

7. **Lynne Jones** (Birmingham, Selly Oak) (Lab): What problems he has identified in communities where a large proportion of residential property is occupied by students. [214875]

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper):** The Government are funding a study to look at the impact on local communities of an expanding student population resident in the area. It will report this spring.

**Lynne Jones:** Students bring vitality to an area and attract new business, but I am glad that the Government are beginning to recognise the difficulties that arise from a transient population. Will my hon. Friend introduce planning measures such as those being implemented in Northern Ireland to control the density of houses in multiple occupation, especially small HMOs, which are the norm in Selly Oak, and ensure that those areas get their share of neighbourhood renewal and other funding to recognise their special needs, which are not included in the normal indices of deprivation?

**Yvette Cooper:** My hon. Friend is right that there can be pressures in areas with high student populations. We recognise that. She will also know that it is difficult to address the problem through national planning rules because the pressures that arise are often local. She may be interested to look at the work being done in Leeds, which is attempting to find ways to address concerns about these issues. We will be watching its progress.

## PRIME MINISTER

*The Prime Minister was asked—*

### Engagements

Q1. [214853] **Ross Cranston** (Dudley, North) (Lab): If he will list his official engagements for Wednesday 9 February.

**The Prime Minister (Mr. Tony Blair):** This morning I had meetings with ministerial colleagues and others. In addition to my duties in the House, I shall have further such meetings later today.

**Ross Cranston:** I want to ask my right hon. Friend about identity cards. All the evidence on the doorstep and on the phone in Dudley, North is that more than 80 per cent. of people support ID cards. Obviously, they do not want a "Show me your papers, please" society, and that is not what is being proposed. The one issue raised with me is cost, in particular to the less well-off. May I ask for an assurance that the cost of ID cards will not be disproportionate for the less well-off?

**The Prime Minister:** The point that my hon. and learned Friend makes is right. It is important to realise that the cost of going to biometric passports, which we should do because other parts of the world are doing so, will be about £70. The additional cost of the ID card is only about £15. That is why it represents a sensible way of proceeding. In our view, identity cards, with the new technology that is available, are necessary in the fight against illegal immigration, organised crime and terrorism, and in order to protect our services. Their introduction is the right thing to do and I hope that, rather than facing both ways, all the Opposition parties will support us on that proposition tomorrow.

**Mr. Michael Howard** (Folkestone and Hythe) (Con): Last week the National Audit Office said that the Government had spent nearly £900 million on improving behaviour in schools and reducing truancy, but as we know, behaviour in schools has not improved and truancy has increased. Was the money well spent?

**The Prime Minister:** The amount of money that was spent on truancy specifically was a tiny proportion of the £860 million. Let me explain how it was spent. The vast bulk of it was spent on pupil referral units, in order to educate pupils excluded from schools. When we came to office, there were only 7,000 such places, many of them for only a couple of hours a week. There are now 13,000 such places and those pupils get full-time education. Yes, that money is well spent.

**Mr. Howard:** But large numbers of children still do not spend all the school day in pupil referral units, as the Prime Minister well knows. Last week we had an Ofsted report saying that nearly one in 10 secondary schools have unsatisfactory levels of behaviour, and the number of schools where behaviour is unsatisfactory shows no sign of reducing, so the money is clearly not well spent.

Let me ask the Prime Minister about something else. This week the Public Accounts Committee said that £500 million could have been saved if the Government had managed the surge in asylum applications in 1999 and 2000 more efficiently. Was the PAC right?

**The Prime Minister:** First, I should like to go back and answer the right hon. and learned Gentleman's question about truancy. He cited the Ofsted report. Let me give the quotation in full:

"Parents in England can and should take heart at the considerable improvements in our education system over recent years. We have made a move from a system that educated a few superbly and the rest indifferently to one that is attempting to educate everyone very well"—

the difference between Tory and Labour policy.

As for the report on asylum, the allegation is that instead of spending the money on removals we should have front-loaded it to deal with applications. We believe, however, that increasing the proportion of removals is also a very important way of getting asylum applications down, which is why we do not agree with the report. The difference between this Government and the administration over which the right hon. and learned Gentleman personally presided is that in 1996 about 5,000 asylum seekers were removed and in 2003 it was 18,000—not good enough, but a darned sight better. Before people talk about the numbers, let me also tell him that the latest asylum figures indicate that when he was Home Secretary applications went up 50 per cent. and the numbers were roughly what they are today.

**Mr. Howard:** If there are fewer asylum seekers, obviously fewer will be removed. It is no use the Prime Minister trying to throw back to the past. The permanent secretary at the Home Office said:

"The truth of the matter is that we got into real difficulties at the end of 1999."

Now let us get back to the billions of pounds of taxpayers' money that this Government have wasted. Two weeks ago, the independent Institute for Fiscal Studies said that taxes would have to increase by £11 billion if there were another Labour Government. Yesterday, the Prime Minister said that he would not put up the top rate of income tax. Will he give the same pledge on national insurance contributions?

**The Prime Minister:** First, I want to return to the point that the right hon. and learned Gentleman made—*[Interruption.]* Oh yes, just to pin him down exactly. He was saying that the proportion of people removed to the numbers of asylum seekers was the same. Wrong. Actually, he only ever managed to remove about two in 10 failed asylum seekers. The figure is now five out of 10—yes, a long way to go, but a lot better than his system.

Secondly, no. We will make our commitments on tax plain at the time of the manifesto, as we have done before. While we are talking about waste, though, let me tell the right hon. and learned Gentleman about waste that this Government have never incurred—the waste on the poll tax, the Black Wednesday waste, and the waste of 3 million unemployed when he was Employment Secretary. Yes, we never engaged in that waste, and we never will.

**Mr. Howard:** It is no use the Prime Minister talking about keeping his tax pledges for the manifesto, because he gave one yesterday, and everyone now knows that yesterday he gave a pledge on the top rate of income tax and today he has refused to give a pledge on national insurance contributions. So billions of pounds have been wasted, taxpayers are not getting value for money, and everyone knows that taxes would go up under another Labour Government. Is it not now clear which tax it would be?

**The Prime Minister:** I will tell the House what is clear. There was one party that gave a pledge that it would not put VAT on fuel—a specific election pledge—and the right hon. and learned Gentleman and his party voted for it, and if it had not been defeated in the House of Commons that would have hurt pensioners and some of the poorest people in our country.

I will tell the right hon. and learned Gentleman exactly why we have been able to sustain a strong economy and put money into public services, and I do not accept that this money is wasted. When we have money going into extra teachers and nurses and better equipment in schools and hospitals, that money is not wasted. When waiting lists are not up by 400,000 but down by 300,000, that is not money wasted. When we have 2 million extra jobs and 1 million helped by the new deal, that is not money wasted. When we have the lowest inflation, mortgage rates and unemployment for decades, that is a successful economic policy, not the boom and bust that people remember.

**Barbara Follett** (Stevenage) (Lab): Will my right hon. Friend join me in commending the bravery of two young firefighters, Michael Miller and Jeffrey Wornham, who lost their lives in Stevenage last Wednesday trying to rescue a resident from a blazing block of flats? Will he also join me in extending condolences to the families of all those who lost their lives in this tragedy?

**The Prime Minister:** I entirely concur with the sentiments expressed by my hon. Friend, and I am sure that the whole House will want to join in paying tribute to the two firefighters killed tackling a fire in her constituency last Wednesday. They died doing an extraordinary and heroic job, and I know that we will all wish to send our sympathy and condolences to their families.

**Mr. Charles Kennedy** (Ross, Skye and Inverness, West) (LD): The Prime Minister asserted again a few moments ago that he saw identity cards as essential in the fight against terrorism, but given that identity cards did not prevent the Madrid bombings; that the 9/11 bombers travelled under their own identities; that they will not be compulsory in this country for 10 years; and that visitors to this country will not require them, how will they make such a difference to the fight against terrorism?

**The Prime Minister:** The reason why this measure is supported not only by the Government but by the police and the security services is that people believe that, particularly when we have biometric passports and the biometric technology available, we can construct an identity card that gives us the best possible protection against crime and terrorism. No system will prevent all crime and all terrorism: the question is whether it

actually enhances the security of our country. When this technology is available, and when we are going to apply it in any event to visas and passports, it seems to me to make sense to use it to give us an identity card and bring us in line, frankly, with best practice around the world.

**Mr. Kennedy:** But the Prime Minister must recognise that 10 million people in this country, many of them pensioners, do not possess a passport and do not have the intention or the need to get one in future. Under his proposals, those 10 million will be required to travel distances to centres to have the tests carried out, and then to pay for the privilege. That is a further reason why we will oppose identity cards tomorrow, as we have before—unlike some others.

**The Prime Minister:** It is for that very reason that we have said that the Identity Cards Bill is enabling legislation. We have always made it clear, under pressure from all quarters in the House, that before there is a final move to compulsion, there will be a rigorous evaluation and a chance for this House to debate it again, but the Bill allows us to get this project under way. I believe that many people now recognise, particularly, as I say, with the possibilities of the new technology, that we can genuinely make a difference to our own security, to the fight against crime, and to the protection of our public services. In the world in which we live, where there are people who will cross borders to a far greater degree than ever before, and organised crime and terrorism are far more sophisticated than ever before, I do not think it is wrong or a breach of anyone's civil liberties to say that we should have an identity card. Most people carry some form of identification anyway. I think it is long overdue, and we should get on and do it.

**Mr. Robert Jackson** (Wantage) (Lab): Will my right hon. Friend accept an invitation to visit the Rutherford Appleton laboratory in my constituency to see the new Diamond synchrotron, which is nearing completion there? It is the biggest single investment in the history of British science, made by this Government, and it is a very apt symbol of the commitment that this Government—and the Chancellor and the Prime Minister—have made to the future of British science.

**The Prime Minister:** I thank my hon. Friend for that question. The synchrotron is a very important innovation indeed, and I can assure him that the increase in the science budget, which is a vital part of this country's future prosperity and competitiveness, will be maintained under this Government.

Q2. [214854] **Mr. Richard Bacon** (South Norfolk) (Con): The former Home Secretary said that there is no obvious upper limit to immigration, and the current Home Secretary agrees. What does the Prime Minister think?

**The Prime Minister:** As I have said on many occasions, I do not believe in the quota system that would be applied by the Conservatives. We should have a system whereby we welcome in people who are genuine refugees and people whom our economy needs to work here, and whereby we tackle and weed out the abuses. That is far more sensible than the arbitrary quota system that the hon. Gentleman supports, although he cannot actually tell us what the number is.

**Jeremy Corbyn** (Islington, North) (Lab): Will the Prime Minister take this opportunity to assure the House and the rest of the world that he intends to continue an engagement with Iran, rather than joining in any American-led military attack or military threat towards Iran, either in the near future or the distant future?

**The Prime Minister:** We are pursuing the policy of engagement, which we have conducted with France and Germany, and indeed with the United States' full support. I have to say to my hon. Friend that it is important also to make it clear to Iran—I hope this is a message that he will join in sending to the Iranian Government—that it cannot breach the rules of the International Atomic Energy Agency and cannot develop nuclear weapons capability. That is the very clear wish of the entire international community. I happen to believe, however, that it can be pursued by diplomatic means of engagement.

**Mr. Michael Howard** (Folkestone and Hythe) (Con): Under the proposals that the Home Secretary announced on Monday, will net immigration rise or fall?

**The Prime Minister:** The abusers will be weeded out, and as a result of the end of chain migration, the numbers will probably fall, because it will be clear that those who come in either abusing the system or without being covered by the restrictions that the Home Secretary is placing on them cannot settle here. The right hon. and learned Gentleman's proposals for a fantasy island for asylum seekers—again, it might be nice to know where it is—and literally halving the immigration service budget will simply make the problem worse.

**Mr. Howard:** I am interested that the Prime Minister has again raised overseas processing centres. I have a letter from him to the President of the European Council. It reads:

"Dear Costas,

I am writing to ask for a very short discussion at the Brussels European Council . . . of an idea we have been developing . . . asylum seekers arriving in the UK and other EU member states could be transferred to a transit processing centre where their claims would be assessed . . . The centre would be located outside the EU."

So the Prime Minister is interested in overseas processing centres, too. The difference between us is that he will do it only with the EU, and we will do it on our own; and he is all talk, and we will take action. Is not the difference between us the fact that we will impose an annual limit on immigration and he refuses to do that, so that only a Conservative Government can be relied on to bring immigration under control?

**The Prime Minister:** First, the letter to which he refers was publicised at the time. Let me point out the two important differences. The vast majority of people claiming asylum do so now not at port but in country. They could never be covered by any processing centre. In any event, neither all the other countries in the

European Union nor the United Nations could agree on a way forward. I therefore ask the right hon. and learned Gentleman: which country is prepared to take Britain's asylum claims and process them? There is no such country. That is why, for the four years when he was Home Secretary and asylum claims rose by 50 per cent. and applications took 20 months to handle, he never did any of that. If it was such a good idea, why did not he do it?

**Sir Gerald Kaufman** (Manchester, Gorton) (Lab): Since my right hon. Friend has stated that bringing about peace between the Palestinians and the Israelis is his top international priority, will he take encouragement from the developments that reflect his determination and pressure? Will he also ensure that there is no backsliding by any of the parties involved? Since he has spoken of it as a priority of his premiership, may I congratulate him on breaking the record of my old boss, Harold Wilson, for length of service as Labour premier?

**The Prime Minister:** I thank my right hon. Friend for that. The middle east peace process is at an important juncture and I hope that it will be possible to make progress. Yesterday's meeting was of historic importance, but it is important that we do everything that we can to build on it. I greatly hope that the conference that we shall call and hold in London in early March allows us to give the Palestinians the plan that they need, so that when Israeli disengagement from Gaza and parts of the west bank happens, they have what they need in terms of the beginnings of an independent viable state. Only if that can be agreed have we any chance of reaching the solution that I think everyone wants: two states, with a secure Israel and an independent Palestinian state, living side by side in peace.

Q3. [214855] **Mr. Paul Tyler** (North Cornwall) (LD): Does the Prime Minister recognise the authorship of the following promise, made just before the 1997 election?

"The party I lead will carry out in government the programme we provide in our Manifesto beforehand. Nothing more, nothing less, that is my word."

Does he recall that that immediately followed a firm commitment to direct elections to the House of Lords and a firm commitment to a referendum on a fairer electoral system for the House of Commons? Which of those two broken promises does he now most regret?

**The Prime Minister:** As I recall, we set up a commission under Lord Jenkins that gave us various options for electoral reform. In respect of the House of Lords, I have come to the conclusion that the only way we are ever going to get House of Lords change is if there is an agreement in this House on a free vote. The fact is that there are different views right round the House on the best way to reform the House of Lords, but I think that that is the more sensible way through.

**Mr. Iain Luke** (Dundee, East) (Lab): I welcome the decision by the Ministry of Defence to increase the death in service payment from April this year by four times the pay level of the deceased. Will the Prime Minister consider backdating the payment to the time of the outset of hostilities in Iraq, so that the families of the servicemen who have given their lives in the supreme sacrifice for their country will get the benefit of that payment?

**The Prime Minister:** Once again, let me pay tribute to the work that our servicemen and servicewomen have done in Iraq. It has been quite superb. I said yesterday to the Liaison Committee that a discussion now has to take place in Government. We are reviewing the compensation payment arrangements and I hope that we can make an announcement on that shortly.

Q4. [214856] **Mr. Adrian Sanders** (Torbay) (LD): Since the privatisation of the water industry, 30 per cent. of the nation's coastline has to be cleaned up by 3 per cent. of the nation's population. Consequently, water bills are disproportionately high in the south-west region, and they are going to increase. Will the Prime Minister meet a delegation of south-west Members to look at ways of mitigating the impact of the nation's highest water charges on some of the lowest-income households in the UK?

**The Prime Minister:** I am always content to meet people to talk about issues such as these. Of course, this is a question of balancing the amount of money that has been put into the water industry and the investment that is there, with the necessary quality controls. I am not saying that the situation that the hon. Gentleman described does not exist or cause concern in the south-west—I know that it does. On the other hand, it has caused concern for a considerable period. The difficulty is that this will, in the end, be a question of finance, and of ensuring that we did not disadvantage another part of the country, were we to change the system.

Q5. [214857] **Mr. Stephen Pound** (Ealing, North) (Lab): May I tell the Prime Minister that there has never been a better time to be a school pupil in Ealing, North? The 18 years of leaking roofs and cold comfort in the classroom have been banished by a massive schools programme. However, we have concerns for the future of the excellent excellence in cities initiative. What can the Prime Minister say to reassure me and Paul Patrick, the headmaster of Cardinal Wiseman high school, who has instructed me to appear in his study after assembly on Friday?

**The Prime Minister:** My hon. Friend and I should probably hope that such instructions and their consequences have changed since we were at school. The point that he makes about investment in our schools and classrooms is absolutely right: it has been of tremendous importance. We have only to go to a school in any constituency to see the investment that has gone in. The excellence in cities programme has also driven up results significantly, and it is important to recognise that we now have the best ever primary school results, the best ever GCSE results and the best ever A-level results. These are certified by the Qualifications and Curriculum Authority. It is also important to recognise that every single penny piece of the additional investment was opposed by the Conservatives.

**Mr. Alex Salmond** (Banff and Buchan) (SNP): Is the Prime Minister aware that, at about the same time as he

came to office, the Norwegian Government decided to devote a portion of their oil and gas revenues to a fund for future generations? That fund is now worth £80 billion—the income from it is greater than the Norwegian oil and gas revenues—and it stands as a permanent legacy for the people of Norway. We know that BP, Shell and the Chancellor of the Exchequer are doing very well out of oil revenues this year, to the tune of billions of pounds, but what permanent legacy for the people of Scotland from the oil and gas round their coastline can the Prime Minister point to?

**The Prime Minister:** Surely what is relevant is a legacy of stable economies with low mortgages, low inflation, low unemployment, many more jobs and record investment in Scotland. None of that would have been achieved without this Government's actions. The worst thing that could possibly happen to Scotland is the separatism advocated by the hon. Gentleman, which would do immense damage to Scottish jobs, Scottish business and the Scottish economy.

Q6. [214858] **Mr. Nigel Beard** (Bexleyheath and Crayford) (Lab): Will my right hon. Friend join me in congratulating the Metropolitan police in Bexley on becoming one of the two safest London boroughs over the past 12 months? Residential burglary and motor vehicle crime are down by 18 per cent. and the number of special constables recruited is higher there than in the rest of London put together. Will he also—

**Mr. Speaker:** Order. This is just a question, not an Adjournment debate.

**The Prime Minister:** First, I offer my hon. Friend a word of congratulation to the police, community support officers and the communities themselves on the work that they are doing. The increase in police numbers, backed up by community support officers and neighbourhood wardens, is making a difference to community policing in many parts of the country. That, combined with new laws on antisocial behaviour, is giving communities a chance to fight back for the first time. Those communities have to use the powers and extra investment, and as his constituency shows, many are doing precisely that, and to great effect, for their local communities.

Q7. [214859] **Dr. Andrew Murrison** (Westbury) (Con): The Extradition Act 2003 allows UK nationals to be removed to the US without prima facie evidence and without reciprocity. If extradited, the so-called Bermingham three and my constituent, Mr. Giles Derby, being non-Americans, face little prospect of bail under US law. That means that they will have to spend many months in a Texas jail before they are finally brought to trial. Is it not about time that we stopped acting as America's poodle and revisited our unbalanced and unfair extradition arrangements with the US?

**The Prime Minister:** The modern Conservative party never ceases to amaze me. First, the extradition agreement that we entered into with the United States was, of course, post-11 September, and I happen to think that it was justified and right. Secondly, as for talk about our being America's poodle, I think that it is time we recognised that the American or transatlantic alliance has served this country well. We should support it, and hon. Members who have some sense of this country's history and future should stop denigrating it and start supporting it.

Q8. [214860] **Mr. Parmjit Dhanda** (Gloucester) (Lab): Does my right hon. Friend agree that it is unfair for only people like myself with a Sikh background and those from the Jewish faith to receive protection by law from abuses of religious hatred? Does he further agree that we should do whatever is in our power to ensure that all religious faiths, including the thousands of Christians and Muslims in my constituency, receive similar protection? Does he also agree that both sides of the House should support that legislation?

**The Prime Minister:** I hope people do. It is an anomaly when faith groups associated with a single race are protected from incitement to hatred, but multi-ethnic faith groups are not. The legislation was requested by key leaders in all the major faith communities and it has to be said that it prohibits the stirring up and the incitement of religious hatred. Prosecutions will have to be brought, of course, through the Crown Prosecution Service, with the Attorney-General's consent. I really think that the idea that it will interfere with comedy and the normal run of things as part of our way of life is absurd. The fact of the matter is that incitement to racial hatred has ended up with none of those problems. Incitement to religious hatred represents a change to the law that is long overdue. It makes the law fair. I hope that we can give sufficient assurances, as the Bill passes through the House of Commons, so that people realise that there is no intention to curb proper freedom of speech, but there is an intention to ensure that all parts of our community are treated fairly.

Q9. [214861] **Mr. Archie Norman** (Tunbridge Wells) (Con): Does the Prime Minister recall, prior to the 1997 election, making a pledge to do something about the anomaly of prescription charges for cystic fibrosis sufferers? Does he remember reiterating his support in the House both in 1999 and in 2001, and does he realise that many thousands of sufferers spend their entire lives struggling to live on expensive medicine? It was his words that gave them hope, and delivery is now a matter of trust.

**The Prime Minister:** I understand the suffering that people go through and the need for extra help for them. We are helping in different ways, through the extra investment going into the NHS. We must ensure that, whatever we do for one group of sufferers, we can justify in respect of other groups as well. That is the reason for the delay and hesitation, but we continue to keep the matter under review. I shall be happy to write to the hon. Gentleman on this subject, but I assure him that we have put a lot more help into treating the sufferers of cystic fibrosis.

Q10. [214862] **Clive Efford** (Eltham) (Lab): The single regeneration budget money that has been invested in my constituency has allowed a flexibility in funding to meet

the needs and aspirations of my local community. Sadly, however, many of the initiatives that have come from the local community face an uncertain future because SRB funding will come to an end in the next two years. Will my right hon. Friend investigate how we can provide some sustainability for those initiatives in the future?

**The Prime Minister:** The point that my hon. Friend makes is absolutely right, and it is why we are looking at ways of sustaining that investment. However, it is worth pointing out that the SRB and the money going into the regeneration of local communities are having a tremendous impact. That is exactly why the point that he raises is something that the Government are looking at. I hope that we can find ways of ensuring that we protect as far as possible the money that is going into local communities and doing such a fantastic job for them.

## NHS Funding

12.31 pm

**The Secretary of State for Health (Dr. John Reid):** With permission Mr. Speaker, I should like to make a statement about allocations to primary care trusts in the national health service in England.

I am today allocating revenue resources to England's 303 PCTs for the financial years 2006–07 and 2007–08. PCTs have already been informed of their allocation for 2005–06, so they will now be able to plan for the medium term, knowing with certainty their allocation up to March 2008. I have written to all hon. Members with details of the allocations to the PCTs that serve their constituencies.

This Government believe in the NHS. We believe in its founding principle that there should be equity of access, free at the point of need, for everyone. Furthermore, we believe that the NHS can be reformed and transformed as well as improved, so that health care can be delivered to the standards of, and in a way expected by, today's public. That is why in 2002 the Government outlined our plans for an unparalleled increase in expenditure in the NHS over the five years from 2003–04 to 2007–08.

Today, I can tell the House that I am allocating more resources to the NHS front-line services than have ever been allocated before—£64 billion in 2006–07 and £70 billion in 2007–08. That contrasts with £45 billion only four years ago. That means that PCT allocations will grow in 2006–07 by no less than 9.2 per cent., and in 2007–08 by 9.4 per cent. On average, PCTs will have, compounded, 19.5 per cent. more resources in 2007–08 than in 2005–06. The increases between 2003–04 and 2007–08 represent a faster growth in resource allocation than ever before in the history of our NHS.

The distribution of those resources has had regard to four main principles under this Labour Government. The first is that the increase will allow the NHS to take significant strides in improving access to health services for everyone throughout the country. Secondly, places with greater need will receive an even greater allocation of resources. Thirdly, for the first time, this allocation will allow significant resources to be used for the prevention of ill health and for health improvement. Finally, there will be a floor to the allocation to each primary care trust today. No primary care trust will receive an increase in funding over the two years of less than 16.8 per cent. Not one primary care trust in England will receive less than a 16.8 per cent. increase over the two years.

For the five years between 2002–03 and 2007–08, allocations to primary care trusts will increase by more than 56 per cent. In terms of real people, by 2007–08, £1,388 will be allocated per head, compared with £907 in 2002–03—an increase of 53 per cent. in allocated resources for every single man, woman and child in England. We have done more than just increase our investment; we have made the distribution of resources more fair than ever before.

A key factor in distributing funding fairly is the count of the number of people served by each primary care trust. Since the last allocation round, the population data based on the 2001 census has been revised, so we now have a more accurate population count. In addition, the allocations that I am announcing today include projected increases in populations. That means that we are properly taking account of the challenges faced in areas of rapidly increasing populations.

If allocations are to be fair, they must also be based on need. Following advice from the independent Advisory Committee on Resource Allocation, I am making some improvements to the formula to provide the same access to health care where there is the same need, and to support the reduction in health inequalities. I have also changed the way in which funding for primary medical services is distributed to make that fairer. For the first time, the majority of funding for GP services will be allocated according to the relative need for primary care services. The formula that we are using reflects the most up-to-date and best measures of differences in need for those services. The House will be glad to hear—many hon. Members have made representations to me—that I have also tackled the unfairness inherent in some areas being significantly under target in terms of the previous resource allocation.

Following the introduction of the new formula in 2002, we realised that, despite progress, some areas were still not receiving their fair share of funding. At that time, some areas were more than 22 per cent. below their fair share. We made some progress in reducing that unfairness in the previous allocation round, but despite that, in 2005–06 some primary care trusts are more than 5 per cent. or 10 per cent., and in one case more than 15 per cent., beneath their fair share. Such a disparity is unfair and unacceptable, so I have decided in the 2006–07 and 2007–08 allocations to accelerate progress towards a fair-share distribution. To reach that outcome, primary care trusts at the greatest distance beneath their fair share will receive more than those who were already receiving their fair share or more.

With the allocations that I am announcing today, based on need and fairness, by 2007–08, no primary care trust in England will be 15, 10 or even 5 per cent. below target. Indeed, I am able to tell the House that under today's allocation no primary care trust will be more than 3.5 per cent. away from their optimum fair share of the allocation. That is as substantial a move as I can make commensurate with the stability of the whole system.

Our general approach, therefore, has been to balance a significant and substantial increase in resources for every area, and for the PCTs of every Member throughout the House, with an even greater improvement in funding where there is greater need. No primary care trust in England—north, south, east or west—will receive an average increase of less than 8.1 per cent. Over the two years, that is an average increase of 19.5 per cent. for every one in England. That will ensure that all parts of the country will receive sufficient funding to see considerable further improvements in their health services.

At the same time as providing a 19.5 per cent. average and an 8.1 per cent. a year minimum, the funding formula rightly moves more funding to where it is most needed. I have already identified 88 primary care trusts as those that need the most urgent action. Since those are the most needy areas, they will receive a higher level

*[Dr. John Reid]*

of funding than other areas. By 2007–08, the funding per person in a spearhead primary care trust will be £1,552, compared with a national average of £1,388.

I can also tell the House, however, that by 2007–08, as a result of the fairer distribution, the 5 per cent. most needy areas and those facing the greatest need for funding, in both the north and the south of the country, will receive an average of £1,710 per person. The 5 per cent. most well-off areas with less need for funding will receive an average of around £1,190. That means that I am putting additional funding where it is needed to reduce health inequalities. That should help to ensure that by 2010 there will be a 10 per cent. reduction in health inequalities, as measured by infant mortality and life expectancy at birth. We will also see further reductions in killer diseases. We have already reduced premature deaths from heart-related disease and from cancer by 27 per cent. and 12 per cent. respectively in the past six years. By 2010, there will be a fall of at least 40 per cent., from 1997 figures, in death rates from heart disease and stroke, and a 20 per cent. fall in death rates from cancer.

We also want to improve the experience throughout the NHS for all patients. By the end of 2008, for their planned hospital care, as a result of these allocations, all patients will be able to choose between a range of providers, including NHS foundation trusts and NHS and independent sector treatment centres. And because the investment announced today will be matched by the reform in working practices undertaken by staff, patients will be admitted for treatment in England within a maximum of 18 weeks from their first appointment with their GP to the door of the operating theatre, with no hidden waits. Having halved waiting times, we will halve them again and halve them once more for patients in England.

In addition, we can move away from treating illness and towards preventing it and encouraging health improvement. These resources will also allow us to make progress on prevention towards the original vision of the NHS as a true health service, rather than just a sickness service. Today's allocations include public health funding of £211 million in 2006–07 and £342 million in 2007–08 to help make that happen. All areas will receive their share of this funding, but again, a higher proportion will go to the most deprived areas, including the spearhead PCTs.

Of course, this is not all the funding available to deliver the health improvement agenda, but it is a significant proportion of it. It is being allocated directly to front-line PCTs to allow them to implement key initiatives such as improved school health and improved sexual health services. For example, we are providing funding so that by 2010, every PCT in England will be resourced to have at least one full-time, year-round qualified school nurse working with each cluster or group of primary schools and related secondary schools. And not before time.

Our public services must respond to what the public want by giving quality care at the public's convenience. Under this Government, the NHS's founding principles will remain firmly in place and will be enhanced by today's investment, thus giving equal access free at the point of need. But the way in which the services are organised is being transformed, giving patients a more convenient, personalised and responsive service within a system that is not only fair to all, but personal to each of us. That is a key aim for today's NHS.

The biggest ever investment in our national health service, the fairest ever distribution of resources and a massive programme of continued reform by staff will together give the increased capacity and diversity of provision that will offer patients faster access to better quality health services than ever before, all free at the point of need under a Labour Government. All those improvements are opposed by the Conservatives, who plan to divert money away from the NHS and to introduce for the first time into NHS commissioning charges for operations. Let the people make the comparison between the two offers and let them make their choice. I commend the statement to the House.

**Mr. Andrew Lansley** (South Cambridgeshire) (Con): I am of course grateful to the Secretary of State for advance sight—a typically generous 30 minutes—of the statement. It consisted of 25 paragraphs but he could have said it in one, because in fact, there is no extra money when compared with known planned NHS expenditure through to 2007–08. This is simply an attempt by the Secretary of State to divide the cake differently and—surprise, surprise—there is an election coming, so we are to have "spearhead" primary care trusts. *[Interruption.]* I wonder whether those trusts are located in the Labour-held seats that the Government are worried about.

One pity—*[Interruption.]*

**Mr. Speaker:** Order. I have said it before and I will say it again: Members who shout are damaging only themselves, because I shall simply say that the Minister has delivered his statement and that the Opposition have responded. Those Members who want to ask supplementaries had better be quiet. I will be watching.

**Mr. Lansley:** Thank you, Mr. Speaker. One of the pities is that we did not get an opportunity to see the text of the statement, which includes sub-headings that the Secretary of State did not read out, until he had finished delivering it, because the sub-heading before paragraph 18 contains an important truth:

"What the funding will deliver—inequalities".

Yes; inequalities between different parts of the country. To defend Labour-held seats, the Secretary of State will take away money from primary care trusts that are running deficits today in order to promise jam tomorrow for his spearhead primary care trusts.

The overall level of allocations to PCTs reflects the increase in NHS budgets, and to that extent no new money has been announced today. The NHS needs the assurance that under a Conservative Government or a Labour Government substantial increases in NHS budgets are planned. My right hon. Friends and I have committed ourselves to an increase of £34 billion by 2009–10 compared with the levels that we would inherit in the next financial year. We have made that commitment because we support the NHS and its values, which include the provision of comprehensive, quality heath care for all on the basis of need, not on the basis of ability to pay. We value the work done by NHS

staff, and we intend to give them not only the resources, but the support and freedoms to ensure that they deliver the highest standards of care for patients.

A key point is not only to promise, but to deliver high quality care for the 17.5 million people who live with long-term conditions. That will require substantial investment in primary care services, and as we set out to the House in our debate on 11 November, family doctor services are at the heart of that delivery. The Secretary of State said nothing about opportunities to develop family doctor services. Genuine reform is required to back up the development of standards with resources and to give general practitioners the power to commission services and to support patients' right to choose. At the same time, we should ensure value for money by cutting bureaucracy, which currently consumes many resources that should be in the front line.

The Secretary of State's statement fails the test of reform. Over the next three years, for example, scheduled care in hospitals should increasingly be determined by patient choice, and GPs should exercise choice on behalf of patients, with money following the patient. Why does it make sense for that funding to form part of the PCTs' unified allocation in 2007–08? If GPs cannot manage the budget, they should not be expected to hold it, and if they have the power to commission services on behalf of their patients, they should receive their budgets directly.

Through the development of the general medical services contract, we have learned that GPs have populations with long-term conditions, like the asthma and diabetes registers. Should we not progressively move money from the general demographic assumptions that underpin the Secretary of State's proposal to specific factors determining GP budgets? The Secretary of State discussed assumptions about need rather than actual need.

The Secretary of State discussed cancer services, but the lack of progress in commissioning cancer services, which has been illustrated within the past fortnight by the Public Accounts Committee and Doctors for Reform, demonstrates that PCTs are not necessarily delivering progress on cancer services. A combination of clinical networks, GP commissioning and patient choice should deliver services more effectively. Those budgets also do not need to be routed through PCTs. The Secretary of State has failed to set out how NHS funding flows will be reformed. Instead, we have seen an old-fashioned exercise in dividing up the cake.

I have a number of specific questions for the Secretary of State. The previous intention was to move to target allocations by 2010. Is that still the Government's intention? In this financial year, the combined distance from target of PCTs is £1.1 billion. How much does the Secretary of State propose to reduce that total figure by in 2006–07? How much will PCTs that are currently above target be expected to contribute? The Secretary of State implied that there is no ceiling, and therefore every other PCT must contribute to the floors. Will he tell us the percentage contribution towards floors from other PCTs?

Last week, we heard that the Government are not incorporating 2001 census data in the local government finance settlement until 2006–7, but the Department of Health proposes to do so in the next financial year. Why are the Government taking one view on local government and another on health?

As the Secretary of State will know, many areas have fast-growing populations. The removal of type 2 funding for general practice left a serious gap that the Department had to plug. The Secretary of State did not refer explicitly to the growth area adjustment, which is contained in the new formula. Will there be an ability to fund the costs of infrastructure not only in the growth areas designated by the Deputy Prime Minister, but wherever large increases in population occur; and will the money arrive in time to match the population growth? In Milton Keynes, the infrastructure has been insufficient to deal with the increases in population experienced up to now, and the PCT is running a projected £6 million deficit.

The Secretary of State did not discuss the market forces factor, which continues to fail accurately to reflect NHS costs of provision in all areas. Has the Secretary of State considered moving from a general labour market approach to one based on benchmarked costs of efficient providers once the doctors' contracts and the "Agenda for Change" have been fully introduced? The Secretary of State should understand that promises of jam tomorrow are all talk, if at the same time NHS trusts are running deficits and the money that the trusts need is being eaten up in bureaucracy.

The administrative costs of strategic health authorities are more than £600 million, and of PCTs, more than £700 million. By cutting bureaucracy in both, we can get sufficient money through to the front line to meet the £1.1 billion distance from target of PCTs today. Putting resources and accountability into the front line is essential if Government-imposed cost pressures are not to mean continuing deficits.

Since the new year, one third of SHAs have published their forecasts for the end of this financial year based on figures from the end of December. The total forecast deficit from just nine SHAs is £227 million: all 10 PCTs in Hampshire and the Isle of Wight are forecasting deficits; North East London SHA has a £22 million deficit in the year to date; Thames Valley SHA has a £41 million deficit; and Surrey and Sussex SHA is forecasting a £33 million deficit, half of which results from the working time directive, new contracts and the "Agenda for Change".

In my area, Norfolk, Suffolk and Cambridgeshire SHA has forecast a £56 million deficit. That deficit includes PCTs such as my local one, South Cambridgeshire PCT, which is currently 8 per cent. above target. It is forecasting deficits and is above target, but in the Secretary of State's fantasy world it has more money than it needs. Across the country, PCTs are running deficits, demonstrating that the formula is way out by comparison with actual need.

The Secretary of State is promising money tomorrow while the NHS has deficits today. We could clear the deficit if the billions eaten up in bureaucracy got through to the front line. The Department of Health is imposing costs on the NHS with no idea of the effects. The statement does not deliver reform or urgently needed value for money, which it will be for us to do.

*[Mr. Lansley]*

I have one final point for the Secretary of State, but Labour Members, and particularly Manchester Labour Members, may be interested. The Greater Manchester SHA board papers state:

"the year to date financial position for the Trust sector continues to worsen".

They also state:

"although trusts and PCTs are forecasting deficits, the SHA continues at this stage to report to the Department that overall financial balance will be delivered"

for Greater Manchester. The Secretary of State does not know what is going on, and it is about time that he moved aside for a Government who do.

**Dr. Reid:** I have waited a long time to hear with what ingenuity someone could turn a 10 per cent. expenditure increase into a bad news story. Today we have heard an attempt at that. I have to tell the hon. Gentleman that it is not Labour that is out of touch either with addressing people's needs or with improving the national health service; I fear that it is the Conservatives.

I shall deal with some of the points that the hon. Gentleman raised. As usual, there was a dig at vast administrative costs, bureaucracy and waste. There is always a sting in the tail, with an attack on the staff of the NHS—but Labour will defend them. I shall give a couple of figures. In fact, PCT management costs are 1.5 per cent. of total expenditure. The costs of senior managers in the NHS, who number about 38,000 out of 1.3 million staff, are between 3 and 5 per cent., which is about a quarter of the management costs in private health care and about one fifth of the administrative costs in the American health care system, so is it not time that we praised the NHS for its efficiency?

The hon. Gentleman raised the issue of deficits, as he has done before. I have two things to say to him on deficits. The first is that they are forecasts: every year for the past few years there has been a forecast deficit in the NHS, but in fact over the past four years the NHS has been in financial balance at the end of the year.

The hon. Gentleman wants to talk about forecast deficits, but I can tell him that the problem occurs when there are actual deficits. The last time there was a significant actual deficit—£500 million, twice the size of those forecast deficits, in a budget half the current size—was in the last year of a Conservative Government. In other words, the actual deficit then was three times higher than the forecast deficit the hon. Gentleman is worrying about now.

The hon. Gentleman asked me if we would reconsider the market forces factor. We keep it under review, but as he knows, the market forces factor was identified by the resource allocation working party as far back as 1976, so it is not new. Its development is overseen by the Advisory Committee on Resource Allocation, and it is the result of many years of analysis by academics. The population figures from the 2001 census that we are using are, first, more accurate and, secondly, adjusted to pay some degree of attention to forward projections. There are four areas, including that of my hon. Friend the Member for Milton Keynes, South-West (Dr. Starkey) and the Thames gateway area, and they will be glad to know that we are taking account of that projected need. I was asked whether deprivation would be taken into account. The answer is that the projections take account of actual as well as assumed need. I could go on at length about that but I do not think that we need to take up more time, because for the past five years we have taken independent advice on the matter.

I finish on this point: the hon. Gentleman started off by challenging the methodology for, and thus the legitimacy of, the allocations. Does that mean that he intends to revisit them? Is he going to tell Members that these huge increases may be taken away from them? If so, he should say that today, because that will be another reason for people to be extremely careful about even considering voting Conservative when the election comes along. The truth is that under the plans of a Conservative Government, £1.2 billion will be removed from that expenditure: £4 million will be taken from every single PCT to subsidise the relatively well-off to jump the queue and go to the private sector if they can afford half the cost of their operation. That is an attack on the founding principle of the NHS, and I am sure that people out there will recognise the difference between investment in the NHS and an Opposition party committed to the virtual destruction of the ethos of the NHS.

**Mr. Paul Burstow** (Sutton and Cheam) (LD): I thank the Secretary of State for early sight of his statement. As ever with these statements, the devil is in the detail. In broad terms, the Liberal Democrats welcome the allocations announced today and the increased investment that they imply. We see it as our task to continue pressing the Government to make sure that the investment going into the NHS is spent as wisely as possible.

The Secretary of State talked about primary care trust allocations. Can he tell us when he plans to make announcements about central allocations, too? He had a lot to say about improving public health and tackling health inequalities. In earlier proposals, he set out his plans for a partial ban on smoking in public places. If the intention really is to protect people's health, why does the health of customers and workers in pubs not need protection unless they are consuming food? How will that policy close the health gap between the richer and poorer areas of our country, which is, it seems, a Government priority?

Given that the latest National Audit Office report found that many GPs were seriously worried about the effects of the Secretary of State's patient choice policy on equity in the NHS, can he tell us what measures will be taken to address the real concerns of practitioners up and down the country? Does he agree that the NHS at local level should have the maximum possible freedom to decide how best to meet the health needs of local people, and that meeting those local health needs rather than hitting politically dictated targets should be the priority?

The Secretary of State said that there would be no more hidden waiting lists, but when will that be? Will he agree to publish, before the election, the hidden waiting times for scans and tests so that people can judge the Government's record for themselves? Will he also confirm that his target is that by 2008 up to 15 per cent. of procedures paid for by the NHS will be undertaken by the private sector? Does that not mean that in future

the private sector will no longer simply be adding extra capacity to the NHS but replacing existing quality NHS provision?

What assessment has the Secretary of State made of his targets for PCT budgets? Will he confirm that the guaranteed contract payments for independent treatment centres mean that they will be paid regardless of the work they do, and that that is why 73 per cent. of NHS chief executives say that that does not offer good value for the taxpayer? Will the Secretary of State tell us why he thinks that after eight years of Labour Government, top NHS managers describe his approach as political, prescriptive and bullying?

More people are getting sicker in the NHS because of superbugs. More people are having difficulty in finding dentists on the NHS. More people are struggling to get appointments with GPs when they want them, and more people are waiting on hidden lists for scans and tests. That is the Government's real record, and that is what will count with our constituents.

**Dr. Reid:** The estimate that up to 15 per cent. might be added to capacity, or might be private operations, is just that—an estimate; it is not a target and it is not being driven. It will depend on patient choice. We are expanding the NHS and diversifying the type of treatment, making it much more efficient. It is free at the point of need, and in addition we are buying in bulk to push the price down and to give the patient the choice of quicker access to services. That is precisely why we have halved waiting times, and why we have taken 340,000 people off the waiting lists that we inherited from the Conservatives. Ultimately, it will be the choice of the individual—*[Interruption.]* I cannot hear what the hon. Member for Sutton and Cheam (Mr. Burstow) is saying from a sedentary position. If he is asking whether that is a substitute for NHS operations, I can tell him that when the Government came to power NHS operations were below 5 million, and that about 6.5 million operations will be carried out directly through the NHS, so we are not taking anything away. In addition, there will be another 500,000. That is good for patients. For heaven's sake, I wish that for once the Liberals would think of these things from the patient's point of view, rather than always from the producer's or the provider's point of view.

For 60 years, no Government of either party have measured hidden waits, and we do not have the mechanisms to do so at present; but I have pledged that if the Labour Government are re-elected not only will we ensure that the maximum wait is 18 weeks, as opposed to 18 months under the previous Government, but that that will be the time for the whole patient journey. Previously, one third of the journey took up two years, we shall now pledge the time right through from the GP to the door of the operating theatre.

The hon. Gentleman asked about local decision making. At present, 75 per cent. of all money is distributed to PCTs, and they take responsibility for it. He asked about GP front-line engagement. Yes, we need more GP engagement in a range of areas, including the introduction of IT, which is why, recently, I put not only more effort but £95 million into that.

The hon. Gentleman asked about workers in restaurants and pubs. They will be protected to the maximum where smoking is banned completely. No restaurants will allow smoking, but even in the minority of pubs that continue to allow smoking, there will be restrictions around the bar area to protect all workers.

Finally, I thank the hon. Gentleman for what he said when he started: he appreciated the 8.1 and 8.2 per cent. increases in his constituency—£35 million followed by £37 million. He was not in the least bit churlish, and he should not be, because he is getting an 8.1 per cent. increase. To put that in context, the person who was churlish—the hon. Member for South Cambridgeshire (Mr. Lansley), the Opposition spokesman—is actually getting a bigger increase: 8.2 per cent. I thank the hon. Member for Sutton and Cheam for his charitable and non-churlish response.

**Mr. Kevin Hughes** (Doncaster, North) (Lab): I warmly welcome the statement and wholeheartedly congratulate my right hon. Friend on what he is doing with the fair shares initiative—it shows the clear difference between us and that lot on the Opposition Benches—but do the increases contain any special recognition for areas such as mine that are having difficulties in recruiting GPs?

**Dr. Reid:** Not for the first time, we have extended the integration of the moneys provided for primary care services, including GPs, and I hope that that will help my hon. Friend's constituency. He may wish to know that in his case, the increases are 9.4 per cent. in 2006–07, and 9.3 per cent. in the following year, producing an additional two-year cumulative increase of 19.6 per cent., so his local services will have £21 million more. Those are the figures for the Doncaster, North area, and over in Doncaster, Central, there will be another £25 million—an even bigger compound increase of 19.7 per cent.

**Mr. Malcolm Moss** (North-East Cambridgeshire) (Con): It would be churlish not to welcome these increases, particularly in my constituency, but does the Secretary of State not accept that if my local PCT, the East Cambridgeshire and Fenland PCT, had received its proper funding allocation—it had a shortfall of £8 million last year alone—it would not now be colluding with the Cambridgeshire and Peterborough mental health trust in closing a 16-bed mental health in-patient unit at Alan Conway Court, Doddington hospital? Perhaps my constituents can take some comfort from the Secretary of State's statement today when he said, "We must give the public what they want."

**Dr. Reid:** I am grateful to the hon. Gentleman for going so far as to say "thank you" at one point. One of his PCTs is getting the third largest increase in the country.

**Mr. Moss:** Long overdue.

**Dr. Reid:** Yes, it may be long overdue, but for 20 years under the Conservative Government, such an increase was never given. The hon. Gentleman is now being given a 31.2 per cent.—*[Interruption.]* I shall repeat that, lest he miss it: one of his PCTs is getting a 31.2 per cent.

*[Dr. Reid]*

increase. He gets up and says, "We should have had this before," but has he forgotten that he actually voted against the increases?

**Mr. Ronnie Campbell** (Blyth Valley) (Lab): My right hon. Friend never mentioned dentistry. He will be aware that there is more dentistry in the private sector than in the health service, so can he tell us whether he is encouraging dentists to return to the national health service?

**Dr. Reid:** Yes, indeed, I can. My hon. Friend is kind enough to point out that even the fairly huge aggregate figures that were allocated today do not include the £368 million extra that is being put towards our attempt to cope with the huge challenge of dentistry, particularly the fact that although there are more dentists, few of them want to do NHS work. The Minister of State, Department of Health, my hon. Friend the Member for Doncaster, Central (Ms Winterton) has been tackling that issue robustly. We do not pretend that it is easy, but I hope that it will be made easier by the fact that in my hon. Friend's area, Northumberland PCT will receive a £69 million increase over two years, which represents increases of 9.1 and 8.9 per cent.—18.8 per cent., when compounded over two years—so there are 69 million reasons why he and his constituents should feel that improvements in the NHS will continue in his area.

**Sir George Young** (North-West Hampshire) (Con): Like my hon. Friend the Member for North-East Cambridgeshire (Mr. Moss), I welcome increased commitment to the NHS from whichever political party it may come. Is the Secretary of State aware that the two PCTs in my constituency are running at a substantial deficit, which is why, in turn, two hospitals were unable to become foundation trusts? Is he concerned about the gap between the rhetoric in Westminster and the reality on the ground in constituencies such as mine, where ill people read of financial recovery plans, ward closures, closed GP lists, fewer NHS dentists and a worse out-of-hours service? Is he not concerned that the increased allocation that he has just announced may simply be used to pay off the accumulated deficits?

**Dr. Reid:** No, I am not concerned about that. I thank the right hon. Gentleman—I thought that I caught a "Thanks" just at the beginning of his remarks—and I am sure that he will welcome the extra £30 million for the Mid Hampshire PCT, which represents a compounded increase of just under 17 per cent. There is also another £34 million for the North Hampshire PCT, which represents a 17.7 per cent. increase. I do not believe that those increases will be spent on the deficit—I have talked about the difference between forecast and actual deficits—but I ask the right hon. Gentleman to contemplate what the local management in his constituency would have to think about if they knew that instead of getting such an increase, they were facing the equivalent of £24 million being taken away to subsidise the Conservative party's policy of the patient's passport, which would go to about 8 per cent. of his local constituents, and the 92 per cent. of people who depend on the NHS would be £24 million worse off, rather than £64 million better off.

**Mrs. Lorna Fitzsimons** (Rochdale) (Lab): I thank my right hon. Friend for this continued investment in the increased health care provision in the health economy in Rochdale. He will know that Rochdale has one of the most profoundly difficult areas in terms of poverty. The new hospital and the recent announcement of £35 million under the LIFT—local improvement finance trust—project represent much needed increased investment. However, in relation to the uplift going to the spearhead areas under the accelerated fair share scheme, are the Government looking at the areas that have been historically underfunded for the past 50 years that did not gold-plate their services but undertook them at cost, and at the effect that that is having on issues such as investment in mental health?

**Dr. Reid:** As for whether we can help to compensate for historical deficits built up by decades of under-investment, even with the huge amount of money that we are investing based on deprivation, need, population growth and projected population growth, it is not possible to compensate everyone for what was effectively underfunding during the years of the Conservative Government. I am sorry that I cannot wave a wand and do that, but we are now giving fair shares. For example, my hon. Friend will find that her constituency is within 0.5 per cent. of the PCT target, because of a 19.6 per cent. increase, resulting in an accumulated £33 million extra over the two years 2006–07 and 2007–08. I hope that that will at least go some way, under this Labour Government, towards tackling the previous underfunding under the Conservative Government—although Conservative Members are apparently criticising this large investment today.

**Mr. Edward Davey** (Kingston and Surbiton) (LD): I agree with our Front-Bench spokesman, my hon. Friend the Member for Sutton and Cheam (Mr. Burstow) that these increases are welcome, and far more generous than we ever received in Kingston, or elsewhere in south-west London, under the Conservative Administration. However, does the Secretary of State accept that Kingston is yet again at the bottom of the growth league for spending increases? For example, if Kingston hospital's budget had increased in line with health spending across the country, it would have £10 million more than it now has. He talks about fairness in health spending, but is he taking into account the massive increase in population in areas such as Kingston and the rest of south-west London? When will we get the health funding to match that increase in population?

**Dr. Reid:** I am grateful to the hon. Gentleman for his thanks, but he should have pointed out that his area will still be about 8 per cent. above target. If we compare the need, the population and the projected population of Kingston with those of others, the people there are better off because many others live in areas that are up to 3.5 per cent. beneath target. There is a £120,000 project to upgrade the operating theatre at

Surbiton hospital in May to increase capacity, and work has been carried out on the day surgery at Kingston hospital. The hon. Gentleman's area was roughly 11 per cent. above target. It will now be about 8 per cent. above the target for identified need, and as it will get 8.1 per cent. increases in both years, he would be churlish to try to pretend that his constituents are not doing rather well. No doubt while he is complaining about that here, he will claim the credit for it back in his constituency.

**Mr. Brian Jenkins** (Tamworth) (Lab): I thank my right hon. Friend on behalf of the people of Tamworth for today's excellent settlement of 9.4 per cent. this year and next year. I have no problem with that—apart from one small niggling issue. As he knows, my town is developing and has been accepting increased population numbers for many years. Our population will rise again this year. When he talks about money per head of population, is he talking about this year's population, or the population five years ago? Will he accept representations from me on behalf of my PCT so that we can get the figures right?

**Dr. Reid:** The short answer is that we have updated the projected population figures. I hope that that goes some way towards reassuring my hon. Friend.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): The Secretary of State will know that NHS dentistry has largely collapsed in Lincolnshire. Does he agree that a sensible way forward would be for the primary care trust to pay a premium to NHS dentists to open in constituencies such as mine, where it is now impossible for a person to register with an NHS practice? If he does not agree with that proposal, what positive suggestions can he make?

**Dr. Reid:** This may astound the right hon. and learned Gentleman, but I do agree with that. We put more than £60 million into the access fund precisely to encourage people to do the sort of thing that he suggested. I have never pretended that we have perfection in the NHS, despite all the progress that we have made. We have a shortage of dentists, radiologists and radiographers, and we could do with more midwives. We have only started our building programme, and we still have long waiting lists, although they are almost 500,000 below their peak. Labour Members welcome any ideas, because we do not approach the matter dogmatically. We have already taken action similar to that suggested by the right hon. and learned Gentleman this year.

**Mr. Keith Bradley** (Manchester, Withington) (Lab): I thank the Secretary of State for yet again recognising the historical inequalities in health care provision in the city of Manchester with a massive 15.5 per cent. increase in allocation for South Manchester, which will enable even better services to be provided in the new Withington community hospital, which opens in April. He is right to point out that the figures are based on the 2001 census projection. Will he confirm that they are now based on the 2001 census figures that had to be revised because of the failure of the Office for National Statistics to count the number of people living in Manchester?

**Dr. Reid:** My hon. Friend has been an avid advocate for his constituents, as have our other Manchester colleagues. Although we cannot offer compensation for mistakes made in the past, the fact that we now use a more accurate and verifiable version of the population figures goes someway towards providing recompense. As he pointed out, there is a 15.5 per cent. increase for South Manchester, which is compounded over the two years at 28.2 per cent. Of course, Central Manchester is receiving 26.4 per cent. There will be an additional £113 million over the next two years for those areas, which I hope will be welcomed by my hon. Friend's constituents and others in Manchester.

**Mr. Mark Francois** (Rayleigh) (Con): The Secretary of State's statement said that the figures accommodated both current and future projected housing growth. However, if we look at the detailed lists, we see that Southend PCT, in the Thames gateway area, gets the bare minimum, while Castle Point and Rochford PCT gets only a fraction more. May I tell him, without rancour, that given the massive house-building programme envisaged for the Thames gateway by the Deputy Prime Minister, the increases, while welcome, are nowhere near enough to provide—[HON. MEMBERS: "Oh!"] They are not enough to take account of the scale of house building that will be required. May I, in all sincerity, ask the Secretary of State to reconsider?

**Dr. Reid:** When the hon. Gentleman refers to the bare minimum, I take it that he means the 9.1 per cent. and 10.1 per cent. increases that he is getting. It is news to me that that is the bare minimum, especially compared with the amounts handed out in the years of the Conservative Government. I hope that he welcomes the £35 million extra for Castle Point and Rochford PCT and the £17 million for Maldon and South Chelmsford PCT. *[Interruption.]* I think that there was a nod over there, Mr. Speaker. We have again refined the formula to try to make it fairer. The four areas outlined by the Office of the Deputy Prime Minister are precisely those on which we have been most engaged with the ODPM in trying to ensure that the figures are fair and take account of future development.

If the hon. Gentleman is really worried about deficits, he should worry about the £24 million that would be taken from the two primary care trusts that I cited to subsidise his party's policy of the patient's passport. I hope that he is being honest enough to tell his constituents that that £24 million would be taken away from the money that the PCTs already have. Additionally, NHS Direct would be closed down, as would the primary care trusts, as far as I can see from the James report. All the work done by primary care trusts would thus have to be done by the hon. Gentleman's local general practitioners, but they would receive no extra money. Has he told his GPs that?

**Mr. Liam Byrne** (Birmingham, Hodge Hill) (Lab): My right hon. Friend knows from first-hand experience how badly we need new money in Washwood Heath and Hodge Hill. He also knows from first-hand experience the specific needs of the Kashmiri community in Birmingham, and I put on record our thanks for the time that he and his team have made available to hear our arguments for new money. Can he tell the people in east Birmingham what the settlement will mean for us? Can he tell us what it will mean for our campaign for two

*[Mr. Liam Byrne]*

new health centres and more cash for front-line doctors? Will he tell the House what the consequences might be for constituents such as mine if the cash did not arrive?

**Dr. Reid:** If the cash did not arrive—fantasy though it may seem, let us consider the prospect of a Conservative Government—my hon. Friend's constituents would be millions of pounds worse off. They would have no access to NHS Direct and his local GPs would have the burden of all the commissioning of health care without any extra remuneration. Thankfully, that prospect is diminishing almost by the day, if we look at the opinion polls, so perhaps we can turn to the good news, which is that there is £69 million extra for my hon. Friend's constituents, or an increase of 22.3 per cent. over two years. That money will go to an area that badly needed it, because it was 6 per cent. beneath the assessed need expressed in the target. I would have liked to bring the figure on to target, but that was not possible. The area will be 3.5 per cent. beneath target, however, so I hope that that goes some way towards recompensing the efforts that my hon. Friend and his constituents have made to meet me and convince me of the need in their area.

**Mr. Adrian Flook** (Taunton) (Con): Many surgeries in my constituency operate from cramped and outdated buildings. Does the allocation that the Secretary of State announced today include money to help GPs expand and improve their premises? If it does not, when will they receive such funding?

**Dr. Reid:** We are making £1 billion available for that. The hon. Gentleman will know that the LIFT scheme is now in full swing after a slow start, although I would have liked it to move quicker. The Minister of State, Department of Health, my right hon. Friend the Member for Barrow and Furness (Mr. Hutton), is overseeing the refurbishment occurring throughout the country, and I think that some 2,000 to 3,000 premises are being refurbished. The hon. Gentleman can tell all who are interested in their local health care, quite apart from the GPs who are integrally involved in it, that there will be an 11 per cent. increase in the first year and a 13 per cent. increase in the second year, which is compounded at 20.3 per cent. There will be £23 million extra, so although the area will be in roughly the same position in relation to the target, it will be substantially better off for resources. I hope that the hon. Gentleman will be explaining to his constituents that the extra money is coming as a benefit of the Labour Government.

**Jeff Ennis** (Barnsley, East and Mexborough) (Lab): May I remind my right hon. Friend that my constituency has the highest level of disability of any constituency? More than one in three households contain at least one disabled person, which is quite clearly a legacy of the former mining industry. I thank my right hon. Friend for today's announcement and the improved funding situation for health provision in Barnsley. I remind him that historically, under the previous Government, Barnsley was the worst funded health authority in the whole Trent region, despite having some of the highest levels of health problems not just in the Trent region but in the UK as a whole.

**Dr. Reid:** Yes, indeed; and I can tell my hon. Friend that Barnsley, for instance, is now closer to target than it was previously. It is just 3.5 per cent. beneath, and a £61 million increase is going in over the two years; that is a 21 per cent. increase for Barnsley. I hope that that will assist in an area where there has been terrible deprivation. I know that there are a series of one-stop primary care centres, which have improved health care in my hon. Friend's area, and there are other developments. For instance, I think that some additional GPs have come into the area recently.

We must never forget that although we have spent a lot of time today talking about the allocation of moneys, which is what this is about, at the end of the day this is about improving patient care, and there is no doubt in my mind that all the signs on the ground now are showing that, month by month, we are getting much better patient care. This morning I was in Newham, where five years ago there was one consultant in accident and emergency; there are now five. Where there were 50 nurses there are now 80. Where they were waiting 10 months for a scan only two years ago, now they are waiting less than a week. That is where this money is going—it is going to the patients, and that is as it should be.

**Several Hon. Members** *rose—*

**Mr. Speaker:** Order. I am obliged to move on.

## Points of Order

1.32 pm

**Tom Levitt** (High Peak) (Lab): On a point of order, Mr. Speaker. I should like to raise a point of order, of which I have given your office notice. Anyone who reads the third report of the Standards and Privileges Committee and the debate that was held on the Floor of the House last night cannot fail to conclude that the subject of that report, the hon. Member for Mid-Bedfordshire (Mr. Sayeed), did not properly apologise to the House for his conduct as the report required. Indeed, the right hon. Member for North-West Hampshire (Sir George Young), who chairs the Committee, said as much in his report.

The response of the hon. Member for Mid-Bedfordshire was, effectively, "I did not do it but I will apologise anyway". Surely that was a discourtesy to the House. Is this a matter on which you will rule or on which the House needs to take a stand? If it is referred back to the Standards and Privileges Committee, does there have to be a complaint of its own standing or can the Committee carry on the investigation?

**Mr. Speaker:** I notice that in his speech during the debate, the Chairman of the Standards and Privileges Committee made the following comment:

"The Committee on Standards and Privileges will need to reflect on whether"

the hon. Gentleman

"has responded fully to our recommendation that he apologise fully to the House in the light of some of his qualifications".—[*Official Report*, 8 February 2005; Vol. 430, c. 1465.]

I am content to leave this matter to the good judgment of the right hon. Member for North-West Hampshire (Sir George Young) and his Committee.

**Mr. Alistair Carmichael** (Orkney and Shetland) (LD): On a point of order, Mr. Speaker. Have you or your office received any requests from the Prime Minister's office for the Prime Minister to come to the House and make a statement on the subject of the wrongful convictions of those who were blamed for the IRA bomb attacks in Guildford and Woolwich? You may be aware that it was widely reported on television this morning that the hon. Member for South Down (Mr. McGrady) would be seeking to catch your eye, and apparently after discussion with the Prime Minister's office anticipated that such an apology would be made.

The hon. Gentleman was not able to catch your eye—we all know that it is not always possible—but we now learn that the Prime Minister has made such an apology. It is reported on the BBC website that Mr. Blair said:

"I am very sorry that they were subject to such an ordeal and injustice"

and that this apology was made in a statement recorded for television. Surely, if apologies of this nature are to be made, they should be made here, in the House. The House deserves rather better treatment than this.

**Sir Patrick Cormack** (South Staffordshire) (Con): Further to that point of order, Mr. Speaker. I am sure that I speak for many in the House in saying that you handle these matters impeccably. Nobody should be able to announce on the radio that a certain question is to be asked to the Prime Minister and answered in a certain way, and I would like to thank you for upholding the dignity of the House.

**Mr. David Lidington** (Aylesbury) (Con): Further to that point of order, Mr. Speaker. Can I ask you to confirm, in ruling on the point of order raised by the hon. Member for Orkney and Shetland (Mr. Carmichael), whether there is in fact no procedural obstacle to the Prime Minister notifying you that he would wish to make a statement on this subject at the close of business today, or indeed later this week during Parliament's proceedings? May I suggest to you, Sir, that many of us in all parts of the House would welcome the opportunity to listen to the Prime Minister make such a statement and to question him on it afterwards?

**Mr. David Trimble** (Upper Bann) (UUP): Further to that point of order, Mr. Speaker. May I endorse entirely everything that the hon. Member for South Staffordshire (Sir Patrick Cormack) has said, but also make the point that had such a statement been made by the Prime Minister in the House, that would have enabled other hon. Members with constituents and people they know who have also suffered from injustices to question the Prime Minister as to why he has been so selective in his recollection of matters?

**Mr. Nigel Dodds** (Belfast, North) (DUP): Further to that point of order, Mr. Speaker. May I follow up the matter raised by the right hon. Member for Upper Bann (Mr. Trimble)? I agree with that, in the sense that there are thousands of victims of IRA terrorism and other terrorism in Northern Ireland whose cases are going by default and whose voices are not heard. A statement as suggested would have allowed the opportunity to question the Prime Minister on the continuing delay in the appointment of a victims commissioner.

**Mr. Speaker:** What I can say to the hon. Member for Orkney and Shetland (Mr. Carmichael) on this point of order is that the Chair is now being drawn into the argument as to whether the Prime Minister should make a statement or not. It is for the Prime Minister or any Minister of the Crown to seek to make a statement before the House, and as right hon. and hon. Members know, when a Minister seeks to make a statement, the request is rarely refused. I therefore do not want to say any more on this matter. The Prime Minister will be able to read *Hansard* in the same way as everyone else and will have heard what has been stated.

I thank the hon. Member for South Staffordshire (Sir Patrick Cormack) for his support in this matter. Perhaps it is an opportunity to say to hon. Members that no one is entitled to demand to speak at Prime Minister's Question Time except when I call them, so no one is entitled to make a statement, prior to PM's Question Time, that they are going to raise this, that or the next thing. I think that we can safely end the matter at this point.

**Mr. Tam Dalyell** (Linlithgow) (Lab): On a point of order, Mr. Speaker. I am totally and absolutely convinced, if I may say so, that your attitude is right in terms of the House of Commons, but I may have

*[Mr. Tam Dalyell]*

incurred your wrath because I appeared for five minutes at 7 o'clock on ITV, and on Sky later on, on precisely this subject. I promise you it was on the basis that there was going to be an announcement anyway. Whether it was at Question Time was not quite clear, but there was the certainty—I think in good faith—among the media that there would be an announcement.

**Mr. Speaker:** All that I can say is that the Father of the House once again has my admiration for the fact that he is willing to wander the streets of London and go into television studios at 7 in the morning.

**Rev. Ian Paisley** (North Antrim) (DUP): On a point of order, Mr. Speaker. I would like to associate myself with the remarks that have been made in your support. I think that you have had the dignity of the House and the laws of the House at your heart, and certainly you are in complete control. We all know that, and we have to bow to that. You are infallible when you are in that Chair.

**Mr. Speaker:** The reverend Gentleman has gifted me with infallibility. I am very pleased by that.

**Mr. Peter Viggers** (Gosport) (Con): On a point of order, Mr. Speaker. At the heart of my point of order are value for money in Government contracts, the suspicion that the Government have unfairly subsidised Swan Hunter, and their frankness in answering questions on the subject.

The matter is well known—I raised it on the Floor of the House on 4 November in debate and four Labour Members criticised me for my comments. Indeed, the Under-Secretary of State for Defence "utterly rejected" my comments. So the issue of subsidy to Swan Hunter is known to Ministers and the House. I tabled a parliamentary question asking for the amount of support given by the Government to Swan Hunter. The Minister of State's reply was:

"The Ministry of Defence does not provide financial support to the defence industry."—[*Official Report*, 11 January 2005; Vol. 429, c. 381W.]

The response to a separate question to the Department of Trade and Industry said that the DTI had given just one grant of £1.2 million to Swan Hunter. There the matter may have lain had there not been further discussion and questions.

The Government are now saying two different things. To my hon. Friend the Member for Aldershot (Mr. Howarth), the Minister of State repeated his statement:

"The Ministry of Defence does not provide financial support to the defence industry."—[*Official Report*, 4 February 2005; Vol. 430, c. 1178W.]

But in reply to the hon. Member for Portsmouth, South (Mr. Hancock), he said:

"I regret that a clerical error in the Ministry of Defence led to an answer being laid which had been overtaken by events."

We now know that on 10 December the Government agreed to give a further £84 million to Swan Hunter. One has to ask: when is a pre-election bung not a pre-election bung? I am afraid that the answer seems to be when it is an

"£84 million"

adjustment to

"the contract with Swan Hunter following value for money considerations".—[*Official Report*, 3 February 2005; Vol. 430, c. 1017W.]

The fact is that the Minister told me, on the record, that the Ministry of Defence has not supported Swan Hunter, yet it has, in fact, given it a further £84 million. Would it not be appropriate for the Minister to come to the House to respond to this point of order?

**Mr. Speaker:** I am grateful to the hon. Gentleman for giving me notice of his point of order. I have examined the answers given to him and other hon. Members. It is clear to me that the original answers to the two questions asked by the hon. Members for Gosport (Mr. Viggers) and for Aldershot (Mr. Howarth) did not give a full or up-to-date picture of the facts relating to the contract in question.

I remind Ministers of their duty to give accurate information to this House and to correct any errors at the earliest opportunity. I also remind them that pursuant answers should be used only to correct errors of fact or printing errors in an earlier answer. They should not be the vehicle for a wholly new answer. I have asked the Table Office to check closely with Departments the nature of the correction to be made before authorising the use of such pursuant answers in future.

## BILL PRESENTED

### Audible Motor Vehicle Alarms

Mr. Norman Baker, supported by Mr. Alan Meale, Mr. John Randall, Bob Russell, Mr. Nigel Jones and Tony Wright, presented a Bill to establish requirements about the noise levels of, and the duration of noise emitted by, audible alarms within motor vehicles; to make provision about tests on motor vehicles in that connection; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 18 March, and to be printed [Bill 58].

## Road Safety (Pillion Passengers)

1.43 pm

**Mr. Nigel Waterson** (Eastbourne) (Con): I beg to move,

That leave be given to bring in a Bill to make provision about protective helmets for children riding on motor cycles as pillion passengers; to make further provision about motor cycle construction and use in relation to pillion passengers; to make it an offence to carry a child as a pillion passenger without parental consent; and for connected purposes.

My constituent Sean Pearce-Weston was only eight years old when he was tragically killed in a motorcycle accident in May last year. It happened on the Pevensey bypass. He was riding as a pillion passenger on a 750cc Honda motorbike owned by a friend of the family. The bike collided with a Ford Fiesta. Sean suffered serious head, neck and back injuries. He was airlifted to the local district general hospital, and later transferred to King's college hospital, where ultimately his life support machine was turned off. His parents were unaware that he had gone for a ride. He was wearing a helmet that was either ill fitting or with the strap undone. In any event, I understand it was not a specially designed child's helmet.

I was contacted by Sean's mother Cassie and her friend and neighbour Clare Lacey. Despite the terrible grief suffered by family and friends, Cassie's main priority since the terrible accident has been to campaign for better regulations to try to ensure that what happened to Sean cannot happen again to anyone else's son or daughter. I pay tribute to Cassie and the whole family for their bravery and determination.

Cassie started a petition in my constituency. It rapidly attracted not hundreds but thousands of signatures. Currently it has more than 7,000 signatures. There were very strong feelings on the matter in my constituency, especially in the Langney area. I was left asking: how did Sean come to be on this pillion seat without proper protection and without his parents' knowledge or consent? Would a change in the law help to avoid a similar tragedy?

I have to admit that my initial reaction was to press for a blanket ban on children being carried as pillion passengers. I am still of the view that very young children have no place on motorcycles. I have delved into the legal and practical issues very carefully, and I met a range of organisations and bodies. I would like to pay particular thanks to the British Motorcyclists Federation, in particular Mr. Richard Olliffe. It is a responsible organisation that has been working hard through the Advisory Group on Motorcycling to develop a national motorcycle strategy.

I do not wish to demonise motorcyclists. During this campaign, I have received e-mails and letters from bikers across the country — indeed, across the globe. As the BMF says in its mission statement, motorcycling is a legitimate means of personal transport and form of recreation. About 1 million motorcycles are registered for use on our roads.

I recognise that the vast majority of bikers are responsible people who take particular care when carrying their own children on their pillion seat, but the case of young Sean suggests to me that there is a minority who are less responsible and that some changes to the existing law are required. From the outset, I was determined that any change in the law should be fair, proportionate and enforceable. I am not interested in empty gestures and neither are Sean's family. Some accidents are unavoidable.

Among the other organisations I consulted were the Royal Society for the Prevention of Accidents, Brake — the road safety charity — the Motor Cycle Industry Association and Sussex Police. I am grateful for all the expert advice that they have given.

The existing laws of direct relevance to this case can be summarised as follows: a motor bike must be equipped with suitable supports or rests for the feet of the pillion passenger; pillion passengers must be capable of sitting astride a proper seat securely fixed to the motorcycle; a pillion passenger must wear a safety helmet; and the decision to carry a passenger remains with the rider, who is legally responsible for ensuring that the passenger is safely supported.

On 21 July last year, I went to the Department for Transport with Cassie and her daughter to present the petition. A few days earlier, I had sent a letter setting out my concerns following the accident and asking Ministers to review the legal position. The Under-Secretary of State for Transport, the hon. Member for Plymouth, Devonport (Mr. Jamieson), who is on the Front Bench, was otherwise engaged, but was good enough to write the following day expressing his condolences to the family. In his letter he stressed that the Government were concerned about motorcycle safety and made the point that

"Motorcyclists are our most vulnerable road users and are some 30 times more likely to be killed on the road than car users and 4 times more likely to be killed than cyclists."

However, he concluded:

"The Government believes that present regulations do not make it necessary to amend the legislation."

The Minister's review of the legislation cannot have been too comprehensive because that was in reply to my letter of 8 July. Very prompt, but suggesting, perhaps, a not too deep and long-standing review.

I have concluded that rather than a blanket ban, three things are required. First, there should be a clear legal obligation that where a child is to be carried as a pillion passenger by anyone other than a parent or legal guardian, the consent of a parent or guardian must be obtained. That should be backed up by stiff penalties. Had that obligation existed and been enforced before this tragic accident, it is more than likely that Sean would not have been on the bike in the first place. Parents have a right to know that their children will not be placed in possible danger without their knowledge and consent.

Secondly, it should be crystal clear that a child must wear a properly fitting and specially designed child's helmet. The best information I have been able to obtain is that Sean was wearing a full-face adult lady's helmet. It was the smallest size available, and although it probably fitted the diameter of Sean's head reasonably well, the differences in the jaw of an adult female and a child meant that the strap did not fit properly, so the helmet came off on impact. So wearing a helmet was of no use at all.

It must make sense for the law to require that specially designed children's helmets are worn. I understand from ROSPA that it plans to seek funding to create an advice

*[Mr. Nigel Waterson]*

leaflet for parents on taking their children on their pillions, which would look at all these issues. The BMF tells me that it would support moves to ensure that helmets approved to current UK and EU standards are readily available in child head sizes.

Thirdly, the regulations governing the design of foot rests, or "pegs", must make it clear that the very youngest child could not legally ride pillion, and that the manufactured position of foot rests cannot be modified. At present, as I have explained, the law requires that the passenger must be able to reach the foot rests. But certain sports bikes have the rests in more accessible places, and there seems to be some evidence that owners may modify their bikes, including the position of the rests. In fairness, I should say that the BMF does not support a ban on modifying the position of foot rests, but in a constructive spirit, it has told me:

"The BMF is however concerned that raders may not be aware of their obligations to pillion passengers and would therefore support a Department of Transport publicity campaign to ensure that riders and pillions are aware of their obligations under the current regulations."

What has been the legal aftermath of this tragedy in my constituency—the very sad death of young Sean Pearce-Weston? The rider of the motorcycle has not been prosecuted. The driver of the car was prosecuted and admitted driving without due care and attention, rather than dangerous driving. He was fined £500 and banned from driving for six months. Sean's mother pointed out in the local paper at the time that £500 was less than the cost of organising Sean's funeral.

I understand that the coroner's court in this case is due to reconvene on 5 April. Only after that final hearing does the Coroners Act allow the release of the formal police report on this tragic incident. It will, I am sure, make interesting reading. It is quite possible that the coroner may decide to make recommendations relating to the carriage of child pillion passengers on motor bikes. I hope that he does, and if he does, that the Government will seriously consider acting on those recommendations and on mine.

*Question put and agreed to.*

Bill ordered to be brought in by Mr. Nigel Waterson, Mr. John Horam, Mr. Peter Ainsworth, Mr. Robert Walter, Mr. Roger Gale, Mr. Julian Brazier, Mr. Richard Spring, Mr. Harry Barnes, Mr. Edward O'Hara, Tom Cox, Mrs. Jacqui Lait and Mr. Bill Wiggin.

ROAD SAFETY (PILLION PASSENGERS)

Mr. Nigel Waterson accordingly presented a Bill to make provision about protective helmets for children riding on motor cycles as pillion passengers; to make further provision about motor cycle construction and use in relation to pillion passengers; to make it an offence to carry a child as a pillion passenger without parental consent; and for connected purposes. And the same was read the First time; and ordered to be read a Second time on Friday 18 March, and to be printed [Bill 59].

# Orders of the Day

## European Union Bill

*"Order for Second Reading read.—[Queen's consent, on behalf of the Crown, signified.]*

**Mr. Deputy Speaker (Sir Alan Haselhurst):** I should inform the House that Mr. Speaker has selected the amendment in the name of the Leader of the Opposition. He has also placed a 10-minute limit on Back-Bench speeches.

1.54 pm

**The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw):** I beg to move, That the Bill be now read a Second time.

I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Bill, has consented to place her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

In view of the time limit that Mr. Speaker has placed on speeches, and in view of informal representations that I have received from both sides of the House, I will, if I may, not take the usual number of interventions. I do my best in all debates to take as many as possible, and I make myself available, as I did yesterday, to the European Scrutiny Committee for interrogation by Members on both sides of the House.

**Mr. Deputy Speaker:** Order. I should explain to the right hon. Gentleman and the House that Mr. Speaker's decision was perhaps related in part to the well-known generosity of the Foreign Secretary in that regard.

**Mr. Graham Allen** (Nottingham, North) (Lab): On a point of order, Mr. Deputy Speaker. Some of us feel that as Parliament has not gone through the European constitution line by line on the Floor of the House, the Bill lacks the legitimacy that it would have, had that process been enabled. I hope the Foreign Secretary will not allow us to miss some of the gems of explanation that he would otherwise have put before us.

**Mr. Deputy Speaker:** That is a case of special pleading.

**Mr. Straw:** I thought I was helping the Chair a moment ago, but obviously one can be wrong.

The Bill has two linked purposes: to enable the United Kingdom to ratify the European Union constitutional treaty, and to decide that ratification can take place only if there is a positive vote in a United Kingdom referendum.

Before coming to the Bill itself, let me first put it in context and explain why the new treaty is needed. The European Union's institutions and rules were designed some 50 years ago, for just six members. Since then, a succession of amendments in overlapping treaties has been agreed by the EU's member nations. But with the EU's biggest enlargement last year taking its membership to 25, and with the prospect of further expansion, it was clear that those successive treaties had

to be consolidated and clarified. In addition, there was a need for reform of the European Union to make it more effective, efficient and accountable.

When the first draft of the treaty was produced in the Convention, I published a detailed White Paper setting out the changes that would be required by the Government and the House if we were to sign up to the treaty. Over the following 10 months of intensive negotiations, we achieved every one of our negotiating objectives—a success that was widely recognised across Europe. The French newspaper *Le Monde* called the treaty "a British victory". *Corriere della Sera* in Italy declared that

"the British won the day".

Laurent Fabius, leader of the French "No" campaign, said that

"the British concept has won".

Those comments reflect the nature of the new constitutional treaty—a framework for our kind of Europe, which gives us a strong role in a Union of free and sovereign nations.

The new treaty spells out in clearer terms than before that this is an organisation of freely co-operating nations—free to decide where to work together, free to stop doing so if they agree that it no longer makes sense, and free to take at any time a sovereign decision to pull out of the EU entirely. The constitutional treaty puts Europe's members firmly in control. It replaces the current system of six-monthly rotating presidencies of the European Council, the body in which the EU's member countries set the organisation's priorities, with a full-time Chair to ensure that it is we, the nations, who set the EU's agenda and get it implemented. That is a widely supported reform, and its supporters include, I am pleased to say, the new leader of the Conservative party in the European Parliament. The only opposition to the reform appears to have been led by the former European Commission, not the present one, and the British Conservative party.

The new treaty slims down the size of the European Commission. It states that the EU's common foreign and security policy will remain fully under the control of Europe's nations, who can agree a common approach only when every one of those nations wishes to do so. One person, accountable to the EU's members and taking orders only from them, will implement this policy, replacing the disjointed system that we have today involving a high representative and a member of the Commission whose loyalties are ambiguous and are to the Commission, not to the European Foreign Ministers of nations.

The new treaty ensures that national Parliaments must ratify any future changes to the EU's arrangements. The Bill gives that statutory effect in clause 2. For the first time, the treaty gives national Parliaments the power to send draft EU legislation back for review if one third of national Parliaments believe that the draft law infringes the principle that the EU should act only where it adds value—the so-called subsidiarity principle. That is an important and welcome reform, to which the Bill gives further statutory effect. It is not directly reflected in the treaty, but in the Bill I have added to the provisions of the treaty so as better to assist Parliament in that task. Under clause 3, the relevant Minister will have a statutory duty to lodge a written statement with Parliament certifying whether or not a given draft EU law, in the Government's view, complies with the subsidiarity principle.

**Mr. David Heathcoat-Amory** (Wells) (Con): We have that power at present, as we can object on subsidiarity grounds. I am a member of the European Scrutiny Committee. The Commission can ignore our objections, and that will also happen under the constitution. The Commission already has to justify its proposals on subsidiarity grounds. It can overrule our objections, and it will be able to do so under the draft constitution. What, therefore, is the advance?

**Mr. Straw:** There is a big advance, because there was a power on paper in the Maastricht treaty, but it did not have any procedure behind it. As every lawyer in the House knows, if we do not have procedure, we cannot access rights. By making provision for one third of national Parliaments to raise a yellow card to a proposal, the treaty ensures that in future there will be a proper procedure. Moreover, with help from Members from all parts of the House, I have sought to strengthen the role of the House and Parliament in scrutinising EU legislation. In my judgment, legislation is always improved if there is effective scrutiny, and that is as true of EU legislation as it is of domestic legislation. I wanted to introduce a duty on Ministers, and therefore officials and Departments, to check EU draft legislation to see whether or not it accorded with the subsidiarity principle. That is what we will have under the Bill, but we do not have it at the moment.

**Mr. John Bercow** (Buckingham) (Con) *rose*—

**Mr. Straw:** I shall give way later to the hon. Member for Buckingham (Mr. Bercow).

The treaty provides Europe with a fairer and clearer voting system for making decisions, giving the larger member states relatively more power. One of the many improvements that we achieved during the intergovernmental conference was the raising of the thresholds for qualified majority voting from 50 per cent. of EU member states and 60 per cent. of the EU population to 55 per cent. of member states and 65 per cent. of population, which helps this country. The treaty sets out arrangements known as "enhanced co-operation" to allow groups of member states within Europe to work together more closely in certain areas without everyone having to take part, but it ensures that there is a level playing field. Such co-operation is allowed only if it does not harm the interests of those nations not choosing to participate. Last year, that policy was advocated by the Leader of the Opposition.

**Mr. Graham Brady** (Altrincham and Sale, West) (Con): The Foreign Secretary said that the House would have far more power to refer matters under subsidiarity, but when I asked the Leader of the House a question just a couple of weeks ago, I was told that no such proposals are yet in place and that the Government do not have any idea about the way in which that would operate. The Foreign Secretary is trying to suggest that we have new procedures and would have more power, but the Leader of the House made it clear that that is not the case.

**Mr. Straw:** I am afraid that the hon. Gentleman is misinformed. First, the Bill makes provision for a new

*[Mr. Straw]*

procedure and, secondly, I have already made proposals to the House, the Select Committee on Foreign Affairs and the European Scrutiny Committee about ways in which the House can better improve scrutiny arrangements. It is not for the Government to tell the House how it should exercise its scrutiny responsibilities. That is a matter for the House, and I look forward to receiving its recommendations. I simply say to the hon. Gentleman that he is pushing at an open door.

On immigration, asylum and frontier controls, the new treaty sets out effective provisions for working together across borders, but it gives Britain the choice to opt in to those measures in which we want to participate and to stay out of those in which we do not. The new treaty extends the application of qualified majority voting in the EU in that area and others to ensure effective decision making where it is in our interests. I am unapologetic about that extension, and I hope that that is the case, too, for the whole House, including Members who served as Ministers in previous Governments such as the right hon. and learned Member for Devizes (Mr. Ancram). It was Baroness Thatcher who, as Prime Minister, spelled out the case for qualified majority voting when it is in our interest. Majority voting stops individual countries blocking vital reform. If the status quo is against us, we must be at the head of reform. That is exactly what we have done with reform to the common agricultural policy, which we could never have achieved if countries with a vested interest in the status quo were able to veto any changes.

There are about 50 so-called improvement changes resulting from the change from veto to majority voting. Most are frankly trivial. They extend from procedures for repealing measures relating to the past division of Germany to the appointment of the executive board of the European Central Bank, neither of which affects the United Kingdom. At the end of the documents that have been laid before the House there is a complete table of such changes. Changes have also been made on asylum and immigration, although most of those were made under the Amsterdam treaty, and on criminal procedural law, but we have an emergency brake in certain areas and an opt-out in others.

Crucially, the new treaty sets limits on the European Union's powers and, for the first time, they are listed clearly. The powers of the EU are limited to those given freely by its members. Again, for the first time, there is a procedure to modify or reduce the exercise of those powers. The treaty guarantees that the national veto is maintained on crucial issues on which we need it, such as tax, social security, fundamental aspects of criminal law, the financing of the EU, treaty changes, foreign policy and defence. By incorporating the charter of fundamental rights, the treaty includes a consolidation of existing rights, freedoms and principles, thus limiting the scope of the EU institutions. The charter makes it clear that the EU must respect the fundamental liberties of our citizens whenever it acts. The treaty itself spells out the fact that the charter is not, and cannot, be used as a source of new human rights in this country. My right hon. and noble Friend the Attorney-General put it well when he described the charter in a speech last year as

"a brake not an accelerator".

**Sir Michael Spicer** (West Worcestershire) (Con): The Foreign Secretary is suggesting that increased national powers are involved. Surely, however, the whole point of the new constitution is that it will remove Parliament as the root of our legal system.

**Mr. Straw:** I am glad that the hon. Gentleman has raised that, and I invite him to look at the treaty, the White Papers that I have produced, the evidence that I have given and the detailed commentary. There is absolutely no provenance for his statement. Remarks by hon. Members sitting next to him and by his Front-Bench team show that part of the Conservative party is trying to pretend that the proposed treaty changes the position of the primacy of European law in relation to the United Kingdom. It does not. The primacy of obligations laid out in international treaties arises in principle not from the treaty or previous EU treaties but from article 27 of the Vienna convention on the law of treaties. I urge hon. Members on both sides of the House to consider this: if a country entered into solemn treaty obligations but could then ignore them, there would never be any point in agreeing international treaties. Some countries have to incorporate every single part of international treaties directly into their domestic law — that is the case in the United States — but other countries, including the United Kingdom, take a dualist approach. The issue of primacy is present in international obligations. It was present when we joined the European Union, and it was at the heart of the argument during the 1975 referendum campaign. The position has not changed, and as one of the first articles in the treaty makes clear, European law, in respect of European competences but nothing else, has primacy. It is made clear that that is simply a restatement of the existing jurisprudence of the European Court of Justice.

**Tony Wright** (Cannock Chase) (Lab): Does not this exchange reveal that in practice the proposed referendum will not be about the terms of the constitution but will be a vote about whether or not we want to be a member of the European Union? In that sense, it will be a defining moment for this country and our relationship with Europe.

**Mr. Straw:** One can never tell exactly the basis on which individuals vote in the privacy of the ballot box. I hope very much that the vote will be about the merits of the treaty. I am confident about its merits, and the fact that it works for Britain and makes a European Union that is much more in the image that we seek. My hon. Friend is right to imply that some in the Conservative party — by no means all of them — wish to use a no vote in the referendum on the treaty as a Trojan horse to drive the United Kingdom towards withdrawing from the European Union altogether.

The new treaty fulfils every one of the commitments that I set out in the Government's White Paper in advance of the negotiations. All the institutional changes are beneficial to Britain and to the British people: a limit on the

uropean Union's powers, a better-managed European nion, greater say for national Governments and arliaments, and flexible arrangements to allow some embers to go at a different speed from others. All those anges are proposals for which the Conservatives have alled separately, but to which they now, incredibly, bject, as illustrated in the rambling, rather oxymoronic easoned amendment that they have tabled. That is why e have heard a litany of distortion and inaccuracy from em about what is in the text.

Let me be clear about what the new treaty will not do. does not change the United Kingdom's position with espect to joining the euro. It does not hand control of ur borders, foreign policy or armed forces to the uropean Union. It does not take away our seat at the nited Nations, and nor—perhaps the most absurd laim of all—does it replace Her Majesty the Queen as lead of State. I can understand that the British public re concerned when they hear such claims about the reaty, but as discussion has gone on, so the myths and istortions have been exposed. People can increasingly ee the reality, which is that the treaty will set a stable, redictable and limiting framework for the European nion.

Let me now turn to the second purpose of the Bill: a eferendum in the UK and in Gibraltar to decide hether to ratify the constitutional treaty. I should oint out to the House one of the many manifest bsurdities of the so-called reasoned amendment tabled y the official Opposition. It asks that we decline to give he Bill a Second Reading. If there is no Second eading, there is no Bill, and if there is no Bill, there will e no referendum. Having called for a referendum for nonths and months, the Conservatives have nanoeuvred themselves into the extraordinary position f deciding to vote against it the moment they are ctually offered one.

The provisions in part 2 fall under the general ramework of the Political Parties, Elections and Referendums Act 2000, which many hon. Members will ecall. I recall it in every particular because I was a ponsor of that excellent Bill as Home Secretary. The European Union Bill sets out who will be entitled to vote n the referendum, the terms for any legal challenges to ts result, and provisions on the conduct of the eferendum. It also includes the question to be posed, which is a simple and straightforward one:

"Should the United Kingdom approve the Treaty establishing a Constitution for the European Union?"

am glad to say that the Leader of the Opposition has aid

"we do accept the question".

nd the Electoral Commission has now approved it.

In addition to the legislative provisions in the 000 Act, we shall publish and make available to the House guidance on Government conduct, which will pply throughout the referendum period. It will take ccount of the requirements of the ministerial code, the ivil service code, the special advisers code of conduct nd guidance on the work of the Government nformation system.

**Angus Robertson** (Moray) (SNP): Yesterday the Foreign Secretary told the European Scrutiny Committee that he did not see any need for the Bill to be repealed should there be a no vote in a referendum. That being the case, would the Bill remain on the statute book to be used for a second referendum on the treaty?

**Mr. Straw:** The Bill cannot be used for a second referendum. There would be no point in repealing it in such circumstances, because its purpose would have come to an end. I understand the question, but because he asked it—

**Mr. William Cash** (Stone) (Con): I asked it.

**Mr. Straw:** The hon. Member for Stone (Mr. Cash) asked me that question. I have double-checked the matter, and I refer the House to clause 10 (4) and (5). Parts 1 and 2 of the Bill can come into force, and an order be made, only if there is a yes vote. There cannot be a second yes vote; that is absolutely clear.

**Mr. Frank Field** (Birkenhead) (Lab): Does the Foreign Secretary accept that some Labour Members who will vote for the Bill welcome the referendum, although they will argue against the Government's case during it, but do not accept, as my hon. Friend the Member for Cannock Chase (Tony Wright) has argued, that it will be a defining moment for the country if it is lost, although it will clearly be a defining moment for the Government?

**Mr. Straw:** I am glad that my right hon. Friend is being consistent in his position, and I hope that his advice will be accepted as wiser counsel on the Opposition Benches. I look forward to a continuing discussion with him and one or two other hon. and right hon. Friends about the merits of the Bill. What we know of the public mood is that the more they see the good parts of the treaty, the more likely they are to support it.

**Mr. Kenneth Clarke** (Rushcliffe) (Con): There are those of us who support the treaty but think that the decision to hold a referendum was one of the weakest U-turns that the Government have performed on any issue in their history. Were I to vote for the Bill tonight, would the Foreign Secretary take it that I had been inconsistent in voting for the referendum? Would he advise me to vote against it, so that at least the dignity of Parliament and its right to determine the issue might be restored?

**Mr. Straw:** The right hon. and learned Gentleman has taken a consistent position on the matter—he is against a referendum—and I respect him for that. Those on the Conservative Front Bench, however, are in a completely absurd position; he knows it, and so do they.

The Bill presents a choice on whether to approve the new constitutional treaty. It is important to be clear about the nature of that choice. If Parliament and the British people approve the treaty, we will fix the framework for our sort of Europe, with the reforms that I have described, but if we reject it, we are in unknown territory, and I suggest that we will be weak and isolated in Europe. We would have no option but to go cap in hand to Brussels to ask our partners to start all over again, reopening negotiations in which we had secured such a good result. If we got any deal at all, it would be a worse and not a better one, negotiated from a position of weakness, not of strength. The long-term effect would

*[Mr. Straw]*

be Britain falling into a semi-detached position in Europe while others went ahead without us. We would be left without influence, out on the margins and with no say in Europe's future direction.

The choice is genuinely this: strength for Britain or isolation and weakness. We shall either endorse the reforms that we have secured, guaranteeing a strong Britain in our kind of Europe, or reject the treaty and step into the unknown, with all Britain's power and prosperity and all we have achieved in recent years at risk. Yet the official Opposition explicitly want to provoke just such a crisis in our relations with Europe. Indeed, just as many other nations are queuing up to join the EU, many in the Conservative party are doing their level best to reject it.

**Mr. Allen:** Will my right hon. Friend give way?

**Mr. Straw:** I apologise to my hon. Friend, but I am coming to the end of my remarks.

Let us be clear. The Conservatives say that they want not only a rejection of this new treaty, but a renegotiation of the texts of the existing treaties as well. At best, that is pure fantasy, and most will see it as deceit. Such an approach—to use the process as a Trojan horse to deliver renegotiation of existing treaties—is literally undeliverable. It would require the agreement of every other of the EU's 24 member states. Yet the Leader of the Opposition cannot point to one other member state that supports the Conservative party's position.

The Conservatives' kind of Europe is what Lord Willoughby de Broke, a former Conservative peer, described thus in a speech last June:

"like going to McDonalds and ordering a lobster thermidor".

That is, it is very nice to have, but it is simply "not on the menu". That is the truth of the matter. If the Conservative party's policy on Europe reflects nothing else, it reflects a deeply felt pessimism about its own future and the future of this country. The Conservatives say that their policy is about sovereignty, and that that is the purpose of their reasoned amendment, but it is not so. Their policy could represent only an inexorable weakening of Britain's power and influence. The Conservative party mistake isolation for sovereignty. By definition, a castaway on a desert island is sovereign, but he has no power. By playing a strong role in the EU, Britain strengthens the power of this nation. The alternative, offered by the Conservative party, is exactly the isolation and weakness that would be so damaging to our power and prosperity.

If, as I believe we do, we in Britain want to enhance our power and influence in the world, to shape global markets in our interests and to protect the British people from global threats—if we want to do all or any of those things—we must build strong alliances, not cut ourselves off. We have to be inside our largest market, shaping our rules, not outside it. With great respect to them, we are not Norway or Switzerland: we are one of the largest economies in Europe and in the world. The idea that we could simply take instructions from Brussels by fax, which is the alternative offered by associate status, is simple nonsense, but very dangerous nonsense.

Whether it is in getting proper elections in Ukraine, or in taking part in negotiations with Iran to suspend the processes that could produce fuel for a nuclear bomb, Britain is stronger when we work with others in Europe. We have to maintain that power and influence, not put it at risk.

There is a clear patriotic case for this constitutional treaty—for a strong Britain in a reforming Europe, for increasing our prosperity and our security, and for promoting our values and enhancing our power. As the debate continues in the House and in the country, I am confident that the patriotic argument for Britain in Europe will win against the narrow, pessimistic isolationism of the anti-Europeans. I say that because this is an argument about this country's future, about choosing to take our opportunities, to lead by engagement and to work with others to increase Britain's prosperity and Britain's power. I commend the Bill to the House.

2.21 pm

**Mr. Michael Ancram** (Devizes) (Con): I beg to move, To leave out from "That" to the end of the Question, and to add instead thereof:

That this House declines to give a second reading to the European Union Bill because, whilst it enables the broadly-supported and necessary Referendum to be held on the Constitution for Europe, it also provides for the implementation into UK law of that Constitution for Europe; it enshrines the primacy of European Union law and puts in place many of the elements of a state; it transfers further powers to the European Union institutions and further promotes the concept of a common foreign and security policy and a common economic policy; it further encourages the over implementation of European regulations; it extends the powers to legislate by order; it extends the competences of the European Union in many areas including asylum and immigration, criminal and civil law; and it therefore further diminishes the sovereignty of the United Kingdom.

Despite the welcome provisions in the Bill for the holding of a referendum, our amendment shows clearly why we will decline to support this Second Reading today. The Bill seeks to do two very different things and deliberately ends up confusing them, and the Foreign Secretary's speech has in many ways tried to increase that confusion. First, it seeks to import into our own law the provisions of the constitution for Europe, and, secondly, it enables the referendum to be held. There should have been two separate Bills. As with devolution, it would have made sense for Parliament to know the public's mind before legislating to implement.

We were told in last week's White Paper that

"the process of Parliamentary scrutiny will inform the public debate"

on the constitution. What did the Foreign Secretary mean by informing public debate—surely not the propagandist speech to which he has just treated us?

It is clear from the Bill and its timetable, and—I have to say with a certain amount of respect as this is probably the shortest speech that the Foreign Secretary has made on Europe—the length of his speech itself, that far from informing the public debate, the Government are desperate to keep it as short and as propagandist as possible. They have started already.

Last week—he did it again today, and I am sure that he will do it over and over again—the right hon. Gentleman boasted that he had delivered a constitution that every other country in Europe is calling a great British success. Once again, he quoted one or two French sources, but he is obviously selective in his reading.

On the UMP website, President Chirac, the leader of France, says:

"this Constitution was wanted by France, and is largely inspired by France."

On the same website, Alain Lamassoure, one of France's constitution draftsmen, described the constitution—this is important in this context—as

"the coronation of what we call the French vision of Europe, as opposed to the Anglo-Saxon vision".

Even Nicholas Sarkozy, the leader of the UMP, has said that

"if the French said 'no' in the referendum, it would be the British . . . who would triumph".

There appears to be a severe breakdown of communications between the Foreign Secretary and his French colleagues.

The truth is, as Mr. Sarkozy suggests, that this constitution is bad for Britain and for all those who seek to retain and develop a Europe that is a true partnership of sovereign nations. That is why this reasoned amendment seeks to distinguish between the welcome prospect of a binding referendum, which we have long sought, and the rest of the Bill, which sets out to impose upon the United Kingdom a European constitution, which leads us through that gateway towards a country called Europe where we do not want to go.

**Mr. Quentin Davies** (Grantham and Stamford) (Con): Will my right hon. and learned Friend give way?

**Mr. Ancram:** I will give way in a second.

Last week's White Paper made the astonishing claim that this treaty makes Europe "easier to understand". What nonsense. It establishes a constitution of considerable obtuseness, 500 pages of it, so easy to understand that a fortnight ago the Government produced a commentary on the constitution of another 500 pages. That is aside from all the propagandist bumf on the treaty that the Government have been producing during the past six months that we are now told makes it easier for Europe to understand.

I should like to see a detailed parliamentary analysis of the constitution—

**The Minister for Europe (Mr. Denis MacShane):** Will the right hon. and learned Gentleman give way?

**Mr. Ancram:** I will in a moment.

—a line by line examination, as I think the hon. Member for Nottingham, North (Mr. Allen) mentioned, in the course of the legislation. Yet proceedings on the Bill in this House are to be gravely curtailed to a day and half in Committee. Clearly the Government are frightened that the more we debate it, the more the British people will see it for what it is—a significant change in the relationship between the United Kingdom and the European Union, the first formal step towards a politically united Europe, and, to coin a phrase, the capstone of a federal state.

**Mr. MacShane:** Does the right hon. and learned Gentleman recall that it was one of his colleagues, I believe—I am not sure—the right hon. Member for Wokingham (Mr. Redwood), who asked the Prime Minister if the Government would produce a commentary setting out the old treaties and the new one side by side? That is what we have done. We do what the Conservative party wants and he should welcome that.

**Mr. Ancram:** I asked a question on how widely that had been circulated, to which I received an answer, and if the Minister looks that up, he will find that not a lot of people in Britain will see that particular document. In an earlier debate I challenged the Minister to send a copy of this constitution to every elector, and on that occasion he was very encouraging in his reply, but I see that that has now disappeared from the Government's agenda.

**Mr. Allen:** The right hon. and learned Gentleman is getting to one of the core problems here, which is that we started with a treaty, which is essentially a deal between various Governments, and have turned it into a constitution. Some of us favour a written constitution. We think that written constitutions are so good that they should not just go to Iraq or Europe, but to the UK as well. But will the right hon. Gentleman accept that there is now a contradiction, because instead of trying to win people to an inspiring written constitution for a very large project, whether he agrees with it or not, we now have a highly technical, treaty-oriented, Euro-babble-ridden document that will make it even harder for those of us who support a written constitution for Europe to sell it to the British people?

**Mr. Ancram:** I have a great deal of sympathy for the hon. Gentleman in the difficulty that he will have in selling this to the British people. But the point about the treaty is that it is a treaty that, in its own terms, establishes a constitution for Europe. That is why we have to deal with it in terms of it being the constitution that the Government seek to implement, and deal with it in its detail. But from now on, rather than parliamentary scrutiny—we will have only a day and a half in Committee—it will be propaganda, mostly at the taxpayers' expense, on what the Government call

"making the case for the Constitution".

**Mr. Kenneth Clarke:** May I ask my right hon. and learned Friend a question to which I am genuinely not sure of the answer? What is the position of the Conservative Front Bench on the parliamentary scrutiny and a referendum if, as I trust, a Conservative Government are returned in a few weeks' time? Will there be a full parliamentary process before a referendum is held, and would that parliamentary process be conducted on an altogether more sensible timetable than is suggested for this, or is it the Conservative Front Bench's policy that we have no parliamentary process and go straight to a quick referendum on the whole thing?

**Mr. Ancram:** Our policy, which we have made clear, is that after the election we will hold a referendum before

*[Mr. Ancram]*

the end of September of this year. We would take advantage of the example of the devolution referendums, where the legislation took place after the referendums, so that the House was aware of the feelings of the people who had voted in those referendums before the case was made.

The taxpayer should wake up to the extent to which they will be fleeced to pay for this shameless one-sided propaganda exercise. The Minister for Europe said that the Government plan to spend "serious money" promoting the EU constitution, and we now discover that for once he was not joking. A written answer on 17 January revealed that the Government have tripled their budget for spending to promote the EU constitution from £200,000 last year to more than £600,000 this year. What on earth has happened to this recommendation by the Neill Committee on Standards in Public Life:

"The Government of the day in future referendums should, as a government, remain neutral and should not distribute at public expense literature, even purportedly 'factual' literature, setting out or otherwise promoting its case"?

This Government are not taking account of that serious recommendation.

But that is not all. Last month, the PR company, Geronimo, was hired to run 'an extensive communications campaign costing the taxpayer another £40,000 by April. Apparently, its brief is to promote the idea that the EU constitution is a "success for Britain". Even the Electoral Commission has inferred that the current practice is "undesirable" and that

"in fairness the Government should operate under the same restrictions as everyone else."

We look to the Government to stop using taxpayers' money improperly in the run-up to a referendum that will, even on their own terms, be delayed for a very long time.

**Keith Vaz** (Leicester, East) (Lab): Will the right hon. and learned Gentleman give way?

**Mr. Ancram:** I should like to make some progress.

The combining of the paving measure for the referendum and the adoption of the constitution into our law is simply an attempt to muddy the water. Of course, we welcome the Government's belated U-turn on the holding of a referendum, which the Prime Minister once told us would be

"a gross and irresponsible betrayal of the true British national interest".

However, the Bill should be about the referendum and nothing else—that, I say to my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke), is what we would do in these circumstances. I accept that with amendments this Bill could still achieve that purpose, and I invite the Government seriously to consider that. In that case, a day and a half in Committee would probably be more than enough for the purposes of seeing the legislation pass through.

Then there is the question of the timing of the referendum. We have been told that it cannot be held during our presidency of the EU later this year. Why on earth not? Now that the final terms of the constitution are known, it would be better for the EU to get on with the referendum. It would also be better for the stability of Europe and better for Britain, which will become increasingly frustrated and suspicious at what is clearly unnecessary delay. I have heard no convincing reason for delaying until next spring, and I now hear rumours that the Government are considering October next year. The only conclusion that I can draw is that they are running scared of the British electorate.

**Keith Vaz:** The right hon. and learned Gentleman will remember that there was no referendum on the Maastricht treaty. He will also recall voting for the Maastricht treaty, which extended qualified majority voting, as does the constitutional treaty. Does he regret doing so?

**Mr. Ancram:** As I have said before, I think in retrospect that there was a case for holding a referendum on Maastricht. In this case, where there is a fundamental shift in the relationship between the EU and the United Kingdom, a referendum is absolutely essential. I repeat that when we are on the Government Benches, after May, we will hold that referendum before the end of September.

**Mr. Frank Field:** Some Labour Members have been laughing at the right hon. Gentleman's saying that he would have voted in favour of a referendum on Maastricht. His embarrassment, if he has any, in changing his mind—which the electorate might welcome—is surely no greater than the embarrassment of many of my colleagues, who said right up to the last moment that we should not have a referendum but will vote for one tonight.

**Mr. Ancram:** I am grateful to the right hon. Gentleman, but to save time I had not intended to rehearse points that we have made before—for example, reminding the Foreign Secretary of the days when he was not only against membership of the then Common Market, but campaigned vigorously to keep Greece out of Europe. He has changed his mind, and we can change our minds.

I turn to the matter of the referendum question. The Foreign Secretary said that it has received approval. I have asked him, in writing, for an explanation of why the question in the Bill refers to

"the Treaty establishing a Constitution for the European Union"

when the treaty itself refers to "a Constitution for Europe", but so far I have received no answer. It is vital that there is no ambiguity in the question, and it must therefore be logical that it uses the same descriptive terminology as the treaty, namely: "A Treaty to establish a Constitution for Europe". Indeed, this week the Electoral Commission commented that it

"believes that it is important to refer to the name of the treaty in the referendum question."

It notes that the proposed question is a modification of the treaty title rather than the exact title. Its own model question, produced in October 2004, uses the correct name. If there is no significance, as I presume that the Foreign Secretary will eventually tell me when he replies, he will have no difficulty in accepting the amendment that I will table in Committee to achieve the

same effect. It is interesting to note that the French question, which has been made public today, uses the precise title of the treaty by referring to the treaty that establishes a constitution for Europe. It would be sensible if our question did the same.

Turning now to the rest of the Bill, it will come as no surprise to the House that we vigorously oppose what is being proposed. We are against a constitution for Europe, and we are against this constitution for Europe. The Bill uses the existing machinery of the European Communities Act 1972 to give legal effect to the treaty under UK domestic law.

**Mr. George Foulkes** (Carrick, Cumnock and Doon Valley) (Lab/Co-op): Will the right hon. and learned Gentleman give way?

**Mr. Ancram:** I am going to develop my theme; I will give way to the right hon. Gentleman later.

The Bill does not seek ratification—it seeks implementation. Even if its implementation depends on an affirmative vote in the referendum, it is nevertheless unacceptable to us, and we will vote accordingly in the Lobby tonight.

**Mr. Foulkes:** The right hon. and learned Gentleman used to be my pair. My latest pair has crossed the Floor, I am glad to say. The right hon. and learned Gentleman should take a leaf out of his book.

I find it difficult to believe what I am hearing. The right hon. and learned Gentleman is explaining what he is against, but I understand that he is in favour of a major renegotiation of our involvement in Europe. Can he name just one out of the 25 countries that is in favour of the position that he is advancing?

**Mr. Ancram:** The right hon. Gentleman will have to wait until I reach that part of my speech. I remember with affection the days when the right hon. Gentleman was not trying to ingratiate himself as much as he is at the moment, and when he and I—and Sir Malcolm Rifkind—signed a letter to *The Scotsman* calling for a free vote on the 1972 legislation. I am not certain that we would have that support and co-operation from him today.

I will come shortly to the reasons for our objections to the constitution and to the myths with which the Government have sought to surround it, but I want first to deal with several points arising from the Bill. It automatically extends the scope of directly effective EU law to the additional areas, such as criminal justice, that are covered by the constitution. In addition, the fundamental provisions of the constitution, including those relating to legal primacy—to which we have long objected—will be given legal effect within our law. There is also a major extension of the Government's power to legislate by statutory instrument. Ironically, that extension of bureaucratic power at the expense of Parliament is not mandated by the adoption of the constitution. It is simply a Whitehall power grab; it is gold-plating the constitution on a grand scale. That from the Foreign Secretary who told us a year ago:

"Transposition of EU legislation into national law also needs attention. The risk of gold-plating the original texts . . . is real."—[*Official Report*, 11 February 2004; Vol. 417, c. 1417.]

I suggest that he looks again at the Bill in that context. Perhaps he has been too busy drafting pathetic attacks on our policy to notice what his own officials are doing. Far from dealing with gold-plating, the Bill is a new milestone in its onward march.

On top of that, parliamentary approval for constitutional changes in the EU, such as extending qualified majority voting still further, which until now has required primary legislation, will now only require an abbreviated procedure. Contrary to the Government's assurances, European Court of Justice decisions on the common foreign and security policy could have legal effect. We shall want to explore all those issues more deeply in Committee, but the Government's attempts to use time constraints to stifle proper debate may make that difficult.

The Bill is certainly not the inoffensive measure that the Government would have us believe. It sets out to create something that has not existed in this country that is of fundamental importance and creates a fundamental change. The Government know that, which is why they seek to hide it in a miasma of myths. I may have misjudged the Government in one respect. I had thought that their assertion that the real choice facing the British people is whether they want to be in or out of Europe—the Foreign Secretary was rather less assertive about it today, but the Minister for Europe keeps returning to it on the radio—was pure propaganda. I am beginning to conclude that they have become the victims of their own spin and that they genuinely believe it. That could explain why they surrendered on so many matters on which they told us that they would stand firm. It would explain why they are so prepared to sell out our sovereignty and our rights of self-determination.

When will the Government realise that the successful countries in the EU are those that are prepared to fight their corners and stand up for the national interest? France would never have stood by and watched while the EU destroyed a basic national industry, as we have watched our fishing industry being destroyed. No wonder the Government's record on Europe is such a dismal litany of caving in.

**Angus Robertson:** A moment ago, the right hon. and learned Gentleman mentioned the common fisheries policy. I have asked the question three or four times: will he take the opportunity to apologise on behalf of the Conservative party for signing up to it in the first place?

**Mr. Ancram:** We have made our current position clear and we intend to pursue such a policy after we win the election in May.

No wonder we are considering a Bill that asks us to sign away yet more of our sovereignty. We have a Government of the white flag and black propaganda. From the Government of the dodgy dossier, we got another dodgy dossier yesterday. It was based on false premises, coloured by false analysis and riddled with false conclusions, but then I read that Alastair Campbell is back. It was not about weapons of mass destruction but our EU policy. The Government use tactics of false myths, which we must expose again and again.

*[Mr. Ancram]*

The Government claim, incredibly, that the constitution means more power for member states. Former Italian Prime Minister Signor Lamberto Dini was much nearer the truth when he said that, under the constitution

"the Union: . . . will become an institution and organisation in its own right."

I heard the Foreign Secretary on the radio this morning responding to a comment that I had made by saying that what we were experiencing now was not irreversible. I refer him to the remarks of the Prime Minister of France, Monsieur Raffarin, who said in October:

"For the first time, Europe has a shared Constitution. This pact is the point of no return. Europe is becoming an irreversible project, irrevocable after the ratification of this treaty."

The Government claim that the constitution is essential to manage enlargement. Yet five years ago, the Prime Minister was arguing that it was not needed. Six years ago, the Foreign Secretary's predecessor went so far as to tell the House:

"For the record, we are not proposing a constitution of Europe."—[*Official Report*, 25 May 1999; Vol. 332, c. 184.]

There have been even greater myths. The Prime Minister declared that

"we have won every single thing we wanted to secure".

Who was he trying to kid? Of 275 Government amendments to the constitution's text, only 27 got through. That is a success rate of one in 10—hardly

"every single thing we wanted to secure".

The charter of fundamental rights, which the Government promised would only ever be a political declaration, is now legally binding. The Prime Minister said that giving the EU a single legal personality would be damaging and boasted after Amsterdam that he had blocked it. Yet under the constitution, the EU gets a single legal personality.

At the convention that drafted the European constitution, the Government tried to strike out the new chapter on energy policy. They failed. They said that the creation of a European Foreign Minister would be "unacceptable", yet in article I–28, there he is. In 1996, the Prime Minister promised, as Leader of the Opposition, that

"we restate our agreement to justice and home affairs remaining outside Community competence"—[*Official Report*, 16 December 1996; Vol. 287, c. 617.]

Yet the constitution gives the Union jurisdiction over justice and home affairs. The Prime Minister claimed that

"we are not giving up the power to set our asylum laws".—[*Official Report*, 15 December 2003; Vol. 415, c. 1334.]

He said:

"we will retain complete control over our asylum policy".

However, the European Commission made it clear two weeks ago that that is simply untrue.

In another desperate piece of spin, the Government invented the famous "red lines", which would not be surrendered. However, they broke them, too. They failed to stop the potential establishment of a European public prosecutor. They gave up our veto on criminal procedure law and some penalties and definitions of crime, and they gave up our veto over social security.

Perhaps it is the depth of the Government's failure that explains the extraordinary myths that they have been prepared to propagate. The Prime Minister even claimed that

"national Parliaments . . . can in fact block Commission measures".

Even the Foreign Secretary said today that we are considering a yellow flag, not a red flag. All that can do is ask the Commission to review the position; it cannot force it to repeal legislation.

Behind the myths, the reality is that the constitution represents both a strategic defeat and a defeat in detail for the Government. Their trouble is that they have no real vision for Europe, other than a vague one of integration and a desperate fear of being isolated.

**Mr. Foulkes** *rose*—

**Mr. Mark Hendrick** (Preston) (Lab/Co-op) *rose*—

**Mr. Ancram:** I shall not give way. The result of the Government's policies has been drift and failure. Hon. Members should not take my word for it but listen to Derek Scott, the Prime Minister's trusted chief economic adviser for six years. *[Interruption.]* It is wonderful that someone who leaves Downing street becomes a subject of mockery after being regarded as a guru throughout the time spent there. He said:

"The British Government never really thought through its own position."

He should know—he was in the centre of everything. He continued:

"First, it opposed a written constitution and then it put forward its own draft, which was treated with contempt. Then there was all that nonsense about 'tidying up' and the need to produce a clear document that could be tucked in your pocket."

The Foreign Secretary will remember that phrase.

Mr. Scott went on:

"The Government never saw the discussions on the constitution as an opportunity to stand back and think clearly about the appropriate political and economic framework to sustain the EU. There was no strategic thinking. The Government drifted into negotiating over specific details."

The result of that damning indictment is the document that the Government are trying to sell us today.

However, the most worrying aspects are in the detail of the constitution's effects. The charter of fundamental rights will lead to the European Court of Justice making decisions on matters from asylum law to employment law that are currently the province of elected Members of Parliament. As the president of the Court of Justice said, the constitution

"will bring new areas and new subjects under the Court's jurisdiction."

In this country, we are currently debating which party has the best policies to deal with the problems of asylum and immigration. Under the constitution, that debate would be redundant. The relevant decisions would be taken not here but in Brussels. The constitution will vastly extend the EU's powers over our criminal justice.

**Mr. Straw:** The right hon. and learned Gentleman's comments on the charter are simply untrue and he must know that. Article II-III-2 makes it clear that the

provisions of the charter can be justiciable only in respect of interpretation of Acts in relation to EU law. As the Attorney-General said, it acts as a constraint and a brake on the scope of what the EU can do, not an accelerator. Why does the right hon. and learned Gentleman perpetuate something that is incorrect?

**Mr. Ancram:** The man who will apply the constitution—the president of the European Court of Justice—said that the constitution would bring new areas and new subjects under the court's jurisdiction. He does not accept the Foreign Secretary's point of view. When the right hon. Gentleman talks about a brake, he should consult the opinion of Professor Sir David Edward, who said that the charter was not, in effect, a brake. We should discuss that in Committee because it goes to the heart of the Government's case.

**Mr. Quentin Davies:** My right hon. and learned Friend has mentioned asylum and immigration policy several times. I find some difficulty in following his argument and, indeed, the argument in the reasoned amendment, to which he put his name. As I read the document, the protocol on page 130 removes from the United Kingdom the application of the new provisions on asylum and immigration law. In other words, we are completely protected and allowed under the protocol to go on legislating about that for ourselves. In what way and why are provisions that explicitly do not apply to this country on asylum and immigration a reason for not acceding to the treaty?

**Mr. Ancram:** My hon. Friend must learn from experience. We learned in the past three weeks that the Government have already opted into several protocols, which have removed from the House the ability to legislate on that subject. The constitution makes that easier and more likely in future.

**Mr. Tam Dalyell** (Linlithgow) (Lab): As the right hon. and learned Gentleman knows, David Edward is a distinguished Scottish lawyer, who is also a pretty ardent European since his time at The Hague. What exactly did he say? I suspect that the quotation was out of context.

**Mr. Ancram:** He spoke to the European Scrutiny Committee. If I may, I shall write to the hon. Gentleman. I have the quotation in the bundle of papers and I believe that my recollection of Professor Edward's comment is accurate.

Despite protestations that foreign and security policy will not be harmonised, a new European Foreign Minister and diplomatic corps will appear under the constitution. There is even an extension of qualified majority voting in foreign affairs and the Foreign Minister, whatever the Foreign Secretary may say, would, in some circumstances, speak for us at the United Nations. In many other important areas of national interest, including energy policy, employment law and the entrenchment of the common fisheries policy, this constitution means that decisions will no longer be taken in this national Parliament but in the European Union's institutions. Above all, as Derek Scott says, this constitution would

"entrench Europe's failings and drag Britain down too. The constitution is a heady brew of bad politics and bad economics . . . its proponents are being disingenuous in their presentations to the British people."

Let us face it, the European Union is not performing as it should. If it had the same record as the United States on creating jobs, 28 million more people would be in work in the European Union today. It is time to take a fresh look, and rejection of this constitution would allow us to go back to the drawing board. The reality is that a European Union of 25—and possibly more—member states can work only if it is generally recognised that different countries want different levels of integration. Why should we not let each country find the level of integration with which it feels comfortable? We need a new, imaginative structure for the European Union, and a flexible approach would ensure that we could create a made-to-measure Europe in which the institutional arrangements comfortably fitted national interests, rather than an off-the-peg Europe that is ill fitting and, as we now know, splitting at the seams.

The Foreign Secretary holds the bizarre view that it is a fantasy to call for the return of powers from the EU to Britain, but surely the real fantasy is to assert that everything that the EU does is best decided at European level and that everything that it has done in the past is now set in stone.

**Mr. Foulkes:** Will the right hon. and learned Gentleman give way?

**Mr. Ancram:** No, I have given way to the right hon. Gentleman before.

There is a growing belief across Europe that some things that the EU does would be better done at national level. I know that it embarrasses Labour Members, but I am going to quote Derek Scott once more.

**Mr. Foulkes:** On a point of order, Mr. Deputy Speaker. You and my hon. Friends will recall that, in answer to my earlier question, the shadow Foreign Secretary specifically said that he would say which countries supported his line on fundamental renegotiation. He has not yet answered that question.

**Mr. Deputy Speaker:** The right hon. Member for Carrick, Cumnock and Doon Valley (Mr. Foulkes) knows that that is a matter of debate, and the right hon. and learned Member for Devizes (Mr. Ancram) has not yet concluded his speech.

**Mr. Ancram:** You are very percipient, Mr. Deputy Speaker; I was about to come to the point that the right hon. Gentleman asked me about.

Before I do so, however, I want to quote Derek Scott once more. He said that

"the point is there are alternatives to the EU constitution. Its proponents argue that returning competences is not on anyone's agenda beyond a narrow euro-sceptic fringe. This is patently not true . . . it should have been on the agenda of the Convention of the Future of Europe. If it was not, it was because the government was too gutless to put it there."

In answer to the right hon. Member for Carrick, Cumnock and Doon Valley (Mr. Foulkes) Bernard Bot, the Dutch Foreign Minister has said that

"the EU . . . should look expressly at those parts of common policy for which member states could take responsibility again."

*[Mr. Ancram]*

And Commissioner Margot Wallström has said that

"in the European Commission, we must accept that more power is moved back to the member states".

So the Government's argument that there is no alternative to the constitution, and that it is absurd to call for powers to be brought back to the nation state, is simply bunkum. We, like the Dutch, think that we are better off out of the social chapter, which is adding red tape to British business. And it is because we want our fisheries to thrive like Norway's rather than continue to endure an unsustainable plundering that we believe that national and local control should be restored to our fisheries. By rejecting this constitution, and through negotiation, we can develop a European Union that works better for Britain and better for itself.

**Mrs. Angela Browning** (Tiverton and Honiton) (Con): On renegotiating existing treaties, surely the question should not be what the EU thinks about that, but what the British people think. An ICM poll in November showed that the British people want renegotiation, and that even more younger people than older people support that proposal.

**Mr. Ancram:** My hon. Friend makes an important point, and there is a further one to add to it. We have renegotiated successfully in the past. An example would be Lady Thatcher going to secure our rebate. The key to that renegotiation was determination and political will. The problem is that the Labour party has no determination and no political will in this regard.

**Mr. Straw:** Will the right hon. and learned Gentleman give way?

**Mr. Ancram:** No, I have spoken for long enough.

Europe is facing relative decline. The constitution embodies the ossified thinking that lies behind it, and it is time for a fresh start. The new Commission President's call for jobs and growth to be the priority is welcome evidence that at last new thinking is emerging. Our view is that the European Union is worth renewing. The single market has, despite its faults, been a force for wealth creation. Our air is cleaner as a result of European co-operation on pollution. Old enemies have been reconciled and young democracies have found a stable home through the European Union. We actually want the EU to succeed. But it will not succeed if it is railroaded by a political elite with an overweening ambition to create a European superpower, clinging to an outmoded social model.

The way forward—"forward" is a word the Government use frequently these days—is to reject this constitution. Opposition to it is widespread and growing. Yesterday's Institute of Directors poll of its members found that 49 per cent. were against the EU constitution, with only 29 per cent. in favour. A MORI poll of 100 of the UK's 500 largest firms in January this year found that 60 per cent. of Britain's biggest businesses were opposed to the EU constitution.

We shall now redouble our efforts to remind the British people that they have before them a clear choice between the Government, who are hellbent on giving Brussels more control over our lives, and the Conservative Party, which will reverse that conveyor belt and bring powers back. This Bill represents a defining moment for our country. It is bad for Britain, and I call on the House to support our reasoned amendment.

**Mr. Deputy Speaker:** I see that the right hon. Member for Livingston (Mr. Cook) is trying to catch my eye. May I remind all right hon. and hon. Members that the 10-minute rule now starts to apply for Back-Bench speeches?

2.56 pm

**Mr. Robin Cook** (Livingston) (Lab): I speak to the House as a survivor of the negotiations on the Amsterdam and Nice treaties. As such, I fully understand the complexity of the task that my right hon. Friend the Foreign Secretary has had to face. I can share with the House the fact that we managed to get agreement on the complex voting formula at Nice only because, on the last night—and I do mean "night"—I smuggled in a laptop so that we could explain to the delegations how everything added up. I therefore congratulate my right hon. Friend on having at least produced a voting system that can be explained without the use of a laptop.

I sympathise with the patience with which my right hon. Friend has had to endure the 22-carat nonsense that has been talked about the treaty with which he has returned. One of the great instruments of our free press has said that this European constitution represents the greatest threat to English freedom for 1,000 years. Well, 1,000 years encompasses an awful lot of threats. Personally, I would have thought that Hitler, the Kaiser and King Philip of Spain's armada presented a greater threat than Valéry Giscard d'Estaing.

The right hon. and learned Member for Devizes (Mr. Ancram) has just referred to the section on energy. Attempts have been made to suggest that if we signed up to the constitution, we should have to give away control of our North sea oil. Indeed, I have heard Members on this side of the Chamber argue that case. However, the section on energy could not be more crystal clear: there is nothing in it that affects the right of a nation to control the exploitation of its own energy resources.

It would be a tragedy if the debate on the constitution became dominated by rebutting the myths, fantasies and canards that are told by those in the no camp. It would be a tragedy because there is a powerful, positive case to be made for the constitution—a case, I am bound to say, that should be particularly appealing to those who are critics of the European Union.

I heard the shadow Foreign Secretary on the "Today" programme this morning, which rather interfered with my concentration on brushing my teeth. He claimed that we were once again on the one-way escalator towards giving greater power to Brussels. I have to say to him that that is not what is in the treaty. The treaty ought to be welcomed by those who want to put a limit on the creep of competence to Brussels. It specifically defines, limits and sets down what the competences of Brussels

are. Indeed, if the right hon. and learned Gentleman cares to look up article I.13, which lists the exclusive competences of Brussels, he will find that they are modest and short. There are only four such exclusive competences, and only three of them apply to Britain because we are not a member of the euro. There is no substantial expansion of competence anywhere in the constitution. That is why I can understand that Romano Prodi expressed disappointment with the outcome. I cannot, however, understand why those who are worried about powers creeping to Brussels should be disappointed by an outcome that not only places a limit on those powers, but places a limit on them where they already are.

The shadow Foreign Secretary spoke about paving the way for a country called Europe, but this constitution does nothing of the kind. It is explicit that the power of the European Union comes from competences that are conferred by the member states. That is in the first sentence of the first paragraph of the first article of the constitution. One does not need to read 500 pages, just the first sentence, to grasp that elementary principle.

One of the big shifts in the balance with Brussels that the constitution will bring is the result of one of the new big beasts in the Brussels jungle—the full-time President of the European Council. Until now, we have had a deeply unsatisfactory system, with presidents who not only changed every six months—just when they were getting a grip on strategy and direction—but tried to run Europe in the spare time left over from running their own countries. Now we will have something totally different. There will be a full-time president, permanent for two and a half years, probably for five years because it is renewable, based in Brussels with his or her own staff—someone who will actually provide a change in the focus of Brussels to keep tabs on the Commission, initiate proposals and, as it says in the constitution, "drive forward the agenda". For the first time, the member states in the Council will have a full-time, permanent figurehead to set the agenda on behalf of the member states. That is a major shift away from the present balance held by the supranational institutions.

It is also very welcome, I have to say, that we will now know what goes on in the Council of Ministers. For the first time, as a result of the constitution, the Council of Ministers will meet in public whenever it passes legislation. I would have thought that everyone in this Chamber could welcome that, because it ends what was, frankly, an embarrassment. Since the collapse of the Soviet Union, the only legislative body left in Europe that met in secret was the Council of Ministers. It will now meet in public and we can see what is done there, which will make it more accountable, in turn, to the national Parliaments.

I am conscious that this infant constitution gets buffeted on both ears. It gets buffeted on the right ear by Conservative Members, who have a nostalgic yearning for the glory days of the old free-standing nation states, and it gets buffeted on the left ear by some of my hon. Friends who believe that the EU is not sufficiently aggressively socialist. I would encourage my hon. Friends to have a touch of humility when they address the question. Speaking as someone who was Foreign Secretary and, for a while, president of the Party of European Socialists, I know left-wing colleagues on the continent quite well. It may surprise my hon. Friends to hear it, but our continental partners do not think of Britain as a beacon of pioneering left-wing government—*[Laughter.]* It may astonish colleagues to know that most of the continental parties believe that we are not sufficiently aggressively socialist, and view Britain as being the strongest voice in the Council of Ministers for deregulation and market fundamentalism.

I also have to say that it is our partners, not us, who have insisted on language in the constitution that should be welcome to my colleagues. Among the European values listed in the early pages are combating social exclusion and discrimination, promoting social justice, achieving full employment and social progress. Half of the charter of fundamental rights, which I welcome being written into the constitution, is about economic and social rights, including the right to collective bargaining and collective action, freedom from discrimination, the right to equal pay, paid holidays and reasonable working time. My hon. Friends might like to reflect on the fact that it was precisely because of the prominence given to those rights in the charter that the CBI long vigorously opposed it, which is a reason why Labour Members should be supporting it as a progressive step rather than resisting it.

**Mr. David Drew** (Stroud) (Lab/Co-op): My right hon. Friend is trying to seduce the last dinosaurs on this side of the House, but does he accept that we have to reflect on the single market and all that it brings? That is why some of us—revisionists though we be—view this development as an unpalatable move that will lock us further into even more centralisation.

**Mr. Cook:** I would say gently to my hon. Friend that there is nothing in the constitution that represents increased centralisation. It certainly consolidates existing measures, but the Single European Act was passed a good two decades ago. Another reason why this development should be welcomed is that there are 3 million people who work in Britain on goods that are exported to the EU, which is the market for the great majority of our exports. I personally do not believe that it is a viable long-term strategy to say to our continental partners, "Go and jump into the channel—but do keep buying British". That would not be welcome news to the 750,000 British companies that export to the EU.

**Mr. Ian Davidson** (Glasgow, Pollok) (Lab/Co-op): Will my right hon. Friend give way on that point?

**Mr. Cook:** I happily give way to my hon. Friend, who has made me drop my toothbrush on many occasions.

**Mr. Davidson:** I am not quite sure about the point of the toothbrush.

My right hon. Friend mentioned 3 million jobs in this country, but does he accept that the EU exports more to us than we do to them, and that in the eurozone there are more jobs dependent on trade with Britain than there are British jobs dependent on trade with the eurozone? In those circumstances, they would not cut off their noses to spite their faces.

**Mr. Cook:** I congratulate my hon. Friend on his Olympian confidence that Britain has much greater

*[Mr. Cook]*

economic weight than the entire eurozone, but I suspect that if he gets down to negotiations it may not look like that, and I would invite him to reflect on the relative percentages. The exports that we send to the eurozone amount to some 10 per cent. of our total gross domestic product, but the exports sent from the eurozone to Britain amount to fewer than 3 per cent. At the end of the day, we need them—I put this gently; I do not want to exaggerate—at least as much as they need us. It may be a bridge too far for my hon. Friend, but I invite him to reflect on the fact that since the euro was created, inward investment coming to Britain as a share of European investment has tumbled to a quarter of the previous level. My hon. Friend should reflect further on what he said, before the economic consequences of that start to affect his own region.

**Mr. Kelvin Hopkins** (Luton, North) (Lab) *rose—*

**Mr. Cook:** I am terribly sorry, but I have now taken my two interventions for which I get injury time and I have no injury time to take any more. Fortunately, I am capable of counting to two.

I want to return to a point that was implicit in the intervention of my hon. Friend the Member for Stroud (Mr. Drew) on the Single European Act. Much of it is indeed consolidated inside this text, but although there some new matters are included, I would stress that 80 per cent. of it comprises the existing five treaties to which we have already signed up. Those who want Britain to vote no must be honest and tell people that they would not be voting no only to the new matter, but to the whole basis on which we have been a member of the EU for the last 30 years.

I listened carefully to what the shadow Foreign Secretary said about renegotiation, but when he claimed that Mr. Bot would agree with him to renegotiate, I would point out to him that Mr. Bot signed this constitution. His name appears in the early pages of the document; the idea that he is now going to start renegotiating something that he has already authorised and signed seems to me to be pure fantasy and delusion. In the end, if another dozen European countries have referendums and vote yes, we should not imagine that their Governments are then going to settle cheerfully down and have a look at renegotiating the terms that they commended to their own people.

Lastly, I want to say that when I was Foreign Secretary, I was impressed by the extent to which we live in an interdependent world. Our prosperity, security, freedom from organised crime—even our weather—depend on our success in achieving common approaches with the rest of our continent. The EU is an intelligent progressive model for trying to achieve such agreement. Of course, it is a condition of membership that compromises have to be accepted and that the option of going it alone has to be given up, but those are not just the conditions of membership of the EU, they are conditions of life in our modern interdependent world. In trying to reject the conditions of the EU, those hon. Members who are saying no to the constitution are also seeking to say no to modern reality. That is the case for voting yes to the constitution—for the sensible improvements that it makes to sensible arrangements for the modern world.

3.9 pm

**Sir Menzies Campbell** (North-East Fife) (LD): We have heard a lot of quotations so far in this debate. I wonder whether, during his time in No. 10 Downing street, Mr. Derek Scott was aware that he had acquired such an extraordinarily authoritative influence over the proceedings of the House of Commons. I shall not follow the style that has been established, other than to refer to a quotation to which the right hon. Member for Livingston (Mr. Cook) animadverted a moment ago. Title I of part I of the treaty states that

"this Constitution establishes the European Union on which Member States confer competences to obtain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives and shall exercise on a Community basis the competences they confer on it."

Those two especially well written sentences contain the essence of the document that we are invited to consider today. I welcome this Bill, and I especially welcome its provisions for a referendum. When Mr. Bryan Gould, as he was then, introduced what I think was new clause 51 of the Bill ratifying the Maastricht treaty—the new clause called for a referendum on that treaty—my Liberal Democrat colleagues and I, and other hon. Members from all parties, voted to support the proposal.

As I have said often in the House before, I believe that it is right, for constitutional and political reasons, to seek the endorsement of the people of the UK when the intention is to change the relationship between Brussels and Westminster. I very much hope that the Bill will pass into law before what we understand to be the date of the general election, although I have some doubts whether sufficient legislative time is available in both Houses of Parliament. If the general election is called for 5 May, I believe that it would be right to fight it on the provisions of this Bill, and in particular on the proposal that the constitution should be ratified.

As far as I know, at no time in history have any British Government signed a treaty that has not been ratified subsequently. However, the logic of those who would reject the Bill and the constitution seems to be that there are no circumstances in which this country would ratify a treaty entered into by our Government. That would be a very novel constitutional position to adopt. It would almost certainly put into very sharp contrast our relations with our EU allies. Therefore, rejection of the Bill would immediately provoke something of a constitutional impasse with the EU, and perhaps worse.

Many people say that the debate on the referendum, when it takes place, must be on the terms of the constitution itself, but I think that they are guilty of wishing for something that cannot be achieved. Does anyone seriously believe that the debate on the referendum, once it begins, will be conducted both in the country and in those newspapers that are most violently against the EU on anything other than the question of whether membership is good for us or otherwise? It will be beholden on us to argue for the principle of EU membership, as well as for the terms and merits of a particular document.

On many occasions I have argued in this House that we should never allow ourselves to forget the turmoil out of which the European Coal and Steel Community was formed, and the purposes of it and its successors.

The aim was to avoid the continent of Europe being subjected to the destruction, war and loss of life that had disfigured it three times in the preceding 80 years. War between EU member states is now inconceivable. That is neither incidental nor fortuitous; it is a consequence of the EU—and, yes, of NATO as well. It is something of which I think that we are too often careless. We too often forget the genesis of the EU, and what it has achieved.

The Foreign Secretary said earlier that our membership of the EU allowed us to join France and Germany in seeking to influence the policies of Iran, in an area that is of vital importance for our security. The remarkable handshake that we saw yesterday may presage a new chapter in the relations between Israel and the Palestinians. The EU, collectively, will have an enormous influence on the outcome of the journey on which Israel and the Palestinians appear to have set out. That influence will stem from what we can contribute and from the political influence that we can bring to bear.

The argument for the EU that will inevitably form part of a referendum campaign must not be allowed to go by default. It is also worth reminding ourselves that only a few years ago eight of the new members of the EU were satellites of the Soviet Union, and that three member states—Spain, Portugal and Greece—were dictatorships. It is inconceivable that those countries would revert to dictatorships, or that the former Soviet satellites would do anything other than adhere to the principles of democracy and open markets that we in this country have taken for granted so long but to which they have sought to aspire.

**Mr. Foulkes:** The right hon. and learned Gentleman is making a good, logical and well argued case, but is he not worried that his approach will not get over to the British public, because of the media? For example, *The Sun* would have us believe that 2 million people would be unemployed, that we could not have acted in the Falklands or the Gulf without President Chirac's approval, and that we would lose our seat on the UN Security Council. How can we counteract the myths, lies and rubbish peddled by *The Sun* and by people such as my hon. Friend the Member for Glasgow, Pollok (Mr. Davidson)?

**Sir Menzies Campbell:** The hon. Member for Glasgow, Pollok (Mr. Davidson) and I disagree, but I have never yet heard him compared to *The Sun* newspaper. If I may say so, the comparison is rather a brave one.

However, the right hon. Member for Carrick, Cumnock and Doon Valley (Mr. Foulkes) is right to say that there is a case to be made. As the Foreign Secretary will know, I have been critical of the Government in this matter. Since 1997, they have missed too many opportunities to make the European case. It has sometimes been said of the Prime Minister—perhaps a little slightingly—that he thinks that being at the heart of Europe means making a speech in Warsaw every two or three years. The Government could have done more since they have been in office, but I still believe that the referendum campaign can be won, so long as those in this House and outside it who believe that the EU project is worth while and that the constitution is in our interest fully engage in the argument. The campaign can be won, but it will require a great deal of application. We have not seen that application so far.

On the question of myths, we should take our lead from the right hon. Member for Livingston. Earlier, he underlined the importance of the EU in terms of prosperity, economic advantage and inward investment. That approach is more hard-headed than the historical case that I was trying to make earlier, but the two are not mutually inconsistent. Both approaches can march robustly side by side in the campaign for the constitution.

People are able to work, study, live and go on holiday in the EU. More than 750,000 Britons live abroad in EU member states, and at least 100,000 of them work in the EU. People understand the opportunity that the EU gives them, but the case for Europe cannot stand without an openness to reform. Europe has to enhance its democratic accountability, streamline the EU's powers and achieve political stability. The constitution is a necessary part of that.

Since we joined in 1973, there have been four treaties and four further waves of enlargement, from six founder members to 25 members today. That may rise to 27 with Bulgaria and Romania on the doorstep and other countries, such as Croatia and Turkey, knocking on the door.

The EU has more than 20 per cent. of world GDP, a powerful currency, of which the United Kingdom is not a member, and potentially a strong foreign policy role with the opportunity to promote freedom, stability and prosperity beyond its borders. The project is certainly worth while. I hope that we will not conduct our discussion on these matters as if we are engaged in some grand ideological contest, or a form of political combat in which victory is always equated with the successful defence of sovereignty in what is essentially a 19th-century concept, or even older.

In a modern and connected world, sovereignty is not preserved by disengagement. It is undermined by isolation and enhanced by co-operation. In trade, economics, crime, the environment, security, immigration and the campaign against terrorism co-operation is not merely beneficial; it is imperative. As the recent United Nations high-level panel report observes, there has been globalisation not just of opportunities, but of threats and challenges, and only co-operative action will equip us to meet those challenges. Some say—perhaps portentously, but there may be some truth in it—that those challenges have the capacity to damage the very values upon which our nation is based.

I believe that the treaty will provide institutional clarity. As I said, the competences are those conferred by a union of nation states upon the European Union, and those powers and competences now seem to be more clearly defined than before.

On primacy, the Foreign Secretary referred to international law. Going back to 1973, it is clear that under the instrument of accession passed by Parliament, European law has primacy, but to extrapolate from that the notion that somehow our criminal law will now be subjugated to Brussels is wholly contrary to principle and makes no sense whatever. On subsidiarity—I wish that the treaty had gone further—the so-called yellow

*[Sir Menzies Campbell]*

card principle is worth while, but there would have been a lot to be said for a red card. I have heard the Foreign Secretary's answer to that point, but if we are considering the matter from the point of view of the extent to which domestic Parliaments are controlling what happens in Brussels, a provision that provided for prohibition rather than delay would have greatly enhanced the credibility of the idea that domestic Parliaments can exercise control over what is happening in Brussels.

**Mr. Davidson:** Will the right hon. and learned Gentleman give way?

**Sir Menzies Campbell:** I give way to the hon. Member for Glasgow, Pollok, but I will not characterise him as a newspaper of any kind.

**Mr. Davidson:** The right hon. and learned Gentleman said that he would have liked national Parliaments to have a red card. Surely that is equivalent to a veto. One of the objections to the constitution is that Britain has given up its red card—its veto—in so many areas.

**Sir Menzies Campbell:** I pause to think, but I cannot immediately bring to mind areas in which the veto has been given up. My understanding is that we have retained it for foreign policy, defence, taxation, social security and own resources. The so-called red lines seem to be eloquent examples of where the veto has not been taken away.

**Mr. Straw:** May I take the right hon. and learned Gentleman back to the issue of the yellow card? We have had this debate before, and if one third of national Parliaments—effectively, one third of national Governments—tell the Commission that they do not like a proposal, it will have to be reviewed. Moreover, if 45 per cent. of national Parliaments—national Governments—tell the European Union that they do not like a proposal, there is a veto. However, we cannot have the system of yellow cards replacing the system of qualified majority voting.

**Sir Menzies Campbell:** I understand the constitutional point and I see Labour Members nodding, but I am considering the matter from the point of view of politics, and telling people in the United Kingdom that this is not an irreversible escalator. It would have had some advantage in that regard.

**Mr. Allen:** In support of the right hon. and learned Gentleman's point, may I add that had we involved this House in more detail with certain areas in which there was a red card, pro-Europeans would have liked that because it would have removed many of the problems—some of which are justified and some of which are merely found by Conservative Members—and undercut the argument against a written constitution. My fundamental point is that we would have been trying to sell the constitution on the basis of an overarching common law instead of going for a referendum on the basis of political expediency.

**Sir Menzies Campbell:** I have no doubt that the hon. Gentleman will develop that theme if he catches your eye, Mr. Deputy Speaker.

In answering the point made by the hon. Member for Glasgow, Pollok about vetoes, I did not acknowledge the fact that we have accepted qualified majority voting in a number of areas, but that was when it was in our interests to do so. As the Foreign Secretary pointed out effectively, the possibility of reform of the common agricultural policy depends on the exercise of qualified majority voting. If every country possessed a veto in that area, the prospect of making progress with reform would be remote.

**Mr. David Heathcoat-Amory:** May I assist the right hon. and learned Gentleman on the point about majority voting? I have a list of 63 new areas, which the Library has confirmed, that have been transferred to majority voting. They include the whole area of criminal justice, including criminal procedures, rules of evidence and rights of the accused. Does the right hon. and learned Gentleman not think that that is a significant advance into a new area by the EU, particularly as such matters will be decided by majority voting, perhaps in defiance of this House? *[Interruption.]*

**Sir Menzies Campbell:** Well, as the Foreign Secretary says—not sotto voce, but magna voce from the Treasury Bench—we have either the right of veto or the opt-out. Let us suppose that the House decided to abolish jury trial. None of the provisions to which the right hon. Gentleman referred would prevent it from doing so. I hope that it is highly unlikely that the House would want to do that. *[Interruption.]* I hope that the Home Secretary is not listening to that. In such areas, the process and principle on which our criminal law systems are based, north and south of the border, are not being attacked by the provisions to which the right hon. Gentleman referred.

As for the presidency of the Council, continuity and coherence in the Council can only be enhanced by the proposals to be made for that office. The Commission is much maligned, sometimes justifiably, but it is worth reminding ourselves that it is half the size of Birmingham city council and has a budget of just over 1 per cent. of European Union income. It is not the monolith as which it is sometimes characterised.

**Mr. Richard Bacon** (South Norfolk) (Con): If the Commission is so small, why does it have such trouble keeping an eye on its accounts, and why did the Liberal Democrats in the European Parliament congratulate the Commission on the way in which it dealt with Marta Andreasen?

**Sir Menzies Campbell:** On the accounting procedures of the European Union, if the hon. Gentleman had been present on previous occasions, he would have heard me criticising the fact that the accounts were not signed off. However, a more effective system of auditing the EU's accounts would have some implications. The auditors do not, at the moment, have the right to go to individual countries, but a more effective system would mean extending the auditors' powers to enable them to examine the books here in the United Kingdom. So far, there has been no particular enthusiasm for that. If the hon. Gentleman's point is that the use of public money should be subject to proper scrutiny, that applies as much in the European Union as in the House of Commons—and in that regard, we are at one.

I want to say a word or two about the security and defence policy. This is an important and significant development and already has practical application. The European Union has taken over command and responsibility for peacekeeping in Bosnia, which will be an enormous opportunity as well as an enormous test. It is important to remind ourselves, as it has not featured so far in the debate, that NATO is still affirmed as the bedrock of our collective defence. Indeed, the treaty says:

"commitments under NATO, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation".

I make that point because I do not believe that there is anything to fear in this document, nor do I fear its consequences.

*The Guardian*, in an editorial this morning, says that the European Union constitution is not a document "to die for". That seems to be a pretty accurate judgment. It also seems to embody sensible reform, which is why I am willing to justify it here, and ultimately in a referendum of the British people.

3.31 pm

**Joyce Quin** (Gateshead, East and Washington, West) (Lab): It is a great pleasure to be able to speak in this debate in support of the Bill, and to follow the right hon. and learned Member for North-East Fife (Sir Menzies Campbell), whose approach to these issues I often agree with. It is also a pleasure to follow the sparkling contribution of my right hon. Friend the Member for Livingston (Mr. Cook), who, along with the Foreign Secretary, started to debunk some of the myths about this constitutional treaty.

My starting point is the opinion poll published in *The Times* yesterday, which showed that Europe was well down the list of issues that people felt were important. Indeed, it was in ninth place, with apparently only 10 per cent. of voters citing it as important. I was pleased that the Labour Government's approach was more popular with voters on this issue. None the less, despite the excitability of large sections of the press, the public do not seem to be very engaged with the issue, which should cause us concern given that those of us who are present for this debate are keen to give a wide public airing to issues on which the public will ultimately have the responsibility to judge.

I understand the public attitude as cited in the opinion poll, however, because despite all the alarmist comments, it seems that many of the issues that are uppermost in the public's mind at the moment—health, education, crime and other matters—are ones on which the European role is almost non-existent. In Prime Minister's Questions today, even though Members knew that the rest of today would be devoted to the European Union, Europe was hardly mentioned if at all, whereas identity cards, crime, the importance of British science and many other issues were much more prominent. We must recognise that, and realise that all of us, despite our own interest in this subject, will have to rise to a huge challenge to make it interesting to the public. Certainly, I hope that the constitution will be disseminated widely, although I sometimes worry that it might become a national cure for insomnia in the process.

Many comments have been made, especially in interventions, about the referendum question. I have not changed my attitude on that—I feel that this particular constitutional treaty was not an appropriate subject for a referendum. It is no different from Maastricht, Nice and other treaties on which we have not held referendums. I sometimes worry, given the increasing number of referendums that we are holding in our country, whether we should at least have some ground rules about the principles according to which we proceed to holding a referendum. After all, we have welcome legislation on the conduct of referendums, but nothing on the statute book—of course, we have no written constitution—to say in what circumstances it is appropriate to hold national referendums. I feel somewhat uncomfortable about the way in which we are proceeding in that respect.

**Mr. Hopkins:** My right hon. Friend talked about the ground rules for referendums. Does she agree that making sure that both sides in referendums have equal resources and limits on their spending in campaigns would be fair ground rules?

**Joyce Quin:** On this issue, I generally support the provisions contained in the Political Parties, Elections and Referendums Act 2004, which provide a fair framework. Having been on the wrong side of a referendum in the north-east of England recently, I am well aware that both sides in that referendum felt that they at least had equal access to the media and that they were able to raise funds on an equal basis. There were not many grumbles about the conduct of the referendum, even though, to my mind, the result was a great disappointment.

**Mrs. Browning:** Does the right hon. Lady think that it is fair that the yes and no campaigns in referendums have only a six-month period, but the Government can continue spending money until 28 days before the referendum takes place? After all, the Government are already spending a lot of our money on this campaign.

**Joyce Quin:** The hon. Lady should reflect that Government policies are continually tested in the House and in the media, and a wide public debate always occurs, as we found on the devolution question. Generally, the rules adopted on the conduct of referendums are satisfactory. I am not opposed to considering possible amendments in future, but the framework for holding a reasonable referendum exists.

This is a difficult subject for a referendum, however. I strongly support the idea of a referendum on the single currency, but that is on a fairly straightforward principle, with a fairly straightforward choice to be made. This constitutional treaty, which includes so many different aspects and, as my right hon. Friend the Member for Livingston pointed out, is 80 per cent. dominated by the existing treaties, is a particularly difficult issue on which to hold a referendum.

Ideas have already been put forward in the debate as to whether the referendum is about whether we should be in or out of the European Union or what issues will be involved. I well remember dealing with the Maastricht treaty and talking to some people who were understandably keen on animal welfare. They urged us

*[Joyce Quin]*

to vote against the treaty if it did not have a strong reference to animal welfare. A huge treaty that deals with many different issues poses a danger that the debate can be hijacked by isolated subjects in an unhelpful way. I have real worries about that.

Having accepted that we are having a referendum, however, and that there is little point in crying over spilt milk, those of us who support the constitutional treaty will have to consider ways of making the arguments to the public and of trying to give as realistic and accurate a picture about what the treaty involves as we can. In that respect, I follow the comments of my right hon. Friend the Member for Livingston and the Foreign Secretary. I believe that this treaty, in so far as it makes changes, makes sensible and welcome ones. It simplifies some of the existing text, delineates the areas where the European Union can and cannot act, provides for an increased role for national Parliaments and generally involves sensible institutional changes as a result of the welcome enlargement of the European Union.

It also gives us the opportunity to debunk the various myths about the Queen being replaced as our Head of State. In that respect, I was interested that *The Spectator* said way back in 1972 that if the Queen signed the then European Communities Act, she would be signing away her birth rights. Thirty or more years later, there seems no danger of that happening or being likely to happen in any kind of foreseeable future.

Indeed, some of the scare stories about taxation need to be debunked. It was established in the treaty of Rome that the European Commission has the power to make taxation proposals, but in reality, such matters still require unanimity. Rather than steamrollering towards a common taxation system, progress down that route for those who want to make such progress—has been incredibly slow.

**Mr. John Burnett** (Torridge and West Devon) (LD): Will the right hon. Lady give way?

**Joyce Quin:** I have already given way twice and I am afraid that I am unable to do so again. I apologise to the hon. Gentleman.

The reality is that in a common market, taxation tends to approximate over time, not because people are being forced down that route by the European Commission, but simply because of the logic of the working of that internal market.

I hope that we will discuss today the regional considerations relating to the EU and the constitutional treaty. In my own area, the debate on Europe is sometimes somewhat different in tone from that in certain other parts of the country, perhaps partly because one of the major employers in my constituency is the Nissan car plant, which does most of its export trade with Europe and thinks along very European lines. The attitude towards the EU of my constituents who work in that plant is often different from that of others. It is important that we discuss during the referendum campaign not just the importance of Europe to our economy in general, but the way in which such importance breaks down in different areas of the UK.

The Labour Government have made many solid achievements in their approach to Europe. We negotiated very successfully in Amsterdam, at the Berlin summit and during discussions on the Nice treaty, when the disagreements were between the French and the Germans, rather than with us. We have therefore achieved what we set out to achieve, which is important, but I should point out respectfully to Ministers that sometimes, we overstate the case for a victory for Britain, as if we had secured such a victory against everyone else. In reality, on most issues, most of the time, we have many allies. I attended several Council meetings as a Minister with various areas of responsibility, and I was always struck not by the amount of conflict but by the great consensus that dominated such meetings. As a result, most of the time they proceeded very smoothly indeed.

The challenge of the referendum is daunting, but through that process we should aim to give our citizens more information, provide a more realistic picture of what the EU does, rebut some of the sillier myths that seem to abound, and put forward a vision of sensible, practical co-operation that is good for Britain and for Europe. I hope that we can prove successful in this task.

3.43 pm

**Mr. William Hague** (Richmond, Yorks) (Con): It is always a pleasure to follow the right hon. Member for Gateshead, East and Washington, West (Joyce Quin), who has further illustrated that this issue always causes divisions within parties, as well as across them. There are Members who are in favour of the treaty but against a referendum, while others take the opposite view. Reference has already been made to many British traditions being under threat, but this debate shows that the splendid British tradition of being utterly inconsistent and unpredictable, as the right hon. Lady has pointed out, on the question of when to hold referendums is fully alive, as it will be at the conclusion of this debate and when the Bill completes its passage.

That said, I welcome the fact that the Government have concluded that there should be a referendum. Like my right hon. and learned Friend the Member for Devizes (Mr. Ancram), I believe that the matter should have been dealt with in a Bill separate from that implementing the treaty, but it is good that the Government have executed this handbrake-turn just before the European elections.

I want to draw our attention to people outside this House, who will be puzzled by the criteria that we apply to this issue, to the question of the constitutional treaty. It is common ground in this House that there is a great deal of public disaffection with the political process, and that disillusionment with politics has grown greatly in recent decades. To the shame of all of us who were candidates or leaders of our parties, the turnout at the last general election was 59 per cent. Comparable figures in polls today show that the percentage of people who are certain to vote at the next election is perhaps in the lower 50s. Such great disaffection is partly the result of the increased gulf between the people of this country and the decisions that are made in their name. The increasing integration of political power in the EU, which is a key part of that process, is a fundamental part of my objection to this treaty and a fundamental test against which constitutional change should be judged.

We must ask whether, at a time of disaffection, such change makes matters better or worse. This constitution will make matters worse. Those who have followed the

political debates of the past few weeks will have noticed that powers have been transferred to the EU in an alarming number of areas. When my right hon. and learned Friend the Leader of the Opposition proposed a limit on the number of immigrants to this country a couple of weeks ago—there will be different opinions in the House about the merits of that proposal—the European Commission made it clear that he would not have the power to implement such a limit. *[Interruption.]* The Minister appears to be contradicting that interpretation, which would be important news.

**Mr. MacShane:** I think that the Commission simply pointed out that under the 1951 convention, to which we are committed, Britain cannot limit the number of refugees. It was talking not about economic migrants but purely about the terms of the 1951 convention, by which we are treaty-bound.

**Mr. Hague:** There is clearly a difference of opinion between Government and Opposition Front Benchers on this issue, which it is important to clarify. As I understood it, despite all the assurances about opting out, because the Government had signed the qualifications directive, thereby opting into the latest EU arrangements, this country was now committed to the additional immigration policies adopted by the EU.

**Mr. Heathcoat-Amory:** What is beyond doubt is that the constitution would make it permanently impossible to leave the 1951 convention; indeed, such a principle is entrenched not only in the constitution itself, but in the EU charter of fundamental rights. So from that point on it would be impossible for any incoming Government, after winning a general election, to do anything about that convention.

**Mr. Hague:** My right hon. Friend has immense knowledge of this subject, and that sounds like the correct interpretation. *[Interruption.]* I hope that the Minister listened to it, although he is not showing much sign of having done so.

Let us consider other subjects, small and large. A couple of weeks ago, we debated in this House the European food supplements directive, of all things. People may wonder why on earth it is the business of any level of government to be supervising such a thing, let alone a layer of government beyond the control of the people of this country. Now, if people ask their Member of Parliament to do something about that issue, the answer is, "We cannot do anything about it." Even if we vote against the measure, it will still take legal effect.

A tax case is being heard in the European courts this very week. Marks & Spencer is in dispute with Her Majesty's Treasury, and that case may have bigger implications for taxation in this country than even anything that the Chancellor might wish to introduce in his forthcoming Budget. We are talking about vast sums of money. In that case, the European Court will decide British tax law. Marks & Spencer is taking the case under provisions that were never intended to transfer rights over taxation to the European Court.

Whether it is an enormous subject such as immigration or taxation or whether it is something much more minor in our national affairs such as food supplements, which are important to hundreds and thousands of people, people see each day that more and more power has been drained away from our national Parliament and is now under the control of the institutions of the European Union. The separation between the people of this country and the ability to decide the laws that are made in their name is very dangerous for a democracy. The power to set such policies is among the attributes of a nation, and the people's power to control the setting of such policies is among the fundamental attributes of democracy.

We come across relevant examples all the time. The working time directive was introduced years ago under qualified majority voting and against the opposition of the British Government, and years later, it has many different effects. Those of us who represent rural constituencies have seen services within the NHS become more difficult to maintain because of the working time directive.

**Mr. Robert Jackson** (Wantage) (Lab) *rose*

**Mr. Hague:** I will not give way to my former hon. Friend, because, as the right hon. Member for Livingston (Mr. Cook) said earlier, injury time is up.

This country did not agree to the working time directive. This country would never have initiated the directive, which was dreamed up by officials who do not live in this country and who know nothing of the circumstances in our health service. Although the Foreign Secretary can give assurances on occasions such as this, more and more power has been given away across a wide range of policies. The situation is dangerous, and the constitution will give away more power—the President of the European Court has said that the charter of fundamental rights will open new areas and subjects to the Court. The hon. Member for Leicester, East (Keith Vaz) knows the charter very well because we often tease him about it. A few years ago, he said that it would have the legal force of the *Beano*. Now, the President of the European Court says that it takes in new areas and new subjects.

As my right hon. Friend the Member for Wells (Mr. Heathcoat-Amory) has pointed out, the list of areas that have been added to qualified majority voting and from which the veto has been taken away is long. I am astonished that the right hon. and learned Member for North-East Fife (Sir Menzies Campbell) is not familiar with that list, because it is a very long list indeed.

Large parts of the constitution are, of course, incomprehensible, and one cannot know what it will mean in the future. However, we know from our experience of the working time directive what such legislation can come to mean over time. The separation between the people, who are meant to exercise their democratic rights, and the institutions working in their name continues. In the United States' constitution, the separation of powers means the separation of the Executive, the judiciary and the legislature. In the European constitution, the separation of powers means the separation of the right to make laws from the people, who should decide democratically the laws that are made in their name. That separation will result in catastrophe in due course.

The Foreign Secretary has provided the reassurance that subsidiarity will come into play. However, the right hon. and learned Member for North-East Fife gave the

*[Mr. Hague]*

game away when he said that subsidiarity should have been strengthened for political and presentational reasons. One gets the sense that the whole thing is for political and presentational reasons.

Subsidiarity has been described as a "yellow card", which sounds like a forceful sanction, but there is no referee to exercise it. Instead, one must get members of the crowd to agree to show the yellow card and to get other members of the crowd from other countries to show the same yellow card at the same time, as a result of which nothing can happen. A blocking provision—a red card—would have been better, but that would conflict with the destruction of the veto across a wide range of policies, so it is clearly impossible to introduce a blocking provision within the framework of the constitution.

We have been told that a new safeguard will be introduced against the abuse of European Union power, but it is unlikely to be used in practice in this House. It is highly unlikely that a majority in this House, which would normally mean a majority over the Government of the day, would object to an EU directive at the same time as the same thing is done in the Bundestag or the French National Assembly. Even if it were to happen, under the constitution the European Commission could turn round and say, "No; we maintain our previous opinion. You can all go away." Where will our country's democracy stand when we arrive in that situation?

Those are fundamental objections to the ever-growing power of European institutions, but there are many other objections. For example, those European institutions have a scandalous inability to control expenditure. That point has already been referred to, and when I raised it in this House a couple of months ago, the Minister for Europe shrugged his shoulders and said that a lot of the fraud occurs in the national Governments of the European Union. However, some of the worst fraud occurred in EUROSTAT, which is under the direct control of the European Commission. The right hon. and learned Member for North-East Fife compared the European Commission to Birmingham council in its time, but if the district auditor had come back here and told us that for 10 years running, 95 per cent. of the expenditure of Birmingham city council had been open to fraud, corruption and abuse, we would have shut down Birmingham city council by now.

It is absolutely intolerable that this situation exists and I want to know from the Minister—as I asked him two months ago—when he winds up the debate, what he has been doing about it in the meantime, and when a British Minister will go to the Council of Ministers, bang the table and say, "If you want money from the hard-working British taxpayer, you have to show how it is being spent." It cannot be right to give more power to European institutions; this is the latest example of a string of treaties that do so, and they are not even fit to exercise the power and the money already placed in their hands.

There is a long list of other important objections, but I shall rest on that one and the more fundamental one that I have put forward—that a separation between the people who live in a democracy and the way that they are governed and the laws made in their name will be deeply damaging in the long run, and we will regret it.

3.55 pm

**Mr. Bill Tynan** (Hamilton, South) (Lab): I am delighted to follow the right hon. Member for Richmond, Yorks (Mr. Hague). I have listened to the speakers from both sides of the House; I am in exalted company today.

I believe that the constitutional treaty was a success for the Government, and I think that we were successful because we led from a strong position, because we are integrated with Europe. A treaty is necessary simply because when there are 25 states—when there is an enlargement of that degree—there is no choice but to look at the constitution and the existing treaties. The intention was that the treaties would be used to bring government closer to the people and bring Europe closer to the people. If we can effectively implement the treaty as has been suggested, I think we will give clarity to the European Union and could help to reduce people's disenchantment with Europe. Taxation, foreign policy, public services, the economy and defence were separated out, and in each case that separation was maintained by the Government. There were red lines that we decided we would not cross, and they have been secured; that was of the utmost importance.

The new treaty is important in itself. I accept that it establishes a constitution for Europe. I had some doubt about whether we should hold a referendum; I did not think that we needed to, because I did not believe that the changes were significant within the treaty itself. But we have taken a decision. We will have a referendum and we should move in that direction.

Much of the content of the new treaty is already set out in the existing treaties, and basic principles, such as the primacy of the treaty and the law made under it, remain the same. The primacy of Community law has been with us since 1964, and it is not a novel doctrine, as far as I am concerned, since a state has never been able to plead a provision of its own law as a reason for not complying with a treaty obligation. The 1964 provision existed, but we are not changing it in any significant way.

I believe that the new treaty is less integrationist than the existing treaties. For example, the new treaty confirms unambiguously that the Union has only the competences conferred by the member states. That point has been made by a number of speakers. The European Court, it is generally accepted, has been reluctant to develop any concept of "implied powers", and I believe that the new treaty may well discourage that further. Secondly, the new treaty makes express provision for a state to leave the Union, and the point is made that if we are so concerned about the powers of the European Union, the opportunity is still there for us to withdraw if necessary.

It may have been implicit in existing treaties that states had a right to withdraw, and I think that that will be confirmed. The new provisions confirm that member states are principal actors. The case of Costa *v.* ENEL in 1964 spoke of the permanent sharing of sovereignty. That would no longer be the case with the new treaty. It is also clear that no state could be forced to accept it against its wishes.

Much has been said about how bad the treaty will be for Britain and how we should be greatly concerned about it. We have to deal with the myths that have been

perpetrated and consider the federalist proposals that have been rejected. They are: the EU should be named the united states of Europe; the EU should have certain competences organised on a federal basis; there should be EU-wide taxation; the Commission President should be elected by EU citizens; there should be majority voting for deciding EU foreign policy; there should be majority voting for treaty amendments and an end to ratification of treaties by national Parliaments; the Commission President should chair the European Council, with his presidency and the European Council presidency merged into one; there should be a European mutual defence guarantee, separate from NATO; unanimous voting should be abolished and replaced with qualified majority voting; and the EU Foreign Minister should be accountable to the Commission, not national Governments.

We have to deal with the issues before us today and those that are important to the people of this country. We talk about human rights. I wanted the European charter to go further and extend equal rights to trade unions and trade unionists in this country. We have maintained our dignity and peace in this country for a long time, and the EU has played a vital part in that.

In response to the right hon. Member for Richmond, Yorks, we should be deciding whether the constitution makes things better or worse. I think that it will improve matters for this country. It will make things easier to understand. The treaty does not alter significantly what has been endorsed by previous Governments. I ask the House to support the Government because the concept is worth while.

4.2 pm

**Mr. Kenneth Clarke** (Rushcliffe) (Con): I am a strong supporter of the new constitutional treaty for the European Union and I shall vote in favour of the Bill's Second Reading. However, I want to express, and this is probably the last suitable occasion on which I can do so, my strong reservations about one part of it. I shall vote for that part with great reluctance because I strongly disapprove of the provisions on the referendum.

The greatest change that we are making to our tradition of parliamentary democracy in this country and the role of this Parliament in our national life is the concession to determine the decision in a referendum. We will never again win back for Parliament the right to control the nature of our relationships with the European Union. The only other European referendum was widely regarded on all sides as a cynical manoeuvre by Mr. Harold Wilson, who had to finesse his party and to get around it to endorse our continued membership of the EU. He pretended to hold a referendum on a financial deal of no great importance that he had renegotiated when he came into office after 1974.

I very much regret the then Prime Minister of my Government persuading me to agree to a referendum on the euro. I am not going to go back on that. We may, in due course, have one, but I agree with the right hon. Member for Gateshead, East and Washington, West (Joyce Quin) that at least it would be on one narrow finite judgment. I am not sure that a modern industrial democracy should be entrusting its monetary policy to a referendum, but so be it, and I shall take part in that debate, if and when it ever arises.

**Mr. Cash:** Is my right hon. and learned Friend proposing to vote on the reasoned amendment, which lays such emphasis on the supremacy of this Parliament in respect of the implementation of the treaty? Does he not recognise that if the part of the Bill that deals with implementation is defeated, there will be no need for a referendum?

**Mr. Clarke:** Out of deference to the party system on which this Parliament is based, I almost certainly will remain seated in my place when the reasoned amendment is put. As the opinions of so many of my colleagues and of my party have changed so much over the years, I shall wait for them to veer back in my direction. I quite concede that my hon. Friend the Member for Stone (Mr. Cash) has as good a record for consistency as I have on the subject, but he will know how unpredictable our course can be.

Going back to my point about the referendum, I support the treaty and I believe it is an important document, but I do not believe it makes such important differences to our relationships with Europe as did the European Communities Act in 1972, the Single European Act in the late 1980s or the Maastricht treaty in the early 1990s. They were all far more significant pieces of legislation determining our constitutional arrangements.

Parliament had more than one day for Second Reading on most of those. There was huge resistance to the idea of guillotining even a day's debate, let alone timetabling the whole thing, which was all taken on the Floor of the House of Commons. I took an active part in all that. I was one of the two Whips designated to be in charge of the original 1972 Bill, so I listened to hours of debate, even if I was silent during it. A huge, protracted, important, high-quality debate took place about the principle of the primacy of European legislation over British legislation in areas of European competence. That is what it was all about, and similar debates took place thereafter.

There was a free vote in 1972. Here we all are, proud parliamentarians, and what are we saying? The vote in the House is not going to decide the issue at all. At the general election, people can freely vote for their party, regardless of their views on Europe, because the general election vote will not determine a damn thing. We can have, if we wish, a treaty negotiated by the British Government, and we can have it ratified by the British Parliament, but the decisions on this treaty will be determined by a popular plebiscite in which the national media will endeavour to play as large and as influential a role as possible. I cannot allow that to pass without comment, even though it takes part of the 10 minutes which, under our present arrangements, we are allowed to express our views on the future of our relationships with the European Union.

The referendum will be a huge disappointment to practically everybody, not least to the side that loses. It will be a lottery. The history of referendums shows that they are a lottery. They have been a lottery in the rest of Europe, where most of the countries saddled with the

*[Mr. Clarke]*

need to hold referendums deeply regret it, but of course I hope the referendum lottery goes my way. It will be very difficult to get large numbers of people to vote in it. Most people will continue to say, as they do now, that they are not quite sure what it is all about and what the treaty will do. We will all infuriate the public as we debate it in ever more strident terms, because as is clear from this debate, there will not even be agreement within the two sides of the argument about what the treaty does.

We have had the most ferocious arguments. I have already debated the issues several times with my right hon. Friend the Member for Wells (Mr. Heathcoat-Amory), and as many audiences can testify, the two of us are quite incapable of agreeing on what the consequences of the treaty are. As that goes on, the danger is that even my right hon. Friend and I will lose adherents on all sides as people get exasperated by a Parliament so foolish as to put such a huge and complex subject to a popular vote.

How will British Governments negotiate in future, when everybody who negotiates with the British Government on anything with a European tinge will know that the Government can agree, the Government might have a parliamentary majority behind them, but the Government can guarantee to deliver nothing because they must go to a plebiscite on any deal they do? Far from strengthening the hand of a Minister, it is my judgment, and the former Foreign Secretary, the right hon. Member for Livingston (Mr. Cook), may agree, that that will weaken the hand of every Minister in negotiations. Any negotiating partner will think, "We've got to watch these fellows. Anything they agree will get overturned afterwards."

**Sir Patrick Cormack** (South Staffordshire) (Con) *rose—*

**Mr. Clarke:** I still have injury time, so I shall take an intervention from my hon. Friend, who is a particular old friend of mine.

**Sir Patrick Cormack:** Does my right hon. and learned Friend not concede that his argument applies to most Governments in the European Union which, when they negotiate something of fundamental importance, have to hold a referendum? I do not particularly like those instruments, but my right hon. and learned Friend's argument is rather weak.

**Mr. Clarke:** In my experience, referendums did not strengthen the position of Irish or Danish Ministers. Whatever they were arguing for, we knew they would have considerable difficulty in getting anything past their public when they got home. They were asked to go back and persuade the public to change their mind. It is a pity that the British, who have one of the strongest traditions of parliamentary democracy in the western world, are moving towards that position. I am resigned to fate. Such is the power of the media that all three major political parties have endorsed enthusiastically the idea of a referendum. The last to agree was the Prime Minister, and his was the weakest gesture, because he had already revealed his true opinion. Who am I to do anything but protest about the further sad decline of Parliament?

**Mr. Hopkins** *rose—*

**Mr. Clarke:** I am afraid that I do not have any more injury time.

The importance of the treaty has been hopelessly exaggerated. I am genuinely surprised that it has become the centre of controversy, but the referendum is likely to prove a cathartic moment in this country's relationship with the European Union. I did not see it coming, because every supporter of the enlargement of the EU always assumed that there would have to be a revision of the treaties. There was an unsurprising declaration in Nice that we would have to readdress fundamental aspects of the consolidated treaties once enlargement had taken place. We all supported enlargement and noted the need for subsequent constitutional change to improve the efficiency of the union.

Enlargement is, after the collapse of the Soviet Union, one of the most dramatic political events of my lifetime. One of the objectives of the EU, which no longer needs to stop wars breaking out between us, is to consolidate parliamentary democracy, liberal values and market economics across the continent. Just as the three former fascist states of Spain, Portugal and Greece were admitted to entrench those values among their populations so, most importantly, eight former members of the Soviet empire have joined for the same purpose. That is the great political objective of most of the other 24 member states and, I hope, ourselves. The orange faction in Ukraine and the popular Government in Turkey aspire to join the EU while we debate the constitutional changes made to facilitate its enlargement.

I shall not go back over the efficiency gains that are the obvious and desirable consequence of enlargement. The end of the rotating presidency, for example, is an advantage. We could not have 25 six-monthly presidencies changing the agenda all the time, although that would be the result if we rejected the treaty. There will be one foreign affairs spokesman rather than two, and foreign policy, according to the treaty, will be determined by the Governments of member states and their Foreign Secretaries in council. I faithfully supported the extension of majority voting when it was proposed by Margaret Thatcher as Prime Minister, and I advocated it when the Single European Act was passed in the late 1980s. The extension of majority voting to all the new areas is essential, otherwise there could be a Maltese or Latvian veto on details of business that we are trying to administer.

Most of the treaty restates the consolidated treaties. As the right hon. Member for Livingston said, 80 per cent. of it is simply a restatement of the great previous treaties, each and every one of which I supported. Most of them were supported by the Conservative party and negotiated by Conservative Governments. The treaty also makes it clearer than ever before that this is a union of nation states, not a superstate, that power is devolved to the union by the member states, and that there is an enhanced and clearer role for national Parliaments on subsidiarity.

I want finally to comment on the merits of the treaty in response to all the extraordinary negative claims, most of which I have heard voiced before, every time we have had a European treaty over the years. It has always apparently meant the end of our monarchy, the beginning of higher taxation, the end of our control over our criminal justice system and all that other stuff. The reinforcement of the Union of member states and of the market economy is the concept that has caused the biggest reservations elsewhere. Recently, I met Laurent Fabius, the former socialist Prime Minister, who makes me look like a Eurosceptic, and I expressed my astonishment about his proposal to vote against the treaty. He said, "It is la Britannique; it is not European enough." That is the true opinion in France—

**Mr. Deputy Speaker (Sir Michael Lord):** Order. The right hon. and learned Gentleman is out of time.

4.15 pm

**Keith Vaz** (Leicester, East) (Lab): It is always a pleasure to follow the right hon. and learned Member for Rushcliffe (Mr. Clarke), partly because his views on Europe are identical to mine. Maybe that is due to the influence of Caius college on us during our education; all the MPs in the House today produced by it are pro-European.

I urge the right hon. and learned Gentleman not to get cross about the fact that we have a Bill on the referendum, or indeed, about the referendum itself. I urge him to save his energy for the referendum campaign because he is a voice of reason on the Conservative Benches. What has been important in the debate is the large number of speeches of high quality. We do not agree with some of the views expressed today, but it is important that we continue the debate in the country.

During the past few years, we have not had a sensible debate on Europe and European policy in the country at large, although we have, of course, had such debates in the House. We regularly hear from the Foreign Secretary and the Minister for Europe about forthcoming summit meetings, and the relevant Adjournment debates are usually attended by some of the hon. Members who are here this afternoon. If we are to explain what Europe is about and deal with the myths that have been created, partly by some Conservative Members, but especially by the tabloid media, which hate anything to do with the European Union, we have to have this debate outside the House.

I commend the Foreign Secretary and the Minister for Europe on the work that they have done in advancing the debate, but I say this to the Government: if we are to succeed during the next 18 months in explaining to people what we are planning to do with regard to the European Union, we ought to encourage other Ministers to do what the Foreign Secretary and the Minister for Europe do so well—go out into the country and explain how their portfolios are related to the way in which Britain has benefited from being part of the European Union.

Sitting next to my old boss, the former Foreign Secretary, my right hon. Friend the Member for Livingston (Mr. Cook), reminds me of events in Nice. I shall reveal a secret about my right hon. Friend and how he conducted policy. It was, of course, brilliantly conducted, but those of us who worked for him knew when he was getting frustrated about the way in which the European Union operated, because officials were asked politely, as I was sometimes asked, to get him some frothy coffee. Frothy coffee was the drink that he had when he needed to be calm about the frustrations of the European Union.

It was because of the frustrations that I and other former Ministers for Europe witnessed that I welcome the European constitutional treaty. It will do what has not happened during the past few years following enlargement: it will reform the way in which the European Union operates. My right hon. Friend the Member for Livingston will recall, as will all former Ministers, the frustration of having to deal with a European Union of only 15 members; it now has 25, with the possibility of even more joining. The right hon. and learned Member for Rushcliffe mentioned Romania and Bulgaria, which will join in 2007. Croatia is set to begin negotiations on 17 March, subject to the conditions laid down, and there is a possibility that Turkey will begin negotiations later this year. The right hon. and learned Gentleman also mentioned Ukraine. All those countries are desperately trying to join the European Union, but there are still those in the House and the country who want to take us out of it. It is therefore vital that we have this referendum and that we have a discussion about the way in which the EU can perform better. By reforming the way in which it operates, we will get better results for the British people.

My hon. Friend the Member for Glasgow, Pollok (Mr. Davidson) said that the EU does not deliver any services, that it is not as good as Birmingham city council. As I have said before, the British people will never learn to love the EU until it learns to love reform; the organisation and the institutions have to be reformed. It is doing what Britain has wanted it to do under the two outstanding Foreign Secretaries who have represented our country during the last eight years—my right hon. Friend the Member for Blackburn (Mr. Straw) and my right hon. Friend the Member for Livingston.

The whole agenda of Europe has changed. When we arrived at the negotiating table in 1997, Britain was isolated. The agenda has moved forward because Britain has engaged positively; Ministers have engaged positively in the way in which the EU has operated. That is why, on EU policy, we have nothing to fear from qualified majority voting. We are right to be reminded that the Maastricht treaty extended QMV in 30 areas, and that treaty was voted for by probably the majority of the right hon. Members on the Opposition Benches. There was no call for a referendum on Maastricht when that was being discussed.

**Mr. Cash:** Oh yes, there was.

**Keith Vaz:** I give credit to the hon. Gentleman, because he did call for one, but I meant from the then Government Front Bench. There was no call from the then Prime Minister, or from members of the Cabinet, including the current Leader of the Opposition, for a referendum on Maastricht. They were in favour of the House of Commons deciding on that treaty without the need for a referendum.

*[Keith Vaz]*

We should not fear QMV. Look at the results of decisions taken by QMV—this is Britain's agenda! They are what we have sought to do. We are rarely isolated on policy decisions with QMV, because we are in the majority.

I welcome the fact that we will have an EU Foreign Minister, because it is vital that one voice should speak on foreign policy when member states have made a decision.

**Mr. Burnett:** The hon. Gentleman has shared with the House the secrets of the former Foreign Secretary's coffee-drinking habits. May I share another secret with the House? At the behest of the hon. Gentleman, I attended a dinner some years ago to celebrate the emasculation of the EU charter of fundamental rights. Was the dinner premature? Is he happy that we celebrated a success or failure?

**Keith Vaz:** I will come to the charter in a second, because I want to answer what the right hon. Member for Richmond, Yorks (Mr. Hague) said about me.

One thing that we foresaw was possible tension between Javier Solana and Chris Patten, but the fact is that that never happened, because both gentlemen carried out their jobs with great distinction. It is absurd, none the less, to have two people speaking on foreign policy on behalf of the EU. The then American Secretary of State said that if he wanted to find out Europe's view on foreign policy he had to ring 15 Foreign Ministers. Now, an American Secretary of State will be able to talk to one person. It will, of course, be up to the member states to decide what that foreign policy will be, but it is essential that we have some kind of strategic approach to the way in which foreign policy is worked out. That began, not at St. Malo, but with Maastricht, the treaty signed by Opposition Members. They signed up to the start of the common foreign and security policy, which is now represented in this constitutional treaty.

The right hon. Member for Richmond, Yorks teased me about the charter of fundamental rights, but he should be careful whom he teases, because he should recall that I gave him his first break in politics when I made him secretary of the all-party leather and footwear industries group when he had been here for only six months. That was not because of a personal interest in leather and footwear industries; it was a constituency interest that he shares with me, and look how well he has done.

The point about the charter is that it was negotiated by our present Attorney-General. He had conduct of that policy. When he went into those negotiations, he was on his own, and he managed to convince all the other people and countries represented to turn towards this country's point of view. The point that I made at that time, many years ago—I remember where I was when I made it—was that the charter, like any other legal document or any other publication, can be produced before any court in the land.

The fact is that the charter is not being extended to include more rights. I know that my hon. Friend the Member for Hamilton, South (Mr. Tynan) wants it extended to make such provision, but what is to be incorporated does not do that: it consolidates what is there and talks about the proper and appropriate rights that my right hon. Friend the Member for Livingston mentioned—rights of which we should all be proud.

It is not enough to pass the Bill. What is important is the campaign that follows it. That means that right hon. and hon. Members on both sides of the House who believe that Britain's place is right at the centre of Europe—engaged in it rather than isolated—need to come out and fight for the right to be part of the European Union. Unless we do that, and unless the Government are prepared to do it, I fear that we might do badly in the referendum campaign. Let the Bill not be an end: let it be the start of a proper campaign that will bring to the attention of the people of this country the real benefits of Britain being right there at the centre of Europe.

4.26 pm

**Mr. David Curry** (Skipton and Ripon) (Con): I have seen the European Union as a journalist, as a Member of the European Parliament, from the perspective of the Council of Ministers and from the perspective of a Select Committee. The conclusion that I have drawn from all that is that Europe ought to be a great deal more about politics and a lot less about religion.

Europe does not have an indelible character, and it does not have a predetermined route. It is a product of member states that have joined at different times with different cultures, political traditions and priorities. So those who say that they want to know where the train is going before they are accused of missing it will never have a permanent destination on the engine, because it goes to different places simultaneously. That is the nature of the beast. People who are looking for the sort of coherence that we hope for in national politics will never find it in the European Union. It is an absolutely unique organisation with its own chemistry, and we have to apply different rules to it. Of course, some rules must be the same, such as the rules of sound accountancy, but it is very many years since the Department for Work and Pensions was acquitted by its auditors, so we might look at the motes in our own eye as regards finance.

I shall vote yes tonight on Second Reading, for the simple reason that what this treaty proposes is better than what is there now. It is not as much better as I would like, but, none the less, the role of national Parliaments, the coherence of decision making, the European Union's ability to operate external policy, the safeguards for member states, and the increasingly intergovernmental philosophy are positive gains.

I understand the criticisms that the constitution reflects what people believe to be too inward-looking an institutional regulatory attitude on the part of the European Union, and that it fails to establish clear enough frameworks to compete in a global world. However, by and large those are much more failures of the member states than of institutional arrangements in Europe. They call for political will. The painful steps that the French Government are taking to liberalise the 35-hour week and the flak that Chancellor Schröder has taken in Germany for what we regard as relatively modest steps to free up the pension system show how difficult that is.

Those who advocate voting no have not demonstrated to me that any of those problems will be solved by doing so. My own Front-Bench spokesman talked of going back to the drawing board. It is fantasy to think that the European Union will go back to the drawing board in response to a British no in order to fashion a treaty that many of them think reflects British priorities even more than we do. One need only look at the demonstrators in Paris to see how much opposition is born from precisely the opposite interpretation to that of the United Kingdom.

Voting no would risk the Franco-German creation of an inner core and I do not subscribe to the view that it is in Britain's interests to encourage a sort of implicit disintegration or fragmentation of the European Union through everybody doing the bits that they like at their own pace, and ad hoc movement. That would lead progressively and incrementally to the United Kingdom's being on the margin of more and more activities until we were on the margin of the entire institution. Such fragmentation would also lead to the absorption of the EU in internal repair and maintenance at the expense of promoting the very policies—the economic liberalism—that we want, which at last are beginning to come from the Commission.

The second reason to vote yes is to enable the United Kingdom to seize the historical opportunity to change the terms of trade in an EU of 25. Enlargement has tipped the scale against French hegemony. It is no use our trading individual quotes from French politicians. What do people expect President Chirac to say about the treaty? If we examine the continuing dialogue and commentary in the French press, it is clear that France is preoccupied with its decline. That is the current debate in the political class and it dates from the treaty of Nice, when the French used the expression "the end of the French hegemony." A no vote would therefore betray the new member states, many of which look to Britain for their ideas. They bring a liberal economic model and an Atlanticist attitude to the EU, which we welcome.

I do not believe that a no vote would somehow liberate the United Kingdom from what some perceive as the chains that are forged in Brussels. It would lead to colossal dislocation in our national political life. Some people would push for associate status and others would advocate leaving the EU. We would not resolve the persistent neurosis and ambivalence about Europe that prevails in the United Kingdom. We would simply ensure its prolonging.

I see no shadow of a superstate. Too often, the EU is incoherent and disunited. Frankly, a few more of the attributes of coherence would have been welcome in past years. The primacy of Governments and the increasing favour of intergovernmental models of co-operation are reinforced, not challenged in the treaty. Of course, I would prefer a treaty that did not contain the charter of fundamental human rights, but the charge that that will enable Luxembourg judges to rewrite the entire body of national labour laws represents an unjustified elevation of current fears into what Milton called "horrible imaginings."

The next reason to vote yes will not be shared widely in the House. It is a special reason. I believe that a yes vote will go a long way towards exorcising the demons about Europe that reside in my party. We keep talking about the new society and a changed Britain yet we also keep discussing things that manifestly disconnect us from a large part of the new Britain. I would like to exorcise the phantoms that lurk in the party's psyche and liberate us so that we can start challenging effectively for government by devising policies for the things that people want—the aspirations of contemporary society. I expect that some Labour Members, who want a Parliament with an effective Opposition, share that view.

**Mr. MacShane:** Since it is 4.33 pm and anything that I say here will remain so secret that not even the Freedom of Information Act 2000 will get it into the public press, may I say that what frightens me, as a Labour politician, more than anything else is the prospect of the Conservative party becoming sensible again on Europe?

**Mr. Curry:** I am delighted that that prospect, which I regard as inevitable, terrifies the hon. Gentleman. This Government's sheer lack of guts on Europe, the sheer unwillingness of the Prime Minister to get out there and argue his case, and their absolute refusal to take on this challenge mean that, if the referendum is lost, the Prime Minister will have only himself to blame. The right hon. and learned Member for North-East Fife (Sir Menzies Campbell) suggested that the Prime Minister gave a speech on the European Union only about once a year, usually in Warsaw. It would be a bit more helpful if he spoke more frequently on the subject in the United Kingdom and argued his case more effectively.

An awful lot of idiotic claims are made about Europe, both for and against. The sword and shield of our post-war world have been provided by NATO, not the European Union, but the European Union has been its ploughshare. The rooting of democracy in Europe and the establishment of civil society in previously dictatorial and communist regimes represent a colossal achievement for Europe. That civil society would not exist had the aspiration to join the European Union not existed, and had not the rules been laid down to specify what criteria had to be met in order to do so.

We are now seeing that aspiration, that impulse to move towards the European Union, in Ukraine and Turkey—two extraordinarily different countries. That should tell us how fundamental a part that institution has played in the organisation of the post-war world. The six have become 25, and the Balkan states are knocking on the door. Such countries increasingly see the European Union as the anvil of their modernisation. In Britain, however, we are still impaled on the ambivalence resulting from a resentment at what Brussels does to us and a fear of exclusion. The constitution will not solve that problem, but it will take us one step down the road to the solution.

4.35 pm

**Mr. Ian Davidson** (Glasgow, Pollok) (Lab/Co-op): I rise with some joy to make my speech as the first Labour Member to speak against the constitution. It is important to make it clear that the Government party is divided on this issue, just as the main Opposition party is. I am going for the treble here. It is important to recognise that the people who are most enthusiastic about the constitution are also those who wanted to give us the euro. We were successful in beating that

*[Mr. Ian Davidson]*

proposition back. Indeed, I was disappointed that my hon. Friend the Member for Leicester, East (Keith Vaz) did not repeat the comments that he made only last week when we were on the radio together. He said that he wanted the referendum on the euro to be held on the same day as the referendum on the constitution. Bring it on, I say. At a time when 5 million people are unemployed in Germany, the more we can link those two together, the better it will be for my argument.

The second question on which I was glad to be able to persuade the Government was whether there should be a referendum at all. I am glad that my side won. Some of the arguments heard today against consulting the people smack of sheer snobbery. The implication seems to be that people are too stupid to understand the issues, which is presumably also a strong argument against having general elections. That might be the position of some Opposition Members, but it is certainly not my view.

I recognise, having listened to the speeches of some of my colleagues, that I am in a minority among Labour Members. All that I have on my side are the facts and the people, and I look forward to proceeding, with them, to a victory in the referendum. I recognise, however, that the results of some recent polls show that we should not be complacent. Those on my side of the argument have perhaps taken too much for granted. So, as far as I am concerned, there will be no more Mr. Nice Guy. We need to step up the argument against the constitution.

**Mr. Hopkins:** My hon. Friend talked about the elitism and snobbery of Governments throughout Europe who think that their peoples cannot make the right decision. Has not a lesson been learned in that regard in Sweden, where the elite and the establishment took one view, while the people took another and gave them a bloody nose?

**Mr. Davidson:** Indeed. Not only did the people of Sweden give their Government a bloody nose on the question of the euro, but their Government have now decided that they are not going to take the chance again. They are therefore going to refuse the people the right to a referendum on the European constitution. That will certainly spare them the possibility of a bloody nose, but it is not particularly democratic or illuminating. It shows us that so many of those who are in favour of the constitution are against consulting the people in a referendum.

I recognise that this Government have lumped two issues together here: the referendum, of which I am in favour; and the constitution, which I oppose. There is therefore a dilemma about which way to vote. In the circumstances, I shall vote for the referendum, because I shall have my opportunity to defeat the constitution in the referendum thus achieved. I will be able to ask all my colleagues in the Labour party and the labour movement who are opposed to the constitution to vote enthusiastically for the Government in the general election, especially in marginal seats, and then to poke them in the eye when it comes to the constitution. If anyone wants to send a message to the Government on a variety of issues, the time to do it is when we decide on the constitution.

We heard earlier some talk about myths and the question of the monarchy was raised in that context. If anyone could provide me with more information on how the monarchy could be abolished under the new constitution, I would be very happy to receive it. Also in the context of myths, the question of the United Nations seat was mentioned. That is not simply a myth, because the relevant European Commissioner said within the last month that the Commission wants Britain to give up its UN seat in favour of an EU place on the Security Council, so there is substance to that accusation. We also need to be clear about the myths peddled by the yes side. The issue of withdrawal is not, in my view, on the table.

**Mr. Quentin Davies:** The hon. Gentleman seems to have misread the text. Many people want us to give up our Security Council seat, but that is no change and has probably always been the case. The constitution simply provides that, in the event of agreement on a common foreign policy—under the treaty, it must be unanimous, so we would be in favour of it by definition—the European Foreign Minister would be allowed to borrow one of the permanent seats in the Security Council held by Britain and France in order to present the policy on behalf of the EU. If we are in favour of that—as I said, we should be by definition, as agreement has to be unanimous—surely we want that foreign policy to be expressed with the greatest possible force, so it makes sense to deliver it in that way on behalf of the European Union as a whole. That is what the treaty says and any claims that it goes beyond that are simply myths generated by the tabloids.

**Mr. Davidson:** It is very helpful to hear the yes side clearly support the idea that the EU should be able to borrow, when it so desires, Britain's UN seat. We would never be quite sure when we could get it back again, but giving it on a temporary basis is the thin end of the wedge and will end with us giving it up altogether. It is very helpful to have that view put on the record.

I return to the issue of the myths peddled by the yes side. Those who are against the constitution—on the Labour party side, at least—are not in favour of withdrawal. If we were in favour of withdrawal, we would say so. We are not in favour of it, so those on the yes side should stop peddling that suggestion. They should also stop peddling the suggestion—my right hon. Friend the Member for Livingston (Mr. Cook) raised it—that there are 3 million jobs at risk. More jobs in the EU are dependent on trade with Britain than British jobs are dependent on trade with the EU. Under World Trade Organisation or other world trading rules, there is no suggestion that we could be cut off from access to those markets, so let us not have that myth peddled either.

I believe that the constitution is about the creation of a European superstate. It is not an isolated event, but part of a wider process, as those who drew up the constitution have made clear. Another constitution or a revised version of this constitution will be along in a while. The accession of Bulgaria and Romania lies ahead: a degree of renegotiation will be necessary, and then another constitution.

What of Turkey? When that country joins, as the British Government hope, changes will undoubtedly be made to the constitution. I look forward to hearing from

the Minister for Europe whether he proposes amending the constitution or producing a wholly new constitution, going through the same sort of process as this one. There are important implications and people need to know what they are letting themselves in for. Is a vote on Turkish accession included or will it be the subject of a separate parliamentary vote later?

We have to be very careful about how the Government run the referendum. Every opportunity will be taken to influence and manipulate it. Mention has been made already about how the question is to be worded. It will be interesting to hear from the Minister for Europe whether the wording resulted from focus group research or opinion polling, or whether it was merely plucked out of the air at random. It is clear that it has been chosen to try to manipulate the outcome.

It is interesting too that the Bill allows the referendum to be held as a joint vote, perhaps on the same day as local elections. That is a deliberate attempt to blur the division between the yes and no camps in the constitution argument by means of the partisan battle that will take place during the local elections.

My final point in respect of the referendum has to do with propaganda. Recently, the Minister for Europe gave me a wonderful answer to a question about Government propaganda. He said:

"the Foreign and Commonwealth Office works to ensure that all information it issues on the subject of the EU and the EU Constitutional Treaty is objective, explanatory and is in line with and supports Government policy."—[*Official Report*, 19 January 2005; Vol. 429, c. 1020W.]

That Government propaganda can be objective and at the same time support Government policy is a claim that belongs in some sort of Orwellian world, where it is assumed that anything said by the Government is objective and that politics applies only to what other people say. We must be careful about that, just as we must be careful about the extent to which the EU is free to spend enormous amounts of money, either directly or through the various front organisations that it funds.

**Mr. Robin Cook:** I am listening intently to my hon. Friend. He has made it clear that he is robustly against the European constitution, but I am having difficulty in understanding exactly why. The only reason that he has adduced so far is that it might put our seat on the UN Security Council at risk, and I believe that he is mistaken about that. He has produced no other argument to explain what is wrong with the treaty. What is it he objects to? Is it the charter of fundamental rights, or something else?

**Mr. Davidson:** I was too generous in giving way, as I was about to say that the constitution is not all bad. I have always supported EU expansion, and I look forward to further expansion in the future. I accept that the EU can be a force for good, and I recognise its influence in spreading democracy throughout eastern Europe. I hope that it will do the same elsewhere in the world in the future.

I and others have three main reservations about the constitution, and they can be headed Thatcherism, militarism and centralisation. The constitution is Thatcherite in that it is formulated in such a way as to open up free markets and drive down the social wage, and it does not give trade unions and other organisations extended powers. It is militaristic in that it clearly favours the establishment and use of a European armed force, and it is centralising in its approach to taxation and immigration, as we have heard already. People granted residency papers in Spain will be able to come to the UK, just as Somalis granted papers in the Netherlands are able to come here.

I want there to be reform and renegotiation. I want the CAP and the fisheries policy to be renegotiated, and the same applies to the EU's aid programmes and its structural and cohesion programmes. I want an end to fraud. Moreover, I find variable geometry in the EU to be acceptable, as the present structure is outdated and based on myths originating in the second world war.

Fortress Europe has had its day, and I look forward to defeating the constitution.

4.49 pm

**Mr. David Heathcoat-Amory** (Wells) (Con): The hon. Member for Glasgow, Pollok (Mr. Davidson) and I do not agree on many issues. However, we do agree that a democratic system exists to resolve differences, so the choices made by electors should lead to definable outcomes in accordance with democratic principles. It follows from what he said—I agree with him here—that all that will be at risk if those decisions are transferred to another jurisdiction so that the link between choices and outcomes is fractured for ever. Therefore, I agree with the hon. Gentleman's strictures about the constitution.

Constitutions have gone in and out of fashion over the centuries. Napoleon said that a constitution should be short and obscure, so the European constitution is only half right: it is certainly obscure, but at more than 500 pages long, it breaks the first rule of a constitution—that it should be comprehensible to the public. The European constitution is not; it is a document written for politicians by politicians, and there is no chance of our electors reading or understanding it, let alone giving it their allegiance. The instruction given to the Convention, which drew up the constitution, to close the gap between the rulers of Europe and the people of Europe has been ignored.

The constitution should never have been. The Government did not want it and said so, but when the Convention started to it draw up, the Government said that they wanted one after all, provided that it was short. When it became a long one, the Government tabled more than 200 amendments, only a fraction of which were adopted. It is odd that we are getting a written constitution in this country for the first time since the 17th century, and we have not even written it ourselves. It was written for us by others.

**Mr. Hopkins:** When Poland and Spain sunk the previous attempt to create a constitution, was not the relief in Downing street palpable?

**Mr. Heathcoat-Amory:** Yes, I could almost hear it from my office. The relief was not just in Downing street but in the Foreign Office. That was a much unloved document, but the Government must now make the best of it, and the Foreign Secretary was at it again in his speech.

*[Mr. Heathcoat-Amory]*

Surely, the first job of any constitution is to solve the problem of who does what and to draw a distinction between what Europe does and what member states do. It should also overcome the wide perception, which happens to be true, that the European Union obtains more powers with each treaty, and that we have an activist Court in Luxembourg, which always interprets documents in a way that is in favour of more centralisation. The first job of a self-respecting constitution is to solve that problem, but this one does not. I shall give just one example. Most of the familiar policies that make up the daily work of this House are listed in article XIV of the constitution, but they will be so-called shared competences, which is Eurospeak for shared powers. The definition of "shared" is that when the European Union legislates in those areas in future, we will lose the right to legislate.

What is more, only the principal areas have been listed. Anyone reading the constitution will not have the slightest idea of who does what in five years or so, particularly when almost all those policies will be decided by qualified majority voting. It may be news to the Liberal Democrats that 63 new areas will be subject to majority voting, but it is a fact.

Another point that the Government have ignored is that the definition of majority voting has been changed in the constitution, which makes it much easier for a majority vote to be obtained. That means more legislation, more regulations and more interference. The European Scrutiny Committee, on which I serve, examined more than 1,000 new measures last year. That will accelerate and we will have more legislation, but less chance of stopping anything.

We heard again the tired argument about this new power for national Parliaments over subsidiarity. That is not new; we can object already. It is certainly not a power; as we can object all we like, and the Commission can go on ignoring us. All that we get in this constitution is a new right to be ignored. The Government know that, as they tabled an amendment to try to upgrade the power for national Parliaments to a so-called red light, and were overruled and ignored.

We have heard about the EU charter of fundamental rights, and I will not have more fun at the expense of the Government about how they promised that it was only of declaratory value and no more important than the *Beano*, whereas they must now make the best of it, as it will not only be legally binding but form the whole of part II of the European constitution. Another point about the charter is the uncertainty. The European Scrutiny Committee has received witness statements and taken evidence from constitutional lawyers about the charter. They agree that the ambiguities in the charter make it quite impossible to know what the future European Court will make of it. What they say is that the so-called safeguards trumpeted from the Treasury Bench, in order to prevent the charter seeping into national laws, will be inoperative and no safeguard whatever.

**Mr. Cash:** Does not my right hon. Friend also agree that those same witnesses were extremely concerned that our judges, when faced with competing jurisdictions with the European Court, could go in the wrong direction—towards giving too much power to the European Union?

**Mr. Heathcoat-Amory:** Yes, that is the so-called primacy point, which asserts unconditionally that everything in the constitution, all the laws flowing from it, and the charter, have primacy over the laws of this country. There has been a stand-off, which nobody has resolved—but if a Parliament and a people sign up voluntarily to that assertion, it is certain that national courts will start to interpret national laws as inferior to everything that comes out of the constitution. What this charter does, at the very least, instead of ending an uncertainty, is to extend and create one.

**Mr. Quentin Davies:** Will my right hon. Friend give way?

**Mr. Heathcoat-Amory:** No, I have used up my allowance of interventions.

We have heard today about the need for reform in Europe. Some criticism has been expressed of my party's position that we will seek a renegotiation of the treaty. Why should that be such a shock? We are engaged in a colossal renegotiation. The Convention on which I served was undertaking the most fundamental reform of the European institutions ever attempted. All the existing treaties are repealed by this constitution. We are therefore engaged in an enormous renegotiation. The point, however, is that that reform and renegotiation failed. Instead of creating that democratic simple Europe which was to be closer to its citizens, we have created a centralised, technocratic, legalistic, undemocratic Europe. If we say no to this constitution, the brief will return to the drafters of the constitution—but next time they will have to listen to the instructions given to them, instead of creating a Europe in their own image. Today, however, this House will have to decide.

Of course we will have a referendum. I notice that the Government have already rewritten the rules on funding to ensure that they can go on spending taxpayers' money up to a month before the referendum, whereas the rest of us will be limited. The wording on the ballot paper refers to the constitution for the European Union, which implies that it is simply a rule for the existing Union—which, incidentally, simply gets abolished if the constitution comes into effect. They do not like the idea of the true wording, which is "a constitution for Europe", which perhaps sounds more ambitious and threatening. They cannot even get the wording right on the ballot paper.

Our task today is to decide what this House does. It is not our power that we are giving away, but that of the people whom we represent. What is British history if not a long struggle to get power under the control of people who are accountable to the electors, and who can be removed by those electors? What is British history but a long struggle to secure a parliamentary democracy, so that policies can be changed after elections and people can give effect to their democratic choices through a political system?

This constitution and this Bill reverse all that. We will be giving up these powers and transferring decisions about criminal justice, asylum and immigration,

external relations, social security and everything else upwards, to the most remote tier of government of all—the new Union. Indeed, we heard a very good example concerning asylum and immigration. It really is outrageous, but when my party win the next election on a clear pledge to do something different about asylum and immigration, we will be told that doing so is illegal even under the existing treaties, because of everything that the Government have signed up to. Such action will be constitutionally illegal once we have adopted and ratified a constitution, because the UN charter on refugees is embedded in that constitution, and withdrawal will not be possible. So people will not vote at all. Why vote—why express choice?—if such choice cannot, by constitutional law, lead to different outcomes? That is the democratic reality that we must face up to today.

We do not have a serious choice. We are being invited to give up powers that are not ours, so I ask this Chamber and this House to strike the first blow for the people whom we represent, and for democracy, by saying no to this constitution and this Bill this evening.

5.1 pm

**Mr. Austin Mitchell** (Great Grimsby) (Lab): This is a very curious Bill; in fact, it is a Bill of two halves. Five clauses deal with the referendum and just five with the treaty—the constitution is actually a constitution masquerading as a treaty—thereby establishing the treaty in British law. Today is the only opportunity that we will get to discuss this issue, because today is the only opportunity to pass legislation on the new European treaty before the referendum. In effect, if we pass the Bill, we pass the treaty. We have prepared the way for implementing it in British law, if the people give their consent in a referendum.

That is a very curious way to proceed, because as a result the House is not contributing its skill and knowledge, testing the argument or debating the issues. Nor is it examining the treaty at the same length or in the same detail that we examined the far less important and less substantial Maastricht treaty, which had far weaker effects on British polity and did not pose as a constitution. We are being asked to accept something that will change this country's constitution, and which establishes a European constitution affecting this country, on the basis of this Bill and three days' discussion on the Floor of the House. Frankly, that is not good enough for a major change such as this.

Those of us who do not like the constitution and who will oppose it are being asked to vote for it because we will then get a referendum—which we should have been given anyway from the start. The powers that are being handed over and the roles that are being imposed on us are matters for the people to decide on. They should be able to decide whether to give their consent in any case, so the blandishment that we will get a referendum—if we vote for the treaty—means nothing. A referendum on an issue as big as this is essential. We are talking about the people's power, and they have to give their consent before any of it is handed to Europe, or any other changes are made.

This approach was taken in order to get the issue out of the way before the general election, and it is true that we have had a lot of fun. The spectacle of my Euro-enthusiastic friends standing on their heads has been fascinating. My hon. Friend the Minister for Europe did so particularly elegantly. First he said, "No, we don't need a referendum; it's unimportant." Now he says that we must have one—but we should have taken that view from the start.

I support the provision to hold a referendum, but I have some doubts about the wording. A referendum is a conservative device that supports the status quo, and the Bill presents the constitution as the status quo:

> "Should the United Kingdom approve the Treaty establishing a Constitution for the European Union?"

That suggests that the constitution is a fait accompli, that it is pristine, new and gleaming in the distance, that everybody else is accepting it, so it would be churlish to turn it down. It would be better to ask the people whether they want Britain to accept the "proposed" European constitution—a more honest wording, which would favour my side of the argument.

It is crucial that the referendum include equal funding and equal time for both sides of the argument. That period of equal funding and equal time should be extended, because I do not want the Government telling a series of half truths and distorting the argument in the long period before the referendum. A balance must be maintained for a longer time than just the simple campaign. We do not want my hon. Friend the Minister for Europe rampaging around the country in his red socks putting across an incorrect view of the constitution. I do not want to see a massive outpouring of Government propaganda, and the votes should be published by constituency at the end of the referendum.

The constitution is an unnecessary, unwanted, unloved product of the European elite that has been foisted on the electorates of Europe, who are being conned into accepting it. The Convention on the Future of Europe started out loaded with Euro-enthusiasts, which was a condition for membership. The American constitution proudly states "We, the people", but all the European constitution can say is, "We, the Euro-enthusiast Euro-elite" think that this or that is self-evident.

The document is turgid, unreadable, stolid and legalistic. It has all the intellectual excitement of cold porridge; it weighs 2½ lb; and our two representatives on the central councils of the Convention, my hon. Friend the Member for Birmingham, Edgbaston (Ms Stuart) and the right hon. Member for Wells (Mr. Heathcoat-Amory), both rejected it.

I cannot accept the constitution, which strengthens the centre and is another step towards ever closer union. It also represents further progress towards the creation of a state with a full-time permanent President, a full-time permanent Foreign Secretary and an agreed security and defence policy, which will strengthen the ability of that state to overrule UK law.

The effects of the constitution are unpredictable and I do not believe any of the forecasts. If anything, I am inclined to believe Martin Howe's argument that the constitution will create uncertainty, which will create more opportunities to overrule British laws because of the surrender of our veto in so many areas. Although my

*[Mr. Austin Mitchell]*

right hon. Friend the Foreign Secretary might be right that we will do better with qualified majority voting, he might also be wrong. The Government say, "There has been a change of mood in Europe. Britain is now more respected." Mood is, however, effervescent, and the psychology and nature of the European Union has not altered fundamentally.

Many new clauses have been added to the constitution. One trivial example concerns the common fisheries policy, which originally concerned the marketing of fish. The policy then became a matter of equal access to a common resource, and under the constitution it would become an exclusive competence over the marine biological resources of the sea. The Fisheries Committee of the European Parliament rejected that as unnecessary, but the provision remains. Why? Why should seals or jellyfish, vertebrates or invertebrates, be part of a constitution? Why do they have to be there? Is it some extension of power? What is it all about? It is simply madness on the part of those drafting the constitution.

Those are my fears. My right hon. Friend the Foreign Secretary tells me that I am wrong. I always listen to him; he is a wise and sage individual and I am a big admirer of his. He tells me that my fears are wrong, that things will not work out that way and that the constitution is a triumph for Britain. Fortunately, he did not come back saying "Game, set and match", as people have said before him. But it is always the job of the British Foreign Secretary to make the best of a bad Eurojob, and my right hon. Friend is falling into that role.

The constitution does not allow for the uncertainties of the European Court of Justice—whether it will assert its power or whether its composition will be affected. However my right hon. Friend tells me that I am wrong, so let us put the argument to the test. Putting it to the electorate is no way of doing that, because the argument is likely to be detoured into simple half-truths, such as, "If we vote against it we shall be alone in the world," or, "We shall lose 3 million jobs," and all that kind of nonsense. The arguments to be put to the electorate must be prepared through argument and long discussion in the House, by our testing the argument to show what is happening.

As that is not the case, it will be difficult for me to vote for the Bill. In fact, it will be impossible for me to vote for it, because I am flatly opposed to this European verbiage-mountain of a constitution. My Eurosceptic friends have put it to me that I should maintain the ranks—*[Interruption.]*

**Mr. Deputy Speaker:** Order. May I say to the hon. Member who is trying to leave the Chamber—*[Interruption.]* Order. I think enough has been said.

**Mr. Mitchell:** Thank you, Mr. Deputy Speaker. There were bells ringing in my head, so I was glad of your intervention.

As we have an understanding that we do not want to divide the party before the election, I should vote for the Bill—but I cannot. I shall devote the rest of the debate to deciding whether to bring the Government to their knees by voting against the Bill or, sagely, to abstain.

5.12 pm

**Rev. Ian Paisley** (North Antrim) (DUP): I had 25 years in the European Parliament and I saw its evolution, if I may use that term. Those who, like me, went there to represent the people and to try to get a deal for those who needed one discovered that the powers that be had other objectives and aims. Slowly but surely, those aims are coming to fruition.

I am opposed to this constitution because it changes a treaty-based agreement between nation states to a supranational entity based on its own constitution. We must face the fact that there is a distinct difference between democratic Parliaments deciding matters that they need to decide for their own people and the coming together of a number of states that determine that they should decide what is best for the people.

I do not know what the people of Brussels know about a place called Ahoghill, which is in my constituency. In fact, they know nothing about it; when one of them visited my constituency they pronounced it "A hog hill". Those people are not interested in the ordinary people who need our representation; they have a policy of their own. This constitution formalises the primacy of EU law over national laws. The Foreign Secretary will remember that in a debate last year I asked him which came first, the supremacy of EU laws or the supremacy of laws in this House. He told me rightly that the laws of Europe have supremacy. That being so, Parliament deteriorates into a subordinate council of Europe and, over and again, we can see that powers are being taken to give more power to Europe.

The constitution bestows legal personality on the European Union, so that it can make treaties and binding international agreements on its own. That policy is the basis for its own Foreign Minister and common foreign and defence policy. In other words, there is no doubt that an organisation is being constructed in Europe today that will be in complete control of our people and our nation. It also puts in place the apparatus and trappings of statehood.

People ask me why Europe has not cleaned up its act with regard to fraud. I was in the European Parliament when we decided to put the former leader of the then Labour Opposition in charge of that. I had every confidence that he was a man of integrity and strength who would certainly do a good job, but he had to return and tell the European Parliament that he had come to an impossible impasse because the Governments of Europe were not prepared to face up to their own folly. So if the Governments are not prepared to face up to fraud, who will face up to it? That was not because of any non-diligence on his part and those associated with him, but because a blockage was put in the way, yet that is where we are asked to put our faith.

We know that, as we look upon the present situation, the devolution of powers to Europe reduces the powers of national Parliaments. More and more, we have creeping out of the national Parliaments those items and business that should be strictly under the sole authority of the nation, but outside interests from Europe seem to be able to exercise a strange, mystic power over those who attend to represent the various nations, and Brussels becomes stronger and stronger each day. We need to face up to that.

On the powers that we had, I remember that when we heard about going into Europe, everyone said that all was well because we had the veto, and if Britain did not like what was going to be done, just one vote and Europe could not do it—it would be stopped. Now, we have the wonderful words, "qualified majority voting". One has only to look at the list of matters where the previous rule of unanimity does not apply: the election of the President; the election of the Foreign Minister; setting conditions for control by member states of the Commission's exercise of implementing powers; approximating national laws to achieve an area of freedom, security and justice, which is vital to asylum control—that is an interesting one; authorising annual expenditure; and proposals to promote social and economic cohesion. There is a whole list more: freedom of movement for migrant workers; measures necessary for the use of the euro; matters of particular interest for economic and monetary union; the prioritising of structural funds; measures on border controls, and so on. Those matters will all be covered by the new rule of voting, but qualified majority voting makes it impossible for one Government with strong views to stop such measures.

Anyone who has been to Europe knows that a lot is done by trading off, through which one country gets something and another gets something else, so they reach agreement. Before we know it, countries that have made deals stand by them, but other countries get no deal and go to the wall. That is happening over and over again.

Several aspects of the charter of fundamental rights are good, but others are bad. I was interested to read the other day that some people in France say that they should not go back to the days when the British won victory over Napoleon. They say that the keeping of Trafalgar day should be abolished in England altogether. That reminds me of things that are said in my country about great historic events—usually those that happened around 1690, as my friend along the Bench, the right hon. Member for Upper Bann (Mr. Trimble), will well understand.

In France today, the situation surrounding civil and religious liberty is dicey. I am sure that many hon. Members from the various cities and towns of England will know of the Elim Pentecostal Church. I had the great pleasure of knowing the founder of that Church, Mr. George Jeffreys. France is now moving along the lines of the charter of fundamental rights and has decided that the state has the power to determine whether a Church is a sect, or a Church.

**Mr. Deputy Speaker:** Order. I am afraid that the hon. Gentleman has had his 10 minutes.

5.22 pm

**Mr. Robert Jackson** (Wantage) (Lab): After a European debate a few months ago, the hon. Member for North Essex (Mr. Jenkin)—I still think of him as an hon. Friend—remarked to me that it was interesting that the supporters of the measure that we are considering always refer to the "European constitutional treaty", while its opponents refer to the "European constitution". That theme has emerged extensively during the debate, not least in the speech made by the right hon. Member for Wells (Mr. Heathcoat-Amory). For myself, I say that it is just another European treaty, and I am glad that the question to be put in the referendum brings that out clearly. We have had the treaty of Rome, the Merger treaty, the Single European Act and the treaties of Maastricht, Amsterdam and Nice. We now have the latest treaty in the series. In typical European language, it will probably end up being called the treaty of Rome bis, and I can well understand that the hon. Member for North Antrim (Rev. Ian Paisley) would oppose it for that reason, if no other.

Each of those treaties moved the European furniture around in different ways, and as it has been pointed out, some did so more drastically than the one now before us will. For example, the Single European Act, which was passed under Margaret Thatcher, extended qualified majority voting more widely than this treaty will.

**Mr. Heathcoat-Amory:** There were extensions into 12 areas under the Single European Act, but the constitution goes into 63 new areas.

**Mr. Jackson:** I shall be happy to discuss that point with the right hon. Gentleman. Of course we must consider not only the number of areas, but their weight and significance. He must accept that qualified majority voting on nominations to the European Court of Auditors is not quite as serious as other matters.

The Maastricht treaty gave a treaty base to various forms of interstate co-operation among member states, and thus did more than this treaty will to extend the sphere of European responsibilities. But the basic reason why I regard this as just another treaty, rather than a constitution, is that it leaves many constitutional questions unresolved, which is why I think that the language of the Opposition, particularly in their amendment, is unwarrantedly exaggerated.

The fundamental constitutional question must be whether the European Union is to remain as it is—an association of sovereign states, pooling their sovereignty in certain limited areas—or whether it will become a new political entity, somehow transcending the member states and reflecting a new European citizenship. On this fundamental question, this treaty maintains the radical ambiguity of the earlier treaties, going back to the treaty of Rome. To put the point more positively, this treaty preserves intact the unique hybrid nature of the European Union: not a federal state, but using shared supranational institutions for certain limited purposes. As long as this radical ambiguity—this unique hybridity—persists, none of the arrangements for shared decision making upon which the member states may from time to time agree by treaties between them can accurately, in my opinion, be described as a "constitution". Nor, therefore, can they be rejected in the fundamentalist terms that have been adduced by, for example, the right hon. Member for Richmond, Yorks (Mr. Hague), who seemed in his remarks to discard the possibility even of common rules to apply to a common market. I thought that that at least was part of the acquis communautaire accepted by the Conservative party, but the right hon. Gentleman now seems to reject it.

The political reality of Europe remains what it has always been—that power rests with the member states. Let me give two instances. The stability and growth pact

*[Mr. Jackson]*

of 1997 imposes legally binding constraints on the budgetary policies of those countries that have adopted the euro as their currency. Indeed, those provisions are embodied in the treaty that is now before the House. It is notorious, however, that they are not being observed by France and Germany, for the simple reason that it does not suit them to do so.

In 1992, the Maastricht treaty introduced legally binding requirements for mutual consultation and common action in the field of foreign policy. Those are retained in the current treaty, and its opponents make much of the constraints that that will supposedly impose on foreign policy. For example, we have had a discussion about Britain's Security Council seat.

**Mr. Hopkins** *rose—*

**Mr. Jackson:** I want to finish this point.

Two years ago, we saw no evidence of such constraints having any effect at all when the chips were down over Iraq. There were no such constraints either on the foreign policy of the majority in the enlarged Union led by Britain, which supported the war, or on the foreign policy of the minority, led by France, which opposed it.

Europe will have a "constitution" only when it has acquired a real-world identity of its own—an identity that is more than the limited fiction of "legal personality" contained in this latest treaty. It will have a "constitution" only when there are genuine European citizens, as opposed to citizens of member states carrying a common-format passport. Neither of those things is actually happening, and with each successive enlargement of the European Union the prospect becomes more and more remote. The Opposition's fantasies about "a country called Europe" are simply that—fantasies.

In conclusion, let me sum up the question that the country will have to decide in the referendum, as I see it. The Leader of the Opposition has told us that Britain has no interest in the political development of continental Europe. He says, "If they want to federate, let them get on with it—so long as Britain is not involved." What an abdication! What ignorance of the lessons of history! Will the country heed that siren voice luring us on to the rocks, or do we want Britain to go on as it is now, exerting a growing influence from within a European Union in which the balance of real-world forces is steadily moving in the direction that suits Britain and Britain's historic national interests? That is the choice that the British people will have to make in the referendum on the treaty, and I am confident, in the words of what used to be a Conservative slogan, that they will once again vote for "a strong Britain in a strong Europe".

**Several hon. Members** *rose—*

**Mr. Deputy Speaker:** Order. As a significant number of hon. Members are still seeking to catch my eye, in accordance with the Order of the House of 26 October 2004 on shorter speeches, a time limit of six minutes will apply from now until half-past 6 o'clock. I remind the House that in the period of shorter speeches, no added time is allowed for interventions.

5.29 pm

**Mr. Bernard Jenkin** (North Essex) (Con): I would love to debate this subject at length with the hon. Member for Wantage (Mr. Jackson), and I am grateful to him for mentioning me. The fact that I am not able to do so underlines the extremely unsatisfactory way in which his new party is handling the legislation.

I believe in the basic principle of democracy: that a people have the right to govern themselves. Article I of the UN charter sets out the principle of "self-determination of peoples". It is not envisaged as something that requires the permission of a higher authority; it is an absolute.

Only three fundamental questions are raised in the context of a constitution for the EU. First, what constitutes "self-determination"? Secondly, what constitutes "a people"? Finally, does the constitution respect the self-determination of peoples? The Opposition's reasoned amendment is absolutely right to lay emphasis on the question of primacy. Ultimately, government is not about identity or particular issues, events or interests, but about the framing and implementation of laws. Therefore, to have self-determination, the people must have the means to frame and implement their own laws and system of government. In turn, that system of government must have the means to sustain and protect itself. That means it must be sovereign—it cannot be subject to a higher authority.

I note that my hon. Friends' reasoned amendment uses the term "sovereignty". This is very basic stuff, but let us define our terms because the word has been misused. Sovereignty is not power, as the right hon. and learned Member for North-East Fife (Sir Menzies Campbell) suggested. It is a different quality from power. It is not authority. Power is the ability to produce intended effects. It need not be legal power—to exercise power legally, one requires authority. The various written and unwritten laws of this country grant authority to our Ministers to exercise power legally. Where does that authority come from? The sovereign authority is the ultimate source of our law. Sovereignty is, therefore, a narrow legal concept. It is another absolute—it cannot be shared or limited. We either have it or we do not. Legal self-determination rests on the ability of a people's absolute authority to frame their own laws and to have the final say.

The second question is: what constitutes "a people"? Clearly, the EU is made up of many peoples. There is no such thing as a European people. I have always considered that the credibility of the so-called European People's party is somewhat undermined by its insistence that the apostrophe is in the wrong place. The flaw in the idea of the European Parliament is that politics remains national. At European elections, people elect MEPs on the basis of national political considerations, which is why the European Parliament remains such an utterly obscure and irrelevant institution.

The many peoples of the EU are properly represented by the Governments and Parliaments of its member states. It is the nations of Europe that are the

democracies. To comply with the UN charter, therefore, we must strive to maintain the self-determination of the peoples of Europe.

Whatever the EU is or may become, it is not a democracy, but a bureaucracy. Governments from the Single European Act onwards have been much too eager to hand over more and more powers without regard to proper democratic scrutiny. Every time we do this, we take power from democracies and give them to a bureaucracy.

Despite that, I have never had a problem with the principle behind the existing legal basis of our membership of the EU. That is the principle of the delegation of national powers to the EU institutions. However problematic our relationship with the EU has become, it has only ever been a voluntary association of sovereign nation states. In the context of this debate, the only question that we must answer is whether the EU constitution represents a fundamental change to that principle of voluntary delegation of powers. Of course it does. Article I-6 states:

"The Constitution and law adopted by the institutions of the Union in exercising competences conferred on it shall have primacy over the law of the Member States."

The Government will say—we have heard this already—that that merely reflects the existing precedence of the European Court of Justice, whose views on primacy are intended by the constitution to have full effect. The ECJ's view is that EU law has primacy over all national law, including national constitutional law. However, our courts rejected that idea, as recently as the "metric martyr" case in 2002. Our courts do not recognise the primacy of European law. By ratifying the constitution, the United Kingdom would effectively be committing constitutional suicide. Everything becomes subjugated to the ultimate sovereign authority of the EU. That is the intention that our courts will read, because we have enacted it on our statute book. It is utterly untrue for Ministers to claim, therefore, that the constitution is not a fundamental change. A secession clause needs to be added to the European constitution, because the present implicit right of secession would be compromised.

If the Government allow an honest debate on the subject, there is no possibility that the British people will vote for the constitutional treaty, but I fear it will fall to opponents of the EU constitution to make that explanation. Of course the Government will try to frighten people into believing that this is some kind of "in or out" debate, but the Minister for Europe has contradicted the Foreign Secretary by insisting that the constitutional treaty is not the final resting place of the European Union and that there will be further treaties. Why did he contradict his right hon. Friend?

5.36 pm

**Mr. Peter Kilfoyle** (Liverpool, Walton) (Lab): I support the Bill. I am a strong advocate of both its form and its content. I represent one of the many areas in the United Kingdom that has benefited hugely from the positive outcomes of the European Union. I note that the hon. Member for North Antrim (Rev. Ian Paisley) is a resident and a representative of a similar area, and I do not understand the position that he takes.

We should concern ourselves with the attitude of the Opposition. I was intrigued by the contribution from the right hon. and learned Member for Devizes (Mr. Ancram). After telling us about Geronimo scalping the taxpayer for propaganda purposes, he made an extraordinary statement. He criticised the Government for not allowing enough time for discussion, debate and scrutiny, but in answer to an intervention from the right hon. and learned Member for Rushcliffe (Mr. Clarke), he made it clear that in the unlikely eventuality of the Conservative party being returned at the next election, there would be no scrutiny of any sort. That leads to a great deal of confusion not only in the minds of right hon. and hon. Members, including Opposition Members, but outside.

In another intervention we heard that in the Scrutiny Committee the hon. Member for Stone (Mr. Cash) had legitimately asked whether the Bill could be used as the basis for a future referendum. I assume that implicit in that question is the belief among at least a section of the Conservative party that whatever is done as a result of the Bill will be undone at some future time. That underlines an almost visceral opposition to the European Union in any form that it might take.

I was equally taken by the exchange between the right hon. and learned Member for Rushcliffe and the right hon. Member for Wells (Mr. Heathcoat-Amory). The right hon. and learned Gentleman said that they go round the country and debate these matters, and I do not doubt the sincerity with which their opposing views are held. The right hon. and learned Gentleman said he did not understand why they could never get to the basis of the argument. That is because of the difference in their visions of the future of Europe. They are so different that it is like trying to compare the vision of Michelangelo with that of Hieronymus Bosch. The right hon. and learned Member for Rushcliffe and the right hon. Member for Wells see the world from totally different perspectives, and that colours their outlook on everything to do with Europe and the EU.

**Mr. Robert Jackson:** And wider.

**Mr. Kilfoyle:** And far wider, as my hon. Friend suggests.

Those who oppose the Bill always fail to draw attention to the irreconcilable tail that is wagging the Conservative dog. They fail to say what they would put in place of a United Kingdom which, in their heart of hearts, they want out of Europe. Will we no longer be the bridge to America? Are we supposed to be a dwindling and irrelevant piece of real estate floating off the edge of Europe? Will we increasingly become a client of America, and will the notion of the United Kingdom as an American aircraft carrier hold true? All the Opposition's views are vague and indeterminate, but they stem from a visceral antagonism towards the European Union and things European.

I take great pride that on issues as disparate as the environment, Iraq—even allowing for my personal view on war against that country—arms trading with China, and the preference for diplomacy over military muscle in the case of Iran, I look to Europe for support, succour, help and common sense. That is not to deny Europe's failings and failures. I acknowledge them, but I also take on board the overwhelming advantages of the European position. I hope that we make expeditious progress on the Bill and that when we go to the country we can

*[Mr. Kilfoyle]*

convince people of the good sense of such things as an improved presidency with greater continuity and objectivity. There are obvious benefits, as has been said, in not having two representatives to deal with foreign affairs. Preconceived notions are not endangered by the proposal that Javier Solana should be, for want of a better description, the first Foreign Minister under the constitution. Qualified majority voting on measures against criminal activity is also desirable. I just wish that the previous Government had introduced proposals on better co-operation with Europe, as that might have prevented leading criminals from being able to escape jurisdiction and being held to account before 1997.

5.41 pm

**Mr. David Trimble** (Upper Bann) (UUP): Once again, we have a thoroughly unsatisfactory procedure whereby a new 500-page constitution will be made part of our law in just five clauses. We can only debate those clauses and not the 500 pages. I repeat that it is thoroughly unsatisfactory that agreements made through the exercise of the treaty-making power deal with Europe as if it were a foreign country on the other side of the Pacific. That is not appropriate, and it is using the royal prerogative to change our constitution. That is quite unacceptable in this day and age, and I hope that the Government will reassess such matters in future.

There are clear differences of opinion on the construction of parts of the measure. It is no longer purely about consolidation. The Government argue that they are moving things back towards the nation state, but others regard it as yet another step in the long trail towards a federal state. When the original statement was made, I said that it does not matter what view the Government or others express because, at the end of the day, the European Court of Justice will decide these matters, and we know what its bias and approach are. After I made those comments, a Government supporter told me that I should not worry, because the Government had managed to remove the phrase "ever closer union" from the new treaty. Because they were no longer committing themselves to ever closer union, the European Court would cast a different eye on things. After finally getting hold of the text, I can confirm that "ever closer union" has gone, only to be replaced with the phrase "united ever more closely". If that does not make it clear that there is an absence of significant change, there is an express reference to continuity in the acquis communautaire. That continuity will be accompanied by continuity in the drift towards greater federalism in these provisions.

When we were presented with the treaty, I told the Government that they had missed a huge opportunity. What we really need in Europe is fundamental reform, but we do not have it in the treaty. There is a little tinkering around the edges, but that will not stop the progress towards a federated Europe. If the Government had plucked up the courage to veto the constitution, they could have started to argue for fundamental reforms, as they would no longer be trammelled by the report from the European Convention.

We need fundamental changes. Europe exists, and we will continue to be a part of it in one form or another. We need a democratic Europe, and the Europe we have is not democratic. For example, we have a situation in Europe where a group of unelected people have a total and absolute veto on legislation; that is another way of describing the European Commission's exclusive right of initiative. The only legislation that can be enacted is legislation proposed by the Commission, which in itself shows the absence of democracy.

I concur entirely with the comments of the right hon. Member for Richmond, Yorks (Mr. Hague) about the danger we are in when there is a gap between the people and those who make laws affecting them. That is why we need reforms to make European institutions more democratic and more democratically accountable.

I shall just touch briefly on economic matters, which is another area in which we need huge changes. How many years ago did the Union commit itself at Lisbon to making changes? Has it made any? Is Europe more competitive or productive? No. The economic failure of the European Union gets worse, and it is important to realise that we are dealing today with economic failure. The right hon. Member for Skipton and Ripon (Mr. Curry) was worried that a British no vote would lead to a Franco-German inner core. France and Germany are economic failures, and their failures are getting worse because of their failure to change their economies. The lower performance in those countries' economies dates from 1992 and it flows from Maastricht. The Minister may shake his head, but that is the case, and until major economic changes take place there, particularly with regard to the euro and the European Central Bank, the economic failure of Europe will get worse.

The Bill also provides for a referendum, and I welcome the fact that we will have a referendum, and that it will give whoever is in Government at that stage a second chance. I believe and hope that the people will reject the constitution, and flowing from that rejection will come an opportunity to look at the matter again. Europe cannot afford to treat the United Kingdom in the dismissive way it has treated Ireland and Denmark by telling people to go back and think again.

A rejection of the constitution will provoke the opportunity for some real changes in Europe, which are clearly needed. I hope very much that the British people will take that opportunity when it is presented to them. That is, of course, if the opportunity is presented; I still have a thought at the back of my mind that we might never see a referendum.

5.47 pm

**Mr. Michael Connarty** (Falkirk, East) (Lab): It is a pleasure to follow the right hon. Member for Upper Bann (Mr. Trimble), but sadly I totally disagree with him. His analysis was very pessimistic and it may have more to do with the problems that he has had with other parties in Northern Ireland than with the constitution. He missed one thing completely: he was totally wrong to suggest that those in the Commission are the only people who can propose changes and legislation. The new powers given to the European Parliament through co-decision making will strengthen the democratic nature of the European Union; some of us have waited a long time for that and hope to see more of it.

I welcome the Bill and the proposed referendum, and I welcome the wording of the referendum, because it refers to establishing a constitution for the EU. People

should recognise that it will be for the EU, not for Europe. Europe is a much bigger concept that is not necessarily covered just by the people currently in the EU.

On balance, I welcome the treaty. I say "on balance" because there are still some flaws in it, some of which were created by the Conservative Government. There were good arguments for shared competence on fisheries, for example, which we did not press for because the issue was not covered by any of the original treaties, but it might have been a useful move forward.

What worries me most is the combination of what I would call the anti-European zealots—those in my party and the group led by the right hon. Member for Wells (Mr. Heathcoat-Amory) and his colleagues, with their "Be afraid; be very afraid" argument about the European Union—and the humbug and hypocrisy that I hear from those on the Conservative Front Bench. Is it opportunism rather than fear that I smell from them? Is it fear of the United Kingdom Independence party that is making them take the position that they have taken? We should never forget that the Opposition, when in government, not only signed up to a treaty that sold out the UK fisheries policy, but later, under Mrs. Thatcher, traded much of the Irish box to get the rebate, destroying a lot of the British and Scottish fisheries.

I was disappointed in some contributions. I will refer again and again to the attack by the right hon. Member for Richmond, Yorks (Mr. Hague) on the working time directive when I speak to trade unionists and working people in this country. The EU led the way in the working time directive, and it should not be forgotten that it has been a great improver of the working conditions of many people in Britain.

The right hon. Member for Wells sadly is not here. Again and again the European Scrutiny Committee discusses these matters, and shifting the balance of power of co-decision making to Members of the European Parliament will be welcome. They made it plain in their evidence to the Committee when I chaired it that they saw the constitution as a very positive thing. They included Members from Finland, born only 30 or 40 years ago, and from Hungary, born in 1939. They all had a vision of the constitution as a way forward for a balanced Europe.

**Mr. Bercow:** Will the hon. Gentleman give way?

**Mr. Connarty:** I am sorry, but I have no time to give way, even to my good friend.

It is important that we counter all these scary stories about the EU courts. The evidence that we received showed that it was still a matter of balance. With regard to primacy, if the European courts think that our laws are not compatible, it is for us to amend our laws; we are not overruled. The override that is referred to in both amendments, one selected and one not, will not undermine the will of the UK Parliament, contrary to what the hon. Member for Stone (Mr. Cash) said, and it will not further diminish the sovereignty of the UK, because eventually we in this Parliament must decide what we do when there is a conflict between our laws and interpretation of the laws in the EU.

If hon. Members take the trouble to read the evidence given to the European Scrutiny Committee, they will see that the academics disagreed on the possible behaviour of the EU courts. That is not a surprise; there would be no academic debate if that were not so. But even the most obviously Eurosceptic witnesses, some of whom were quoted today, said that the UK Parliament would have the right to decide if and how to respond to any of those decisions in the courts.

I come now to some Labour Members who are opposed to the measure. It is new words for old arguments; new weapons to fight old battles; and, unfortunately, old warriors dressed up in new uniforms. The treaty and the referendum that will follow are not about holding back the free-market process, or the common market process as it used to be called. They are not about challenging the right or the left-wing balance of opinion within the Commission. They will not be about the UK rebate. All those matters will be trotted out, rather than there being an argument about the constitution.

The Bill is not about the euro, immigration or the common fisheries policy, but, in the view of the hon. Member for Stone and his colleagues, it is about the possibility that if the Government are defeated in the referendum, the European Communities Act 1972 can be renegotiated and we can pull out of the EU. That is the real agenda for those on the Eurosceptic wing, and the official Opposition are in serious danger of being trapped into that argument because it is the only argument that they have to play towards.

I do not believe that the British people will respond to that. They realise that this is a mature and difficult treaty between countries, all of which want to hold on to their sovereignty as much as we do and to build a balanced, strong EU. I am not afraid of the fact that in treaties one has to give to receive, and in most cases QMV in the 53 areas that we are talking about will be to our advantage, as has been the case in more than 95 per cent. of cases to date. This is a treaty that I look forward to taking to a referendum and to supporting in the country. I support the Bill tonight.

5.53 pm

**Mr. Quentin Davies** (Grantham and Stamford) (Con): It is disgraceful that the House has such a short time to debate such an important matter.

It is clear that with the referendum during the next year or 18 months Britain will face a defining moment in our history. Over that time, 25 Governments will be going through the ratification process. It is virtually certain that 23 or 24 of them will achieve ratification through their Parliaments, or, many of them, through referendums. The idea that when they have achieved ratification and have democratic mandates, including in many cases through a referendum, those countries will simply be prepared to tear up the whole project to accommodate this country is absurd. It would also be extraordinarily arrogant to assume such a thing.

Those who talk about renegotiation cannot therefore mean renegotiating this treaty but the EU's continuing on the basis of this treaty and our renegotiating something other than full membership. We might be able to get back into the European Free Trade Association or to negotiate the kind of special associate status that the French recently proposed for the Turks, and which the Turks rejected because it was so insulting,

*[Mr. Quentin Davies]*

but we certainly would not be full members. Above all, we would not be part of the decision-making structures or the structures of democratic accountability.

I am always amazed when colleagues say, "Well, we could always negotiate some access to the single market." They appear to be happy with a situation in which we would have to observe the rules and the laws decided by the European Union while playing absolutely no part in it. We would find ourselves paying over taxpayers' money without any representation, as do current associates in the North American Free Trade Agreement, Switzerland and elsewhere. The prospect of taxation without representation seems to worry my colleagues not at all.

The European Union is a formidable achievement. I need not dwell on the single market, because even Eurosceptics admit that it is vital that we remain part of that, whatever happens, but we do not talk about the human importance of the Union—the fact that it provides a larger stage for all of us, and our children, to conduct our lives and to exercise our liberties: not merely to trade, but to work, live and study on a much wider field than merely on this island.

Over the years, it has proven a remarkable engine of peace. Let us consider some of the sources of conflict and bloodshed over centuries that it has dissolved over the past generation or two, such as Alsace-Lorraine and Alto Adige. As shadow Secretary of State for Northern Ireland, I came to the view that the only way of reconciling the views of those who want to remain part of this country and those who think it absolutely essential that they become part of the Republic of Ireland was within the context of a successful European Union, where the precise line of the frontier is no longer an existential matter, and certainly not one to die for.

The EU represents the only way in which we can exercise any influence in the world on key issues for the future such as world trade, international stability, sources of tension and potential conflict, nuclear threats, terrorism, and sources of migration. We cannot possibly influence those things standing alone in this country, and it would be absurd to think that we could.

Should we really walk away from all that because of this constitution? It would be completely crazy to do so given that 80 or 90 per cent. of it is a consolidation of what we have already signed up to, leaving six key changes, all of which seem to be very much in our favour. There are two substantive changes, the first of which is the mutual defence pact. We already have such a pact with 21 out of the 25 countries—it is called the Washington treaty. This simply removes the anomaly whereby we do not currently have a mutual defence pact with the Republic of Ireland, Sweden, Finland and Austria.

The second substantive change concerns the common foreign and security policy and the Foreign Minister. This is triggered under the treaty only by unanimity. It makes no sense at all to say that we want to leave the mainstream of the European Union because of a common foreign policy, because we have a veto on every occasion before a such a policy can emerge.

In addition, there are four procedural changes. On the two-and-a-half-year presidency, we all know that it does not make sense to continue with the six-month presidency and to have Malta and so forth as President of the Union. I have to tell my right hon. and hon. Friends that their system of shared responsibility, as occurs in the Council of Ministers, makes no sense. In the Council of Ministers, responsibility can be divided up—one country can chair the trade and industry committee, another can chair the agriculture committee, and so on. The presidency cannot be divided up in that way.

On double majority voting, I understand that the Spanish and the Poles did not want that because they had the artificial advantage of a weighting in their favour under the previous system, but I cannot see why it is in the British national interest that the Poles and the Spaniards should have that advantage.

The yellow card system has been denounced as inadequate, but only a fool or a fanatic does not go for half a loaf instead of no bread. It would be nice to go further in giving national Parliaments an even greater role, but this is a major change in a positive direction, and I cannot believe that it is a reason for opposing the Bill.

As for the new withdrawal procedure, I should have thought that my Eurosceptic colleagues would be delighted about that. Of course, Parliament is sovereign, and we always could have withdrawn, but that is now recognised in the treaty.

All in all, I fail to understand the rationality of opposing this treaty from the point of view of the British national interest.

5.59 pm

**Mr. Kelvin Hopkins** (Luton, North) (Lab): I am pleased to participate in the debate because I tabled the first early-day motion that called for a referendum in May 2003. I was delighted when the Government decided to hold a referendum and I congratulate them on that. I understand that there was a little soul searching in Downing street before it happened, but the right conclusion was reached.

**Mr. MacShane:** For you, anything.

**Mr. Hopkins:** I am pleased that my hon. Friend and I agree on that—as we do on so much.

However, I remain profoundly opposed to the constitutional treaty. Along with millions of Labour supporters and trade unionists throughout Britain, I shall vote no in the referendum. I have often spoken about EU matters in the Chamber and I shall not dwell on all the issues today. I have reservations other than those that I shall express but other colleagues, including my hon. Friends the Members for Glasgow, Pollok (Mr. Davidson) and for Great Grimsby (Mr. Mitchell) have covered them.

The constitutional treaty is, at its heart, hostile to social democracy. The thrust of today's EU is deeply anti-socialist and the neo-liberal philosophy is being driven forward. There has been a conflict in the EU between the two forces and, unfortunately, the neo-liberal force is winning against the social democratic force. I want to reverse that drift.

The drive to marketise and privatise public services under the bland-sounding term of liberalisation threatens to turn back the clock and unpick the fabric of

social democracy, welfare states and social protection that has transformed the lives of working people in post-war Europe.

We hear the term "flexible labour markets." A couple of years ago, I was on holiday in Portugal, and although my Portuguese is not good, I understood a sign on a building site that said, "No to flexible labour markets". The Portuguese construction workers understood perfectly what labour market flexibility means. The Swedish no in the referendum happened because Swedish social democrats and trade unionists perceived the threat and voted no.Where countries are already advanced in liberalising service areas, article III-148 of the treaty commits them to

"undertake liberalisation of services beyond the extent required by the European framework laws".

It gives the Commission more powers to promote privatisation of key public services.

Even without the treaty, the new Commission attempted this week to relaunch what it described as the flagging Lisbon agenda. There is serious anxiety, especially among trade unionists, that that will be to the disadvantage of working people. The European Trade Union Confederation, which is now led by John Monks, a good friend and former colleague, stated:

"This is a disappointing start for the new Commission because it risks presenting Europe as an agent for lower social standards, worse welfare states and poorer environmental standards".

That is happening in the EU now and the treaty will reinforce it.

The treaty will consolidate Maastricht and the Single European Act, both of which I opposed. I believed that the Common Market or European Community was jogging along nicely before the Single European Act, which constituted a step change towards a much more neo-liberal construct. That is where things went wrong. I would be happy to revert to the position before the Single European Act and I would probably complain only about the common agricultural policy and the common fisheries policy. We could work happily with our European colleagues on that basis.

My colleagues have made several points about the referendum. I believe that the Electoral Commission has criticised the wording although it has acquiesced in what the Government have done. We probably will not be able to persuade the Government to make the wording more neutral, but it is significant that the Electoral Commission questioned it.

It is right to place limits on campaign spending. I remember the 1975 referendum when the amount of money spent on the yes side was grotesque when compared with that spent on the no side. I was on the no side at the time, and I remember well the pathetic resources that we had, compared with the massive resources used to persuade people to vote yes. We want to see more balance this time.

This referendum should not be held on the same day as other elections. We want a separate day for it, so that people can focus on the issue, rather than thinking, "Oh, well, it's just another election", which might lead them to vote yes or no in a casual way. They need to focus specifically on this important decision that Britain has to make. I also want a constituency count. My constituents know very well what my views are on these matters, but I would like to know what their views are. They might be different from mine, but I would like to know what they think. Every other hon. Member should also be aware of what their constituents are saying, so a constituency count would be important.

It has been said that the constitutional treaty is just a "tidying-up exercise". If that were the case, it would not be that important if we did not adopt it, would it? We should still have what we have now, and it would not be that significant. However, so much effort is being put into ensuring that the whole of Europe votes for the treaty that I suspect that it is rather more important than just a "tidying-up exercise". There is a lot more to it than that.

I have said before in debates on European matters that the constitutional treaty includes references to eurozone institutions. Those references should be taken out and voted on separately—

**Madam Deputy Speaker (Sylvia Heal):** Order. The hon. Gentleman's time is up.

6.5 pm

**Mrs. Angela Browning** (Tiverton and Honiton) (Con): I am very pleased to follow the hon. Member for Luton, North (Mr. Hopkins). I have listened carefully to this afternoon's debate. I have had the opportunity to speak on this subject twice in the past year, and I do not want to repeat a lot of what I have already said. I would, however, like to build on some of the points that have been raised today.

I do not regard the treaty as just another European treaty, and I certainly do not regard it as benign. We have to look at the end agenda. There are legitimate debates to be had on both sides of the argument. I say "both sides of the argument", rather than "both sides of the House" because this is not a party political issue. It is a matter of national importance involving our future relationship with the European Union. I have no problem with people who do not share my view that we have already gone too far down the road of European integration. However, I say to the Government—and I reflect on this in regard to previous Governments—that I have difficulty with the fact that, over the years, politicians have not spelled out clearly what they were signing up to in the name of the people. That has caused the feeling that we, as a nation, have lost control of our right to govern ourselves in many important areas of policy.

I do not share the view that signing up to the common market, as it then was, led to peace in mainland Europe at the end of the last century. I respect the views of those who genuinely believe that, but I personally do not think that the common market prevented France and Germany from tearing each other apart as they have done in previous centuries. I believe that it was the presence of the Soviet bloc, the cold war and the formation of the NATO alliance and the link with north America that kept the peace in mainland Europe.

We are talking about the type of relationship that we want with Europe. I fully share the views of those who have flagged up the additional powers in the treaty—the euro-creep, as it is euphemistically called. These significant powers are being given to people who have not been elected by the people of this country, and who are not answerable to us as our elected representatives.

*[Mrs. Angela Browning]*

We cannot call them to the Dispatch Box to answer our questions. As my right hon. Friend the Member for Richmond, Yorks (Mr. Hague) so eloquently spelled out earlier, this illustrates the democratic deficit that we are experiencing.

I know that this subject is not the public's idea of a hot political topic. They have more important things to concern them. However, if we do things by stealth in one treaty after another, and if we erode people's right to elect through the ballot box every four or five years those who make decisions on their behalf here, when they suddenly wake up to the fact that that right has gone, it will not simply be a matter of their not turning out to vote in general elections. Voter apathy will not be the only price that this country pays for such stealth; I believe that there will be a reaction on the part of the public when they realise that their democratic rights have been taken away from them. Yes, we all take our democratic rights for granted and it is already possible to see in some countries what can happen when extremism feeds on the lack of democratic accountability. It is a very dangerous path to go down.

I say to Ministers and colleagues that, whatever side of the argument they are on and whatever they believe the right relationship between this country and the EU should be, at least be honest in telling people what is being done in their name. Let us not have spin or gloss; let us not keep telling people that they have not really signed up to this or that. They know. We all receive hundreds and hundreds of letters about it. The phone rings in the office: it is another small business; it is another person who wants to know why they have to do such and such, why they are bound by various rules. As their MP, I have to tell those people, "I am very sorry, but there is nothing I can do about it, because these decisions are not taken in the House of Commons. The people who have put these decisions before us are not the people"—

**Mr. Quentin Davies:** Blame No. 10.

**Mrs. Browning:** My hon. Friend says, "Blame No. 10". Well, I was a Minister in the last Conservative Government and I have to tell him that, as a Minister, I had great difficulty trying to argue the case when some of these proposals were made.

We talk about competition within the single market and I am a great believer in free trade, but there are 22 other countries out there that have free-trade agreements with the EU and a further 69 countries are currently negotiating such agreements. None of them is shackled by the regulation and statutory requirements that we have to face here. That is apparently the price that this country has to pay in order to be a member of this club. We hear all these euphemisms about where the train is going, what the destination is and so forth, but I say it is time to pull the communication cord.

6.12 pm

**Mr. William Cash** (Stone) (Con): I am pleased to have the opportunity to speak in the debate, albeit at a somewhat late hour and with just six minutes to run. I am glad to see that the reasoned amendment that we shall vote on this evening bears fair comparison to the one that I tabled a few days ago. I am equally glad that the issue of supremacy, extensively discussed today, relates closely to the decision taken last week by my party to support a proposition that I tabled in an amendment to the Constitutional Reform Bill.

The problem with the constitution, as I have said many times before, is the question of primacy. I do not need to repeat the argument today, as I have already explained it in my own terms over and over again. The plain fact is that the Foreign Secretary is blatantly wrong about the effect of the constitution on the United Kingdom. He mentioned the Vienna treaty, particularly article 27, but it is inconceivable that the people of this country could be governed on the basis of a decision taken by a treaty.

I return to what the Foreign Secretary said about 18 months ago—that international treaties took precedence over national laws. That led to an exchange of correspondence, and a series of questions, between myself and him. At the end of that 18-month period, on 8 or 9 September last year, he effectively conceded in a debate that it was true that statute took precedence over treaty—as, indeed, Lord Diplock had made absolutely clear in an important case in 1967. It is good law.

The way in which the Foreign Secretary replied to me yesterday in the European Scrutiny Committee is also inconceivable. I put it to him that the treaty could receive a no vote when the referendum is called and I asked him whether, if that happened, he would repeal the legislation that is being pushed through Parliament now because of the massive majority. He said that he would not repeal it, and then said—twice—that to do so would be a waste of time.

What arrogance. The Foreign Secretary would not repeal this legislation, even though it had been rejected by the British people. He relies on his prerogative powers to tell the country what laws will govern it and the extent to which Parliament will be governed by the new EU constitution.

The hon. Member for Wantage (Mr. Jackson) suggested that this treaty was just one in a series. That is arrant nonsense. Article 1.6 of the treaty states clearly that the EU constitution will take precedence over the laws of member states. When I put it to the Foreign Secretary that that precedence also included this country's constitution, he said that of course it did.

On the question of European Court of Justice case law, the treaty makes it clear that article 1.6 reflects the Court of Justice's existing status in that respect, and of course it does. Yesterday, I discussed with the Foreign Secretary the matter of the competing jurisdictions that flow from the European Communities Act 1972. Evidence from distinguished academics on constitutional law makes it clear that our judges are duty bound to give effect to decisions made by the House of Commons on behalf of the British people. However, the European Court maintains that existing case law—such as Enel v. Costa, or the Simmenthal verdict—means that it has the right to decide questions of law in this country.

The fundamental question is one of political will. Who governs this country? People have fought and died over that question.

The Bill should be rejected. The referendum should be the subject of a separate Bill so that we can ensure that this country is governed by legislation passed by this House, whose composition is determined by the will of the British people as expressed in general elections.

6.18 pm

**Mr. Robert Walter** (North Dorset) (Con): Some intriguing polls have been published in the past few days. In *The Times*, a Populus poll showed that 36 per cent. of people would say yes to the question whether we should approve the treaty, with 29 per cent. saying no. However, an ICM poll showed that 39 per cent. of people would respond negatively to the official question and that the same proportion—39 per cent.—would respond positively. When the same poll asked people whether they would sign up to the European constitution in a referendum held tomorrow, 54 per cent. said no and 26 per cent. said yes.

A poll by the Institute of Directors found that 49 per cent. of its members intended to vote no in the referendum, with only 29 per cent. planning to vote yes. That caused IOD director general Miles Templeton to say:

"Business leaders remain ready to hear the case for both sides."

I shall use that as my starting point.

I have been a great supporter of Britain's membership of the EU ever since we joined 30 years ago. However, I am seriously concerned that in that time we have failed to take the people with us on the journey that has been the EU's development and evolution. We have now reached the stage where most people have little understanding of, and little confidence in, what is being done in their names.

Euroscepticism is not unique to Britain. It exists throughout Europe and the democratic deficit seems to be worse in some other European states, where people feel that it is inevitable and that they can do nothing about it. However, they will have the opportunity in referendums on the constitution to send a message to the political elites of Europe saying that they would like an explanation of what is going on and what has been done in their names during the past 30 years in this country, and somewhat longer in some other member states.

For all the Foreign Secretary's spin on the treaty, it does not provide the answer. When I read the Laeken declaration back in 2001, I thought that we were beginning to go in the right direction and to pose some of the right questions. However, when I read the treaty—all 511 pages—I remembered one phrase from the Laeken declaration, which mentioned

"Simplification of the Union's instruments".

There is no simplification in the constitution, and it contains so much detail that it can hardly be described as a constitution: it is a management textbook. The explanatory commentary, which runs to 500 pages, is supposed to explain it to anyone who does not understand the first 500 or so pages. The constitution is nowhere near being a simplifying treaty. It contains minutiae of management detail that one would expect those responsible for looking after our interests to come up with as their modus operandi.

Much of what is in the document could soon be out of date. What we now need is what the Laeken declaration referred to—the creation of European institutions that are closer to their citizens. The right hon. Member for Livingston (Mr. Cook) referred to the fact that the Council will make decisions in public. That goes some way towards making the institutions more transparent and accountable. However, what is the point of making the decisions in public, but not holding the general proceedings of the Council in public? That is rather like putting cameras in the Division Lobbies here but taking them out of the Chamber, so that we can carry on our business in secret.

Most of our citizens support the broad aims of the Union, but they do not always see the connection between those goals and the Union's everyday actions. We all know that Europe has changed and is changing. With the 10 new countries that joined last year, it now has 25 member states. The enlarged Europe needs to be more effective and democratic, so we need a simple and transparent constitutional treaty, which is what the document was supposed to provide.

An effective European Union is in Britain's interest and it is in our national interest to be a member of that Union, because we have so many aims in common. We need a new treaty that spells out in black and white the powers of the various parties. It should state explicitly that the EU has only the powers that member states choose to grant it. It should clarify what the EU can and cannot do.

The constitution is unacceptable, but that does not mean that I have become anti-European, that I do not want the European Union to succeed, or that I want us to be relegated to the position of Norway and Switzerland, with an expensive, subservient and passive relationship with the European Union. That is not an option for the British people. We need a tidying-up and simplifying treaty, but that is not what we have. I can happily say that the leaders of Europe should go back and reconsider the constitution.

6.24 pm

**Mr. Graham Brady** (Altrincham and Sale, West) (Con): It is a pleasure to follow my hon. Friend the Member for North Dorset (Mr. Walter), who put his pro-European case against the constitution before us. It may be helpful if, at the outset, I put on the record the reference for which the Father of the House asked my right hon. and learned Friend the Member for Devizes (Mr. Ancram). It was a reference to comments made to the European Scrutiny Committee by Professor Sir David Edward. On the subject of the so-called emergency brake, he said in reply to a question from the hon. Member for Hamilton, South (Mr. Tynan):

"The procedure involves going up to the European Council but the brake is not absolute. I think it is at that point that politics would overcome law, so to speak."

That is the reference that was sought.

We have had a splendid debate, with a good tone to all the contributions. We enjoyed particularly the hon. Member for Leicester, East (Keith Vaz) revealing the secret about the right hon. Member for Livingston (Mr. Cook) frothing at the mouth during difficult EU negotiations on the treaty of Nice, and the right hon. Member for Livingston saying that the treaty did not involve any significant extension of competences. As he must well know, however, the list of 63 extensions of qualified majority voting is on the record. It includes

*[Mr. Graham Brady]*

such things as social security, structural and cohesion funds, agriculture and fisheries, transport, space policy, energy, culture, tourism, sport, civil protection—and much more that I do not have time to read into the record. Those are all new transfers to qualified majority voting—*[Interruption.]* The right hon. Gentleman says from a sedentary position that they are not new competences—but they are new to qualified majority voting. I hope that he now accepts that point.

**Mr. Robin Cook:** The hon. Gentleman's reference is accurate in that I said that there was no substantial extension of competence. None of the list that he has given argues that I was in any way wrong about that. He is talking about something entirely different: an extension of qualified majority voting. In the European Union, 85 per cent. of all decisions are already taken by qualified majority voting, primarily because the 12 extensions of qualified majority voting under the Single European Act, passed by a Conservative Government, are the basis on which the great majority of decisions are taken in the Council of Ministers.

**Mr. Brady:** I thank the right hon. Gentleman for making it clear that we are both talking about an increased transfer of powers from the House and the United Kingdom to the European Union—*[Interruption.]* He is starting to froth at the mouth again; he really should try to contain himself.

The right hon. Member for Livingston also made much of the public meetings that the Council of Ministers will hold. I heard the Foreign Secretary's comments in front of the European Scrutiny Committee yesterday, however, and he made it clear that decisions must still be made behind closed doors, and that the decision-making process would not work if it was in public. We are therefore hearing different things from different Labour Members.

The right hon. Member for Livingston also said that a vote against the constitution was a vote against the modern world. In 1999, however, on 25 May, at column 184, he also said:

"For the record, we are not proposing a constitution of Europe."—[*Official Report*, 25 May 1999; Vol. 332, c. 184.]

Was he then saying no to the modern world?

The right hon. and learned Member for North-East Fife (Sir Menzies Campbell) seemed to suggest that Parliament could not exercise powers not to follow the decision taken by the Executive to endorse this treaty, putting the Liberal Democrats firmly under the royal prerogative and apparently denying the right of the House to make such decisions.

One of the greatest pleasures in the debate, however, was the contribution of my right hon. Friend the Member for Richmond, Yorks (Mr. Hague) who spoke about public disaffection with the political process and the extent to which the public see a gulf between the people and the institutions of Government. As he said, this constitution will make it worse, citing instances from food supplements to asylum policy.

My right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke) spoke of his strong opposition to referendums. We differ from his views but respect his principle and consistency in these as in other matters. He put the view that Ministers are weakened by the use of referendums. All that I would say on that is that Ministers are weakened only if they are out of tune with the views of the people. We are in tune with the views of the British people, and we will be strengthened by the referendum if we see that no vote, whenever it may come.

The House has, in the short time allowed, been discussing a momentous decision. Contrary to the Government's claims, the new constitution would be a decisive step towards political integration. If we talk to politicians or diplomats anywhere in Europe, they will tell it to us straight: the constitution is part of the process of creating an economically and politically integrated Europe. Only in Downing street or the Foreign Office is the pretence maintained that this is a mere codification of existing treaties.

**Mr. Cash:** Will my hon. Friend give way?

**Mr. Brady:** I will not, because I have limited time. I apologise to my hon. Friend.

But even as the Government try to flog this outrageous porkie to the British people, they cannot get their own story straight. On the "Today" programme this morning, the Foreign Secretary said that the constitution

"literally limits the powers of the European Union".

and that

"What this does is say 'this far and no further'".

That directly contradicts the Prime Minister, who claimed in Cardiff on 28 November 2002 that

"we must end the nonsense of 'this far and no further'".

It also contradicts the Minister for Europe, who said at Durham university in November that "this treaty"—the constitution—

"won't be the last word".

The Government maintain that the constitution is a great triumph for Britain, but as we heard earlier, the French are giving the game away. We have heard the views of President Chirac and of Alain Lamassoure, both of whom have made it clear that the constitution is regarded as a victory for the French vision of Europe over the Anglo-Saxon vision. Nicolas Sarkozy, leader of the UMP, said:

"If the French said 'no' in the referendum, it would be the British, who want a fiercely competitive market, who would triumph".

The fact is that whatever this untrustworthy Government say, the British people have the good sense to see through it, and so, I am thankful to say, does British industry.

There is emerging evidence that the referendum question may need changing, but we welcome the fact that the Bill does provide for a referendum. Indeed, the British people are being allowed one only because of the pressure being applied by the Opposition. This Government saw no lofty principle in the idea that the voice of the British people should be heard. They struggled, blustered and resisted, but then, as the Minister for Europe told the *New Statesman*—I am paraphrasing, but one can imagine the scene as he and

the Foreign Secretary sit there side by side—"I turned to Jack and I said, 'Jack, we're stuffed. We've got to give a referendum. I don't think we can hold out.'"

Now we have the Government's grubby attempt to push the referendum back to autumn 2006—the very last moment—to prevent the people from having their say. What rich irony there is in a Prime Minister who once boasted of wanting Britain to lead the way in Europe now being found cowering in a corner, hoping and praying that the French vote no and get him off the hook. Even now, as the hon. Member for Great Grimsby (Mr. Mitchell) has said, the Government are trying to pull a fast one by smuggling the 448-article European constitution through Parliament via five clauses of an incomprehensible Bill that is supposedly about the referendum.

In promoting this constitution, the Government are missing the real challenges for Europe, including sorting out the mess of the EU institutions, which are riddled with financial mismanagement and fraud and have not been approved by the auditors for 10 years. Moreover, Britain's net contribution to EEC institutions is projected to rise, according to the Chancellor's own figures, from £2.4 billion in 2003–04 to £4.5 billion in 2007–08. Perhaps the Minister will explain in his response why such an increase is necessary.

**Mr. Quentin Davies:** Will my hon. Friend give way?

**Mr. Brady:** As I said earlier, I do not really have time to give way. I apologise to my hon. Friend.

Why have the Government done nothing to tackle the scandal of the EU accounts, and why, when I asked in November, had the Chancellor and Foreign Secretary not even bothered to discuss the problem that needed to be tackled?

**Mr. Davies:** Will my hon. Friend give way on that point?

**Mr. Brady:** On that point, yes.

**Mr. Davies:** I am most grateful. My hon. Friend will doubtless be aware that the auditors have invariably signed off the accounts of the Commission and the Union's institutions; the problem has been that many of the disbursements are carried out through the mechanisms of the member states. I do not imagine that my hon. Friend is proposing the very federalist and centralising idea that the Commission take over responsibility for disbursing all these sums, even if that might lead to greater transparency and a better audit record.

**Mr. Brady:** My hon. Friend is right in at least one respect, in that I do not propose that idea. But I should point out that one of the most scandalous examples of fraud in the EU involved EUROSTAT, and money that was directly controlled by the Commission. Indeed, it was one of the most startling instances of financial mismanagement and malpractice. Amazingly, the Chancellor has not taken the trouble to talk to Marta Andreasen, the whistleblower who exposed EU fraud and who was fired for her trouble.

The real challenge is not—as my right hon. Friend the Member for Richmond, Yorks said so powerfully—creating a constitution that cedes more powers to Europe and takes decisions further and further away from the people, but tackling the massive burden of cost and regulation that is holding back our businesses and *making them compete against China and India with one* hand tied behind their backs. That is why such a large majority in British business oppose the constitution. An Institute of Directors poll found that 86 per cent. of its members believe that the constitution would mean more red tape, while 3 per cent. of them believe that it would reduce red tape.

The EU economy has stalled. A few weeks ago, the United States National Intelligence Council issued a devastating indictment of EU economic prospects:

"The current EU welfare state is unsustainable and the lack of any economic revitalisation could lead to the splintering or, at worst, disintegration of the EU, undermining its ambitions to play a heavyweight international role."

It adds that the EU's economic growth rate is dragged down by Germany and its restrictive labour laws. Structural reforms in Germany, and to a lesser extent in France and Italy, remain key to whether the EU as a whole can break out of its "slow growth pattern".

The only action proposed by the EU is yet another relaunch of the Lisbon agenda. The response is set out in the joint statement by the Irish, Dutch, Luxembourg, UK, Austrian and Finnish presidencies called, "Advancing regulatory reform in Europe":

"The four Presidency statement drew attention to the economic cost of poor and excessive regulation, and the benefits that respected and independent research shows could flow to European growth and productivity from improvements to the regulatory framework . . . . The Spring Council focused in particular on refining the integrated impact assessment process, by enhancing a competitiveness dimension, and on developing a methodology to measure administrative burdens for business. It also invited the Commission to take account of the Council's views in relation to priority areas for simplification and invited member states to commit to accelerated implementation of national regulatory reform initiatives . . . This statement, presented at the end of the Dutch Presidency of the EU"—

this is priceless—

"builds on the valuable progress that has been made by the European Commission, Council and Parliament over the course of the year and sets out our objectives for reform in the coming years."

Instead of action, we get statements filled with vague aspirations and meaningless words—the EU just does not get it.

Only by rejecting the constitution can we lead Europe to a better, freer and more prosperous future. Astonishingly, however, this clapped-out Government have no plan for the way forward if one or more of the member states votes no. Ministers even admit that they have no plan B. Having started off opposing the constitution, they have no idea what to do when there is no constitution.

We know what to do. A Conservative Government would lead the way towards a more flexible, less regulated Europe that recognises the differences between 25 different cultures and economies. Some 20 years on, there is a widespread acceptance in the EU that for Europe to compete, it needs the kind of economic reform and deregulation that Conservative

*[Mr. Brady]*

Governments brought to this country in the 1980s and 1990s. The tragic lesson of the Lisbon process is that Europe does not know how to do that. Given the choice between real deregulation and increasing the *jurisdiction of EU institutions and adding new layers of* bureaucracy, the wrong decision has been taken yet again.

Conservative Members will be proved right on today's big constitutional question, just as we won the economic arguments of the past 20 years, and the rejection of the constitution presents a huge opportunity for Britain, and for Europe as a whole. In a recent debate, the hon. Member for Birmingham, Edgbaston (Ms Stuart)—it is sad that she is not here today, because she contributes well—said that the proponents of the constitution often seem like old men talking about their dreams. Those dreams may have had a place in post-war Europe, but they have no relevance to the Europe of today.

The real challenge in modern Europe is not internal aggression, but external competition, a challenge that the EU is disastrously failing to meet. Instead, we have the so-called Lisbon agenda, which halfway through its 10-year programme was described by the President of the Commission as a "catalogue of worthy aims". Europe is subject to continuing economic stagnation, over-regulation and rising costs. In the words of Derek Scott, a popular figure in this debate and the Prime Minister's former chief economic adviser, the constitution would

"entrench Europe's economic failings and drag Britain down".

However out of touch the metropolitan clique around the Prime Minister may be, I know that many Labour Members are not so out of touch with the people whom they represent. Those Members know that their constituents do not want this latest shift of powers from our democracy. They know, too, that this constitution would be bad for Britain. If they vote for the amendment, they, like us, will be able to stand on the doorstep at the forthcoming election, look their constituents in the eye and say that they have represented the interests of their constituents and of our country.

I urge all hon. Members to do what is right this evening, and to vote to reject this outdated and unwanted constitution.

6.40 pm

**The Minister for Europe (Mr. Denis MacShane):** We have had a good debate: 26 colleagues, right hon. and hon. Members, have spoken. It is the most enjoyable European debate that I have listened to during the decade or more that I have been a Member of the House. Colleagues have responded to one another and taken forward proper dialogue and discussion. For the most part, there have been no set-piece, speak-your-weight, pre-written speeches.

The debate is part of my right hon. Friend the Foreign Secretary's clear commitment to bring these issues to Parliament. Since the intergovernmental conference of October 2003, we have had no fewer than 16 debates, 14 of them on the Floor of the House, which have dealt wholly or in large part with the EU constitutional treaty. There have been a further 13 debates in the House of Lords. Commons European Scrutiny Committees and House of Lords European Committees have undertaken detailed inquiries into aspects of the treaty. Ministers, including myself, have given evidence. There have been Westminster Hall debates and, of course, the *unprecedented creation of a Standing Committee on the* Intergovernmental Conference—the only time in parliamentary history when Members have been allowed to question Ministers about the negotiation of a treaty while it was under way.

We want to maintain that, which is why I welcome the part of the new treaty that strengthens the role of national Parliaments. It is true that we shall have to adapt our ways of thinking. We shall need to talk and communicate with colleagues in other national Parliaments, but Labour and other Members will want to use the occasion of the treaty to strengthen parliamentary accountability for what is done in our name in Europe.

**Angus Robertson** *rose—*

**Mr. MacShane:** The hon. Gentleman has been in the Chamber throughout the debate but has not spoken, so I shall give way. I do not, however, want to take many interventions because I want to answer the points made in the debate.

**Angus Robertson:** I want to pick up on a point that has not been covered so far. Part of the Bill that I very much welcome is the innovation that, should the treaty go through, any future amendment must go through the House. As the Scottish Parliament will be involved in that, under the yellow card arrangements, will the Minister tell us what thought has gone into the involvement of devolved institutions in aspects where sovereignty is shared between them and the European Union, and not the House?

**Mr. MacShane:** The yellow card issue is for national Parliaments. As the hon. Gentleman will know, there is a procedure known as a Sewel motion that allows the Scottish Parliament to take forward relevant matters under the treaty. I hope that we can have a full discussion of that.

I have some good news for the Conservatives. Yesterday, the Conservative—believe me, it is very conservative—party in Denmark won a thumping victory in their national elections. The new Prime Minister, Mr. Fogh Rasmussen, who is a very conservative European gentleman, said that the first priority for his new Government was to get the constitutional treaty through in Denmark. I am sure that all Conservatives in the House will join us in wishing him full speed.

There are three broad questions we have to consider. This has been a wide-ranging debate, but, my goodness, it has not actually been on the Bill itself. We have been up and down the highways and byways of the problems of Europe: how Europe is run, the economies of Europe, and the fraud and mismanagement of accounts in Europe. Those are all important issues, but they are not remotely relevant to what we shall have to vote on shortly.

The second part of the Bill relates to the referendum, while the first part gives effect to the part of the treaty that requires a change in our domestic law. That is normal in treaties. The question of "the question" has been raised. I am glad that, in a statement to the Press Association on 26 January, the Leader of the *Opposition* said:

"We do accept the question."

On the same day, the shadow Foreign Secretary said:

"The referendum question seems straightforward."

I am glad that we have their agreement on that.

**Mr. Ancram:** I have written to the Foreign Secretary to ask about the terminology that describes the treaty. Why does the treaty refer to the establishment of a constitution for Europe, when the question refers to the establishment of a treaty for the European Union? I am sure that there is a very simple explanation—it would be nice to have it.

**Mr. MacShane:** The right hon. and learned Gentleman seems to be resiling from what he said a few weeks ago.

**Mr. Ancram:** Answer the question.

**Mr. MacShane:** I will answer the point in my own way. The Electoral Commission has considered the intelligibility of the question against its published guidelines, and it said:

"The Commission welcomes the brevity of the proposed question . . . The Commission is content that the question is structured in such a way that it prompts an immediate response and encourages each voter to interpret it in the same way . . . The Commission is satisfied that the referendum question makes it . . . clear what decision the voter is being asked to make."

If the right hon. and learned Gentleman turns to article I-1 of the treaty, he will see that it says that

"this Constitution establishes the European Union."

So it does seem fairly sensible to put that question to the British people.

The third point is that this is a treaty under international law. Winston Churchill notably said that jaw-jaw was better than war-war, but in a sense what we have been developing in the United Kingdom, particularly since 1945, between the parties is the idea that there is obviously one thing better than war-war—jaw-jaw—and that there is one thing better than jaw-jaw, and it is law-law: we can shape the rule of law that governs many of our international relations. Churchill himself signed 162 multilateral treaties. Lady Thatcher signed 316 multilateral treaties—she really was a treaty queen—and the present Prime Minister has signed only 153 multilateral treaties, but he has a number of years in office to continue, and that 153, of course, includes the new treaty of Rome.

Let me now turn to what is actually on the Order Paper. Forgive me, Madam Deputy Speaker, if I refer to what we must vote on tonight. The Conservative party in the amendment in the name of the Leader of the Opposition says that the treaty

"provides for the implementation into UK law of the Constitution for Europe".

The right hon. and learned Gentleman is perfectly right: every time that we have signed a treaty, we have had to change domestic law. The amendment continues:

"it enshrines the primacy of European Union law."

Again, he is perfectly right: that has been the case since 1972. As is made clear in article I-6 of the treaty:

"The Constitution and law adopted by the institutions of the Union in exercising competences conferred on it shall have primacy over the law of the Member States."

That has been the case now for 32 years.

**Mr. Cash** *rose—*

**Mr. MacShane:** Hon. Members will also note that, under article I-11 of the treaty,

"the Union shall act within the limits of the competences conferred upon it".

**Several hon. Members** *rose—*

**Mr. MacShane:** I am trying to reply to the points made in the speeches. A number of colleagues referred to fisheries policy, which has been included in all the treaties since 1972.

**Mr. Cash** *rose—*

**Mr. MacShane:** Other colleagues have referred to directives under the Single European Act. The right hon. Member for Richmond, Yorks (Mr. Hague) made a powerful point, but he was talking about what is contained in the Single European Act. As other hon. Members noted in the speeches that they made after he left the Chamber, the thrust of his speech was very much against the Single European Act. That shows the huge danger that we now face.

The Conservative party is embarked on saying no not just to this treaty, but to the treaty before it, the treaty before that and, above all, the crowning jewel of Lady Thatcher's achievement under the Single European Act, which was to make market economic relations the norm in the European Union. That is buttressed by the social chapter, and in a powerful speech that set the tone for our debate, my right hon. Friend the Member for Livingston (Mr. Cook) cited the treaty at length and showed the extent to which it contains references to what citizens want to hear: the guarantee of their social rights and the guarantee of full employment.

**Mr. Cash:** Will the hon. Gentleman give way?

**Mr. MacShane:** No, I will not give way to the hon. Gentleman—*[Interruption.]*

**Madam Deputy Speaker:** Order. The Minister has made it clear that he does not intend to give way.

**Mr. MacShane:** The amendment contains the extraordinary allegation that the new treaty

"promotes the concept of a common foreign and security policy".

What a surprise! That has been in every treaty since Maastricht. The whole idea of a common foreign and security policy was first put forward by Lady Thatcher

*[Mr. MacShane]*

in a famous speech in 1984. Here we are, 21 years later, and the Conservative party finds that the new treaty refers to a common foreign and security policy.

May I especially pay tribute to my right hon. Friend the Member for Gateshead, East and Washington, West (Joyce Quin), who will be leaving us after the election? In a characteristically calm, measured and steady speech, she showed just how much she has contributed to the House for a number of years on Europe—we will miss what she has to say. Similarly, my hon. Friend the Member for Hamilton, South (Mr. Tynan) will not be coming back to the House after the election. He spoke by representing his trade union, Amicus—it used to be known as the Amalgamated Engineering and Electrical Union—which has always taken a constructive and positive position on Europe. We have heard the opening shots of the giant campaign on whether we say yes or no to Europe through the referendum, and I hope that my right hon. and hon. Friends will play a part in it.

I cannot let the speech made by the shadow Foreign Secretary go by. Most of it was a kind of Lord Rothermere rant. The right hon. and learned Gentleman would have been a perfect Chamberlain-ite during the 1930s with his obscure conversion to isolation, because we know that he is a pro-European and a one-nation Tory. Although the right hon. and learned Member for Devizes (Mr. Ancram) might have to toe the party line today and say no, the Marquis of Lothian will say yes when the referendum comes.

The right hon. and learned Gentleman prayed in aid Ben Bot. I agree with Mr. Bot because I think that we need more power for Parliaments—there is a way forward for that in the constitution. However, Mr. Ben Bot, the Dutch Foreign Minister, of course signed the constitution. The right hon. and learned Gentleman also prayed in aid Mrs. Thatcher's sturdy work to secure the abatement, but she achieved that only because she won a majority set of votes in the then Council of Ministers and the measure was not written into the treaty. That shows exactly why we have to keep negotiating on the many great interests that we must defend in Europe, but we would not be able to do that if we followed the advice of the Conservative party and isolated ourselves permanently from it.

I pay tribute to the right hon. and learned Member for North-East Fife (Sir Menzies Campbell). He located the debate in history and recalled why the European Coal and Steel Community was founded. Some dismiss the question of peace, stability and democracy as irrelevant, but is it not interesting that Lithuania, Slovenia and Hungary, the three member states that have already ratified the treaty, are all countries that know the effect of the absence of the European Union, the rule of law and democracy?

The House must make a decision tonight. I am grateful for the measured tone of much of the debate, although I cannot address all the issues raised by hon. Members. I am especially grateful for the tone of those who said that we should vote for the referendum tonight and perhaps leave debate on the constitutional treaty itself for another day. Tonight the House must fundamentally decide whether it wants to move Britain forward, not back. Forty years ago, a Labour leader announced that entering Europe would mean the end of 1,000 years of English history.

Rab Butler, a Conservative leader, said that while he respected the reference to 1,000 years of history—*[Interruption.]* He was the best Prime Minister the Conservatives never had. He said that while he respected the reference to 1,000 years of English history, the Conservatives believed in the future. That was then; today they do not. Like the fantasy island where all the asylum seekers will be placed, they believe in a fantasy Europe—a Europe to which they can say no, and then the rest of Europe will quietly say yes to the demands of the Conservative party. To read the Conservatives' language and to listen to some of their contributions today is to enter a world of make-believe.

Reference has been made to the length of the treaty. I have it here in a reduced form. It is about 150 pages long and quite readable. It is half the length in words of the excellent biography of William Pitt by the right hon. Member for Richmond, Yorks and a lot shorter than the latest book by the right hon. Member for Wokingham (Mr. Redwood), "Singing the Blues", in which he discusses the view that, in negotiating with Europe, the threat of withdrawal should be used only as a last resort. He writes:

"I liken it to the use of nuclear weapons before you have tried invasion by conventional forces."

What a remarkable metaphor. His friend and fellow European, the right hon. Member for Wells (Mr. Heathcoat-Amory), who has taken part in this debate, goes a step further. Speaking at the Conservative party conference, he said:

"If we vote 'no' in a referendum on the constitution, the world is at our feet. We could unilaterally call for the repatriation of the Common Fisheries Policy and dictate to the rest of the EU".

Dictate to the rest of the EU? Even if there is a no vote, it still leaves us with the existing constitution of Europe, a mishmash of treaties, so we could repatriate the fisheries or other policies only by being in breach of existing treaty obligations. But I leave that for a later debate.

What an amazing language this is: the nuclear option from the right hon. Member for Wokingham and the world at the feet of the right hon. Member for Wells: pressing the nuclear button and dictating to Europe. Wokingham and Wells, the Ant and Dec of the anti-European movement. At least Robert Kilroy-Silk, our former colleague, was honest when he described—[Hon. Members: "What?"]—when he described the people that he worked with in the United Kingdom Independence party as a bunch of right-wing fascist nutters. UKIP responded by putting out an immediate statement saying that it was true that UKIP had a right-wing fascist nutter element, but Robert Kilroy-Silk had now left the party.

What, alas, we have heard today in too many speeches from the main Opposition party is language to appease UKIP and not promote Britain. I would say to the Conservative party, appeasement and isolation is never the way forward. Every other mainstream Conservative party in Europe understands the need to support this new treaty. I have to say, on the day after President Bush sends his Secretary of State Condoleezza Rice to open, as she put it, a

"new chapter in the relationship between"

the United States and Europe, we hear from Conservative Front-Bench Members only arguments about isolating ourselves from Europe.

What a message to send to the world—to the investors who want to come here and to those who have already ratified the new treaty. The Conservative party wants to plunge Britain into a feast of hostility to Europe over the next few months and the next year. Little wonder that the Leader of the Opposition is totally unwelcome in Washington, just as he is unwanted in Europe and unelectable in Britain. This party, this Government, and I believe a majority of us in the House and the nation, will not allow the Tories to turn the clock back to their vision of Europe—a Europe of conflict instead of co-operation, of beef wars and empty chairs, of rejecting partnership.

This treaty is good for Britain. We will defeat the isolationists. We will move forward with Britain and not back to the anti-European isolationism of the Conservatives. I commend the Bill to the House.

*Question put*, That the amendment be made:—

*The House divided:* Ayes 131, Noes 348.

**Division No. 77]** **[6.59 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Bercow, John
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burnett, John
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cameron, David
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Gray, James *(N Wilts)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hancock, Mike
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Key, Robert *(Salisbury)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Redwood, rh John
Robathan, Andrew
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Ayes:**
**Gregory Barker and**
**Mr. Geoffrey Clifton-Brown**

**NOES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Beith, rh A. J.
Bell, Sir Stuart
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Boateng, rh Paul
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Breed, Colin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bruce, Malcolm
Bryant, Chris
Burden, Richard
Burgon, Colin
Burnham, Andy
Burstow, Paul
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cotter, Brian
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Edward *(Kingston)*
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.

Doran, Frank
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Ewing, Annabelle
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foulkes, rh George
Francis, Dr. Hywel
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gidley, Sandra
Gilroy, Linda
Green, Matthew *(Ludlow)*
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Holmes, Paul
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Keetch, Paul
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lamb, Norman
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Merron, Gillian
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moore, Michael
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Neill, Martin
Opik, Lembit
Osborne, Sandra *(Ayr)*
Owen, Albert
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Rendel, David
Robertson, Angus *(Moray)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Salmond, Alex
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Stunell, Andrew
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Teather, Sarah
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Younger-Ross, Richard

**Tellers for the Noes:**
**Joan Ryan and**
**Mr. Nick Ainger**

*Question accordingly negatived.*

*Main Question put forthwith, pursuant to Standing Order No. 62 (Amendment on second or third reading)*

*The House divided:* Ayes 345, Noes 130.

**Division No. 78]** **[7.15 pm**

**AYES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony

Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Beith, rh A. J.
Bell, Sir Stuart
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Boateng, rh Paul
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Breed, Colin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bruce, Malcolm
Bryant, Chris
Burden, Richard
Burgon, Colin
Burnham, Andy
Burstow, Paul
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Kenneth *(Rushcliffe)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cotter, Brian
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curry, rh David
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Edward *(Kingston)*
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Davies, Quentin *(Grantham & Stamford)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Ewing, Annabelle
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Don *(Bath)*
Foulkes, rh George
Francis, Dr. Hywel
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gidley, Sandra
Gilroy, Linda
Goggins, Paul
Green, Matthew *(Ludlow)*
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Holmes, Paul
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Ingram, rh Adam
Iranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Jon Owen *(Cardiff C)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Keetch, Paul
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lamb, Norman
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Lowe, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Malahide, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moore, Michael
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Owen, Albert
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Pickett, James
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Rendel, David
Robertson, Angus *(Moray)*
Robertson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Salmond, Alex
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Aberd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis

Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Stunell, Andrew
Tami, Mark *(Alyn)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Teather, Sarah
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Younger-Ross, Richard

**Tellers for the Ayes:**
**Joan Ryan and**
**Mr. Nick Ainger**

NOES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Bercow, John
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burnett, John
Burnside, David
Burt, Alistair
Cameron, David
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Gray, James *(N Wilts)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hancock, Mike
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Key, Robert *(Salisbury)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Redwood, rh John
Robathan, Andrew
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

**Tellers for the Noes:**
**Gregory Barker and**
**Mr. Geoffrey Clifton-Brown**

*Question accordingly agreed to.*

*Bill read a Second time.*

## EUROPEAN UNION BILL (PROGRAMME)

*Motion made, and Question put forthwith, pursuant to Standing Order No. 83(A),*

That the following provisions shall apply to the European Union Bill:

*Committal*

1. The Bill shall be committed to a Committee of the whole House.

*Proceedings in Committee*

2.—(1) Proceedings in Committee of the whole House shall be completed in three days.

(2) Those proceedings shall be taken in the order shown in the first column of the following Table and shall be brought to a conclusion (so far as not previously concluded) at the times specified in the second column.

(3) Standing Order No. 83B (Programming committees) shall not apply to the proceedings on the Bill in Committee of the whole House.

TABLE

| *Proceedings* | *Time for conclusion of proceedings* |
|---|---|
| *First and second day* | |
| Clause 1, Schedule 1, Clauses 2 to 4, Schedule 2, new Clauses relating to Part 1, new Schedules relating to Part 1 | Three hours after the commencement of proceedings on the Bill on the second day. |
| Clause 5, new Clauses relating to Part 2, new Schedules relating to Part 2 | The moment of interruption on the second day or three hours after the commencement of proceedings on Clause 5, whichever is the later. |
| *Third day* | |
| Clause 6, Schedule 3, Clauses 7 and 8, new Clauses relating to Part 3, new Schedules relating to Part 3, remaining proceedings on the Bill | Five hours after the commencement of proceedings on Clause 6. |

*Consideration and Third Reading*

3. Any proceedings on consideration shall be brought to a conclusion (so far as not previously concluded) one hour before the moment of interruption on the day on which those proceedings are commenced.

4. Proceedings on Third Reading shall be brought to a conclusion (so far as not previously concluded) one hour after the commencement of those proceedings or at the moment of interruption on the day on which they are commenced, whichever is the earlier.

5. Standing Order No. 83B (Programming committees) shall not apply to proceedings on consideration and Third Reading.

*Programming of other proceedings*

6. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.—*[Gillian Merron.]*

*The House divided:* Ayes 288, Noes 166.

**Division No. 79]** **[7.27 pm**

**AYES**

Abbott, Ms Diane
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Boateng, rh Paul
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Burden, Richard
Burgon, Colin
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foulkes, rh George
Francis, Dr. Hywel
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Jon Owen *(Cardiff C)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Merron, Gillian
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Owen, Albert
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis

Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Tami, Mark *(Alyn)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Ayes:**
**Mr. Nick Ainger and Joan Ryan**

**NOES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Bacon, Richard
Baker, Norman
Baldry, Tony
Barron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brake, Tom *(Carshalton)*
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gidley, Sandra
Goodman, Paul
Gray, James *(N Wilts)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hancock, Mike
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Leigh, Edward
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Young, rh Sir George
Younger-Ross, Richard

**Tellers for the Noes:**
**Gregory Barker and Mr. Geoffrey Clifton-Brown**

*Question accordingly agreed to.*

## EUROPEAN UNION BILL *[MONEY]*

*Queen's recommendation having been signified—*

*Motion made, and Question put forthwith, pursuant to Standing Order No. 52(1)(a) (Money resolutions and ways and means resolutions in connection with bills).*

That, for the purposes of any Act resulting from the European Union Bill, it is expedient to authorise—

(1) the payment out of money provided by Parliament of—

(a) expenditure incurred by a Minister of the Crown or government department by virtue of the Act; and

(b) any increase attributable to the Act in the sums payable out of such money under any other Act;

(2) the payment out of the Consolidated Fund of—

(a) charges paid by the Electoral Commission in respect of services rendered, or expenses incurred, by or on behalf of the Chief Counting Officer or a counting officer in connection with the referendum for which the Act provides;

(b) sums payable in respect of increases of superannuation contributions required to be paid by local authorities in consequence of fees paid as part of those charges;

(c) sums in respect of expenses incurred in accordance with an order relating to the holding or conduct of a referendum in Gibraltar;

(d) any increase attributable to the Act in the sums charged on and falling to be paid out of that Fund under any other Act;

(3) the payment out of the National Loans Fund of any increase attributable to the Act in the sums payable out of that Fund under any other Act.—*[Gillian Merron.]*

*Question agreed to.*

## EUROPEAN UNION BILL *[WAYS AND MEANS]*

*Motion made, and Question put forthwith, pursuant to Standing Order No. 52(1)(a) (Money resolutions and ways and means resolutions in connection with bills).*

That, for the purposes of any Act resulting from the European Union Bill, it is expedient to authorise—

(1) charges to taxation of the European Union that is to be established by the Treaty signed at Rome on 29th October 2004 establishing a Constitution for Europe;

(2) the modification of the power of the Treasury by order under the European Communities Act 1972 to make provision about the imposition of customs duties on goods; and

(3) the payment into the Consolidated Fund or the National Loans Fund of sums received by a Minister of the Crown or government department by virtue of the Act.—*[Gillian Merron.]*

*Question agreed to.*

## A14

*Motion made, and Question proposed,* That this House do now adjourn.—*[Gillian Merron.]*

7.39 pm

**Mr. James Paice** (South-East Cambridgeshire) (Con): I am grateful for the opportunity to speak about the A14 in Cambridgeshire and I am pleased that my hon. Friends the Members for South Cambridgeshire (Mr. Lansley) and for Huntingdon (Mr. Djanogly) are in their place this evening. I hope that they will be able to catch your eye, Madam Deputy Speaker, because the road runs through their constituencies as much—in some cases more—than mine and it affects all three of us.

Before dealing directly with the main issue, I want to express to the Minister in the strongest possible terms my anger at how I have been treated by the Highways Agency over the last few days. On Monday, I requested the latest information on traffic volumes to prepare for this debate. After several prevaricating and clarifying conversations, my office was informed at nearly 5 pm this afternoon that the Minister's office had refused to release the information—*[Interruption.]* The Minister seems to be suggesting that that is untrue, but if he listens, I will tell him exactly what happened. That fact was confirmed to me by his office as being in accordance with the Freedom of Information Act 2000. Subsequently, his office claimed that he had given permission for the information to be released, for which I am grateful, but I shall show that I have been given only partial answers to some of my questions. I have to question the basis of a freedom of information Act that apparently relies on a Minister to decide whether or not information should be released.

The critical issue to all three of us—it has been for many years—is the A14. Prior to 1997, most of the route from the Suffolk border almost as far as Huntingdon was in my constituency. Now, my patch includes only the section east of the Girton interchange. This debate is primarily about the sector from what is known as the Spittals interchange at Huntingdon to the A10 junction in my constituency.

The road is of local and national significance. It is the main commercial route between the west midlands and our biggest container port in Felixstowe. It is the main north-south route to east London, docklands and the channel crossing. Indeed, it is signposted as such on the A1. Within a few short miles, six lanes become four, then two—yet the traffic does not diminish. The stretch eastward from Girton is also the Cambridge bypass, but it is also a local road, which people have to use to get to and from Cambridge to work or study.

The Office of the Deputy Prime Minister has decided that we must have 47,500 new homes in the Cambridge sub-region, including a new town at Northstowe, a few miles east of the A14. That development cannot go ahead without A14 improvements. That is not just my view; it is the considered view of Cambridgeshire Horizons, the organisation representing all the local authorities, businesses, the university and others who are taking the development forward.

On the matter of the road conditions, anyone using it will, anecdotally, testify to the problems, particularly daily traffic jams at peak times, often stretching for

*[Mr. James Paice]*

several miles. Local and national radio traffic flashes feature the A14 probably more than any other road in the country. One constituent wrote to me over the weekend:

"The journey time to Peterborough can now take anywhere from 1–2 hours. I never know what time I will arrive at the office or what time I will arrive home".

Those anecdotes are supported by the few statistics that I do have. Traffic volumes between the Hinchingbrooke and Girton interchanges—not quite the whole length that we are discussing—have increased from 63,000 in 1997 to almost 72,000 in 2003. It worries me, Madam Deputy Speaker, that the Government and the Highways Agency are so anxious not to publish all the figures, presumably because the picture is so awful.

What I can tell the House, as the county council kindly provided me with the information, is that, sadly, there has been an increase in accidents over the last nine years—not a politically significant period. Particularly on the stretch to which I referred, the number of accidents has risen by almost 40 per cent. I understand that it was particularly bad for two years, in 2000 and 2001, and it improved a little after that. It is now worsening again. Last year, there were 106 accidents in which, sadly, four people lost their lives, 232 were seriously injured and 148 slightly injured. The accident figures show that the accident rate per million vehicle kilometres on this critical stretch of road has increased from 0.13 in 1997, to 0.15 in 2003. That means that the road has become 15 per cent. more dangerous over that period.

Behind those statistics lie some very personal matters. One of them is the huge cost and distress inflicted on people caught up in the aftermath of accidents. It is not unknown for the road to be closed for many hours; it was closed for a whole day on one occasion last year. I received an e-mail from a consultant working in the accident and emergency department at Addenbrooke's hospital. He said:

"As an A and E consultant at Addenbrooke's hospital . . . I sadly see all to frequently the so many badly injured people from the notorious A14 motorway. A large number of us doctors, nurses and other staff spend hours, days, weeks and months putting their shattered bodies back together again and hopefully their lives too. Unfortunately, many succumb, leaving behind their families to pick up the pieces."

The consultant continues:

"I believe that if the A14 is improved, we will see a dramatic reduction in the number of motor vehicle crashes, with an associated reduction in the number of deaths and seriously injured patients. There is robust scientific evidence that such road improvements and other preventative measures make a difference and lead to fewer and less serious injuries."

That consultant sees the real impact of what has not been achieved. However, there is also environmental damage. We all know that slow-moving traffic is a serious cause of pollution. There is also the impact on all villages in the area. The county council is spending thousands of pounds on traffic calming measures to deter the many drivers who use the villages as rat runs to avoid the A14. The county council itself is seriously affected in a direct way because it is prevented from making plans to improve various other roads locally because it does not know what is happening to the intersections on the A14.

A former roads Minister said:

"the No. 1 priority for East Anglia has been the A14. That dual carriageway trunk road all the way from the M1 . . . to Felixstowe is one of the key strategic routes for the region . . . The A14 is . . . one of the 14 Christopherson priority projects for the European Community and it is eligible for some funding from the trans-European networks budget.—[*Official Report*, 14 February 1996; Vol. 271, c. 1117.]

That was John Watts, in 1996.

The present Government inherited a scheme between junction 14 on the M11 and the A1-M1 link—that is, to Huntingdon—and £122.3 million was allocated to meet the standard cost. By 1998, the scheme had been downgraded from "scheme in preparation" to one that was

"subject to further studies and/or consultation by regional planning conferences."

In 1998, my hon. Friend the Member for South Cambridgeshire held an Adjournment debate on the A14. The then Minister, the hon. Member for Hampstead and Highgate (Glenda Jackson), replied by previewing the multi-modal study that was finally completed in 2001. It recommended extra lanes for most of the existing dual carriageway, with a new southern bypass for Huntingdon. It also recommended a public transport system along the lines of the old St. Ives railway, to take some commuter traffic off the A14 and to serve Northstowe. The present Minister is aware that the county council has proposed a controversial guided bus system, and we await the outcome of the public inquiry.

The Secretary of State for Transport announced a project worth £490 million to build a three-lane carriageway and a southern bypass for Huntingdon. That was on April Fool's day, 2003—and perhaps that was no coincidence—but we all cheered, and there is no getting away from that. He said that the improved road was expected to open around 2010, and added that the Highways Agency would develop the scheme to the stage where the public could be consulted.

That was almost two years ago. Just before Christmas 2004, the present Minister said that the public consultation had been put back to allow more time for the Highways Agency to consider an alternative proposal—as if the multi-modal study had not had time and opportunity to consider all options.

Replying to questions from me and my hon. Friend the Member for Huntingdon, the Minister said that the consultation could start in spring 2005, and that he hoped that slippage would be slight. He told the hon. Member for Cambridge (Mrs. Campbell) that it was incumbent on the Government to "tackle the worst first", and that the greatest problem had to be dealt with first. But when the *Cambridge Evening News*, which is rightly campaigning for the improvements, phoned the Highways Agency, it was told that there was no priority list and that the agency could not name another A road in more need of upgrading than the A14. That statement was confirmed to me by the Minister's office today.

It is now February 2005 and, as far as my constituents are concerned, we are getting nowhere. In the view of the *Cambridge Evening News*, it is "Delay, delay, delay". I look not for pleasantries from the Minister tonight, but for real commitments. He may wish to dismiss my comments as electioneering and seek to reassure us that

all is on track. Frankly, nobody will believe him. Every local authority involved in Cambridgeshire Horizons, the chamber of commerce, the local papers and all the businesses in the area are convinced that no progress has been made. As a constituent said to me in an email:

"No-one in the Highways Agency appears to be taking control of this matter. This would not be allowed in a PLC, heads would roll and so they should."

Will the Minister tell us when the public consultation will begin? He should by now be able to be absolutely specific—my hon. Friend the Member for South Cambridgeshire has some detail of previous promises on that point. Will a public inquiry be necessary or can the Minister assure us that that can be avoided? If we must have one, when will it be and how much delay would it involve? Most importantly, when will we see some action? Can the Minister confirm that the announcement of £490 million in 2003 is still in the programme? When does he expect soil to be shifted and work to begin? When does he expect the new road to be open? Given the delays that have occurred and the increasing problems that I have described, I believe that the people of Cambridgeshire are entitled to the answers.

7.51 pm

**Mr. Andrew Lansley** (South Cambridgeshire) (Con): I am most grateful to my hon. Friend the Member for South-East Cambridgeshire (Mr. Paice) for permitting me to make a short contribution. I congratulate him on securing this debate and on presenting it so comprehensively and expertly. I know that my constituents will be grateful to him for the way in which he has presented the issue.

My hon. Friend kindly mentioned that I had also brought up the issue on 16 December 1998. It is now six years later. Since then, my hon. Friend and I have fought for the multimodal study on the Huntingdon to Cambridge corridor to be put into tranche 1, because the Government were going to put it into tranche 2. After it came out of tranche 2, we had to fight for the right route to be selected. Then we had to fight for it to be put into the targeted programme of improvements. As my hon. Friend rightly pointed out, we thought—given the Government's rhetoric—that the targeted programme of improvements equalled a commitment to proceed with a small number of projects on the fastest possible timetable, so that something would actually happen.

My hon. Friend rightly said that some villages are deeply affected by this issue. He knows that because he represented them in the past. I have represented them since 1997, and they include Bar Hill, Lolworth, Conington, Longstanton and Oakington. It is virtually impossible to leave those villages or to travel south or north when the A14 is blocked—and that is often the case. That makes life in those villages intolerable and it is vital that we have a public consultation on the route as quickly as possible, so that the people living in those villages can see an end in sight to the blight on their lives.

My hon. Friend said that I had more detail on the date of the public consultation and indeed I do. I wrote to the Highways Agency in June and it told me in a letter later that month that the public consultation would start in September 2004. It did not. I wrote to the Minister in October and he replied the same month, saying:

"We now expect to start public consultation on proposals for the scheme in December."

I wrote to the Minister in November, but he replied that there was

"nothing to be gained by rushing this stage . . . public consultation is now expected to start early in the New Year."

I wrote to him in December, when he replied:

"This will delay the public consultation until the Spring of next year."

Well, if we look outside at the weather, it would appear that spring has arrived. I wrote to the Minister in January and he replied on 1 February. All that he could say was that

"You will be advised as soon as a date is fixed for the public consultation."

As my hon. Friend said, it is now approaching two years since the targeted programme of improvements was announced. I said back in 1998 that it would be unacceptable for it to be as long as 10 years before work was undertaken on this road. We are now approaching the point at which it will go beyond 10 years, and it is indeed unacceptable.

7.54 pm

**Mr. Jonathan Djanogly** (Huntingdon) (Con): I congratulate my hon. Friend the Member for South-East Cambridgeshire (Mr. Paice) on securing this debate and thank him for allowing me a couple of valuable minutes in which to speak.

The people of Huntingdonshire are tired—tired of constantly hearing of the accidents and deaths on the A14, tired of their inability to get around Cambridgeshire, tired of diversions, tired of A14 accident traffic running through their villages, and tired of this Government's consistent shilly-shallying, delaying and false raising of hopes.

I have written more letters to Ministers and asked more written and oral questions on the A14 than on any other issue. Much good it seems to have done anyone. Every few months, there is a new reason for delay and some lame excuse from Ministers. In December, the Minister wrote to me that the consultation was delayed from January to spring 2005. He has not, however, seemed in much of a hurry to set a date.

In demanding action on behalf of my constituents, I make three brief points. First, last Saturday, I talked to a pre-eminent research doctor who lives in my constituency. He works in Cambridge, but is now considering moving because of his inability to commute on the A14. Thus we see the ripple effect out from Cambridge—which is meant to be a regional priority—going into reverse. We all have big plans for the eastern region, but if this road is not sorted out, those plans are next to useless, as will be this Government's plans to build thousands more houses in the region.

Secondly, the Government must start to put the A14 plans in the context of the separate plan for the A1 and the A428. I have been shocked at how disjointed the Government are on what is meant to be multi-modal transport.

Thirdly this is a national problem. If every local car between Huntingdon and Cambridge were taken off the road, traffic would decrease by less than 5 per cent. on the A14. Therefore, while better local public transport is

*[Mr. Jonathan Djanogly]*

welcome, it will do next to nothing in itself to solve the problem of what is the main road from the docks to the west midlands.

With rail expansion simply not happening, the Government owe it to the people of my constituency, the region and the country to get the new A14 built and to do it now.

7.57 pm

**The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson):** I congratulate the hon. Member for South-East Cambridgeshire (Mr. Paice) on securing this debate, and on giving the House an opportunity to discuss this section of the A14. Unfortunately, the hon. Gentleman started the debate in rather a churlish manner, and complained about the way in which he said that he was treated by my office. He requested some information in an e-mail—I have it here—that arrived at 6.19 pm on Monday.

**Mr. Paice:** Will the Minister give way?

**Mr. Jamieson:** No, not for a moment. The hon. Gentleman will listen to what I have to say now.

At 6.19 pm on Monday, the hon. Gentleman requested some information via a complex set of questions, and my officials set about putting the information together for him the next morning. The information arrived in my office at 2 o'clock today, and as soon as possible I made sure that the information was provided to his office in a fax that went out at 5.34 this afternoon. Had the hon. Gentleman put in his request in good time, we might have been able to get him more information, and more complete information. As it was, I had to make sure that the information that had been provided to me was properly and fully checked. We were not sure whether some of the information provided by the county council was entirely accurate, so we wanted to check that, too.

Therefore, the hon. Gentleman was provided with information. As someone who has occupied ministerial office in the past, he should know that it takes more than 24 hours to get a complex set of questions answered. Now I will give way to him, and will perhaps hear his explanation and apology.

**Mr. Paice:** There are words that one is not allowed to use in this House, but if I were, I would use them. What the Minister is suggesting is totally untrue. On Monday, my office telephoned the Highways Agency in the morning, and subsequently rang and asked for written confirmation, to which he has referred. This afternoon, his office—I could name the individual in his office, but I will not—stated clearly to me that he had personally ruled that the information could not be released to me because of the Freedom of Information Act 2000. That is absolutely clear.

**Madam Deputy Speaker (Sylvia Heal):** Order. I remind Members of "Erskine May". The words "good temper and moderation" come to mind, so perhaps they will bear them in mind.

**Mr. Jamieson:** Yes, Madam Deputy Speaker. I have explained to the hon. Gentleman when the information was sent in writing. In fact, what I asked to be conveyed to him was that we could not provide the information until we had checked its accuracy. Fortunately, that was done later in the afternoon and it was then given to him. He was told that under the Freedom of Information Act 2000, there could be a delay of up to 20 days before he received it. I hope that I have clarified what happened, for the benefit of the House.

The A14 was established as a trunk road in 1994 following completion of a new high-standard dual carriageway between the M1 and M6 junction at Catthorpe and Huntingdon. It is a route of strategic national importance, connecting the midlands with the ports of Harwich and Felixstowe. As the House will know, it is a mixture of dual two-lane and dual three-lane carriageway and has a variety of junction types, some with flyovers and some without. Congestion at peak hours at the Milton and Histon junctions caused by traffic queuing into Cambridge affects A14 through-movements. Average daily traffic flows on the A14 in Cambridgeshire range from 40,000 at Ellington to 72,000 between the St. Ives interchange and Bar Hill.

We are concerned about the casualty rate on the A14. Records for the period 2002-04 show an average of 200 personal injury accidents per year. Although the number of accidents is relatively high—any accident is unacceptable—the rate is below the national average for similar dual carriageway. That said, I do recognise that any accident is regrettable and involves human misery.

Following the Government's strategic review of the roads programme in 1998, we announced our intention to carry out a study of the problems on the A14 between Cambridge and Huntingdon. The Cambridge to Huntingdon multi-modal study—known as CHUMMS—reported in August 2001. The East of England local government conference, the predecessor to the East of England regional assembly, concluded that the preferred plan was consistent with the emerging regional transport strategy for the east of England and represented an integrated package that should form the basis for resolution of transportation problems in the corridor. The Government accepted the Conference's view that the package was a sound basis for pursuing integrated transport solutions, and asked the Highways Agency to take forward the recommended A14 improvement scheme.

The multi-million pound A14 Ellington to Fen Ditton improvement was added to the Government's targeted programme of improvements in April 2003. I should remind the hon. Members for South-East Cambridgeshire, for South Cambridgeshire (Mr. Lansley) and for Huntingdon (Mr. Djanogly) that this scheme includes the widening of the A14 between the M11 and the A10, and that such a scheme was withdrawn by the previous Conservative Government in 1996. The hon. Member for South Cambridgeshire said with mock indignation that the situation is a disgrace, but if his party were in government, there would be no such scheme at all. The 2004 spending review has confirmed that the scheme is of national importance and will be progressed for future construction.

But there is much that we are doing in the short term, and the Highways Agency is also doing a lot to improve safety. Measures to improve traffic signing and white lining are programmed for completion before the end of this March. Such measures, combined with the

installation of closed circuit television cameras and incident detection equipment—the latter has already been installed—are elements of the CHUMMS preferred plan. The agency is also in the early stages of planning other safety improvements for later in the year, including a further extension of the existing CCTV coverage.

The Highways Agency has also undertaken in-depth analysis of the accidents at the Spittals and Brampton Hut junctions, and it is developing short-term and medium-term measures to reduce the number of crashes at these locations. A scheme to provide improved traffic signs and road markings at the Spittals interchange is programmed to commence later this month; it will take about a week to complete. That will be complemented in 2005–06 by the installation of traffic signals, which will bring safety and journey time benefits. Many other improvements are being made to that stretch of road, but I do not have time to expand on them this evening.

Following a tragic accident on the A14 last year, the chief constable of Cambridgeshire asked representatives of the Highways Agency to travel the A14 with him and undertake an audit to address safety issues and driver behaviour. In September 2004, the agency assisted Cambridgeshire police in a multi-agency operation to monitor safe driving practice along that section of the A14. Special patrols spent a week monitoring drivers in a bid to put a stop to tailgating, needless overtaking and other offences involving mobile phones and seat belts. That survey exposed many instances of poor driving behaviour.

Returning to the Ellington to Fen Ditton improvement, I acknowledge the support for the scheme, but whatever the level of support, it is important to ensure that all opinions are properly invited and considered. Hon. Members will be aware that as a result of consultations with local authorities in preparation for the public consultation about the scheme, an alternative proposal, which differs from the strategy proposed by CHUMMS, has been suggested by the residents of Buckden in the constituency of the hon. Member for Huntingdon.

**Mr. Djanogly:** Will the Minister give way?

**Mr. Jamieson:** No.

One reason why the delay has occurred is that we have listened to local residents and are examining the alternatives. The alternative proposal would retain the existing A14 past Huntingdon operating as a dual carriageway trunk road with a new route from Fenstanton to Ellington as a two-lane dual carriageway. The net effect would be to provide four lanes in total in each direction, instead of the three provided by the CHUMMS option.

An initial examination of the alternative proposal has concluded that it is essential that its merits and impacts are fully and properly assessed. At an early stage, CHUMMS assumed that the existing A14 past Huntingdon would carry local traffic only. I believe that it is important that work at this stage is carried out in sufficient detail to enable the proposals put forward for public consultation to be robust and to minimise the risk of lengthier delays to the scheme later in its programme. Public consultation on proposals for the scheme has therefore been put back a little to allow the Highways Agency time to consider the alternative.

My hon. Friend the Member for Cambridge (Mrs. Campbell) has also attended this debate and also takes an interest in that stretch of road. Her representations to my Department have been constructive, however, and instead of taking the churlish approach adopted by Conservative Members, she has been helpful.

We expect the consultation to start in spring 2005. There has been a great deal of media coverage about the delay to the scheme. When the scheme was added to the targeted programme of improvements, the Highways Agency aimed to start work in 2008–09. That will be difficult to achieve, but the agency has confirmed that it may still be possible. The scheme has not been delayed by the spending review announcement and was always scheduled for delivery in 2008 onwards.

I am glad that we have had time to expose some of the arguments. Anybody reading the *Hansard* report of the debate will reflect on the remarks made by Conservative Members—but were they in office, this debate would not need to take place because that road would not be being improved at all, and I am glad to have had an opportunity to put that point on the record.

*Question put and agreed to.*

*Adjourned accordingly at eight minutes past Eight o'clock.*

# House of Commons

*Thursday 10 February 2005*

*The House met at half-past Eleven o'clock*

PRAYERS

[MR. SPEAKER *in the Chair*]

# Oral Answers to Questions

## ENVIRONMENT, FOOD AND RURAL AFFAIRS

*The Secretary of State was asked—*

### Environment Agency

1. **Mr. Barry Sheerman** (Huddersfield) (Lab/Co-op): What steps she is taking to improve the capacity of the Environment Agency to tackle illegal waste dumping and fly-tipping. [215588]

**The Minister for the Environment and Agri-environment (Mr. Elliot Morley):** A number of measures have been included in the Anti-social Behaviour Act 2003 and the Clean Neighbourhoods and Environment Bill.

**Mr. Sheerman:** Does my hon. Friend agree that the Environment Agency does a very good job and that it is increasingly being given new roles with European directives, one after the other, on waste electrical and electronic equipment, end-of-life vehicles and hazardous waste? At the same time, the Government are saying, through the Gershon review, that we must make all Departments cut back, and the James report from the Conservative party says that the Environment Agency should lose 1,200 jobs. Is that the way to ensure that the Environment Agency has the capacity to look after our environment?

**Mr. Speaker:** Order. The James report is not a ministerial responsibility.

**Mr. Morley:** I welcome that guidance, Mr. Speaker, but I certainly join my hon. Friend in welcoming the work of the Environment Agency. Indeed, its role is absolutely vital in environmental protection, environmental standards and the collection of waste. Any ill-thought-out measure that would seriously weaken its environmental protection department would be bad for the community and bad for the environment.

**Dr. Alan Whitehead** (Southampton, Test) (Lab): Does my hon. Friend plan to publicise the new regulations on waste tipping, which could be introduced as a result of legislation being passed by the House? Might he consider giving anyone with a farm or premises where fly-tipping is taking place a large notice telling the men in white vans that their vehicles could be confiscated, and the costs of recovering those vehicles would have to be paid by them, if they continue to fly-tip in the future?

**Mr. Morley:** It is certainly important that we raise awareness about the penalties for fly-tipping in particular. The Clean Neighbourhoods and Environment Bill will strengthen the penalties that can be applied and give local authorities and the Environment Agency more powers, including on the seizure of vehicles, as my hon. Friend rightly suggests. We have been working well to raise awareness with a range of stakeholders, including the Country Land and Business Association, the National Farmers Union and the Local Government Association. I have been pleased to see the targeted action that the Environment Agency has been taking with various campaigns to seek out areas at high risk of fly-tipping and, along with the police, to stop and search vehicles.

My hon. Friend might also be interested to know that under the BREW—business resource efficiency and waste—fund, which comes from landfill tax, we have made available to the Environment Agency £2 million in additional funds, in particular to tighten up the permitting and transfer of waste.

**Mr. Peter Pike** (Burnley) (Lab): In Burnley, waste dumping and illegal fly-tipping is a major problem. We get waste dumped in the backyards of empty properties and the council is clearing it up all the time. One of the biggest problems is that small builders who are working on one property dump the waste in the backyard of another property. Should we not impose draconian penalties on those people and, if necessary, put them out of business because that practice is unacceptable?

**Mr. Morley:** I agree with my hon. Friend. Fly-tipping is antisocial, selfish and, of course, brings with it environmental risks, and we must use all the measures that we can to stop it. Under another measure in the Clean Neighbourhoods and Environment Bill, site plans must be produced for large construction works to make it clear where the construction waste will go, so those sites will be clearly identified. Of course there is a threshold for that—it will not apply to small operators—but the Bill also contains measures to ensure that the landowners of empty properties take action either to secure the property or to clear it up when it is used as a tip, and that people who are responsible for fly-tipping take on the costs of the clean-up as well.

### Climate Change

2. **Tony Lloyd** (Manchester, Central) (Lab): What assessment she has made of the scientific evidence presented at the avoiding dangerous climate change conference. [215590]

**The Secretary of State for Environment, Food and Rural Affairs (Margaret Beckett):** The conference on avoiding dangerous climate change, which was convened by my Department from 1 to 3 February, concluded that the risks of climate change were even more serious than previously thought. It provided new

scientific evidence that underlined the need for urgent work on both climate change mitigation and adaptation.

**Tony Lloyd:** My right hon. Friend once again deserves the thanks of the whole House for convening that important conference. As she pointed out, its conclusions were consistent with recent reports showing that climate change and the pace of change are worse than we thought. Although I welcome the implementation of Kyoto next week, it was disappointing that the European Commissioners announced that they will not establish targets on climate change under Kyoto beyond 2012. Will my right hon. Friend tell the House whether we can use our EU presidency to ensure that we firmly push forward the agenda, perhaps change the Commissioners' view on the matter, and make sure that Europe takes the lead with the United States, Japan and, importantly, the newly industrialising world so that we get a grip on the problem of greenhouse gases now? Frankly, if we do not do that now, we are betraying future generations.

**Margaret Beckett:** I take entirely the point that my hon. Friend makes. We will be engaging with some of the newly developing countries, especially those with substantial and growing energy needs, at a further conference that we are convening in the middle of March. I understand his worry about whether further targets will be set. We anticipate that we will discuss that issue during the March Environment Council. Our likely discussions will centre on whether the scientific and economic analysis informs dialogue and debate on whether further targets should be set, when they should be set and what their form might be. It is important for us to have an evidence-based discussion of the kind that we held in this country before we published our energy White Paper.

**Mr. Andrew Turner** (Isle of Wight) (Con): Was any evidence presented at the conference on the effect of default demolition, which English Nature estimates costs the equivalent of 3,000 gallons of petrol for every Victorian terraced house? *The Daily Telegraph* described the demolition of homes as "Prescott's 'first resort'". Has the Secretary of State discussed with the Deputy Prime Minister whether that fits neatly with her green agenda?

**Margaret Beckett:** I am afraid that the conference did not concentrate on default demolition. It considered what the key impacts of climate change are likely to be for different regions and sectors, as well as for the world as a whole. It also considered what levels of climate change imply about the stabilisation and concentration of greenhouse gases, the emission pathways that would enable different stabilisations and concentrations to be reached, and the technological options. With due respect to *The Daily Telegraph*, the scope of the discussions was a little different.

**Mr. David Chaytor** (Bury, North) (Lab): Does my right hon. Friend accept that public understanding about the link between burning fossil fuels and climate change is still at a comparatively low level? People now clearly understand the links between tobacco and cancer, and between junk food and heart disease, but we have a long way to go before most of my constituents clearly understand the impact of burning fossil fuels. Is there more that the Government can do to improve public awareness?

**Margaret Beckett:** Yes, I take my hon. Friend's point entirely. He is right that the links are less well understood in this area, which is at least in part because in the effort to ensure that all points of view are heard, media coverage tends to put a disproportionate emphasis on the views of those who are way outside the scientific consensus on the matter. He is entirely right that we realise that there is more to do to increase communication on the issue. We have given extra resources to both the Carbon Trust and the Energy Saving Trust—he might have seen the new campaign that the Carbon Trust has started to run—and we are getting advice about a further communication programme to be run by the Government, for which we were given money in the spending review.

**Mr. Tim Yeo** (South Suffolk) (Con): I join the hon. Member for Manchester, Central (Tony Lloyd) in congratulating the Government on holding the conference last week. Given the serious conclusions, are the Government worried that carbon dioxide emissions have not fallen since they came to power, that they will miss their own target for cutting carbon dioxide emissions by 2010, that their renewable energy target is no longer credible, and that because of their incompetence, British companies cannot take part in the European Union emissions trading scheme? Is it not all too clear that a far more urgent response to the threat of climate change is now needed and that no amount of fine words from the Prime Minister will cover the gaps in the Government's policy?

**Margaret Beckett:** Of course we are disappointed that $CO_2$ levels have not fallen, but the hon. Gentleman is stretching things to say that we will miss our target. We are not in 2010 yet—in fact, we are some five years away. It was intended from the beginning, when the climate change programme was established in 2000, that the programme would be reviewed. It was always thought likely that the measures would not be sufficient to get us to our 20 per cent. target by 2010. No such target was missed by the previous Government because they did not have a target for meeting carbon dioxide levels.

**Mr. James Paice** (South-East Cambridgeshire) (Con): That was before Kyoto.

**Margaret Beckett:** Yes, but we have moved substantially beyond the levels of greenhouse gas emissions that we inherited from that Government. I am not criticising them because they made progress, but we have made still more and have, indeed, exceeded our Kyoto target.

On the emissions trading scheme, I know that it is too much to expect consistency from the Conservatives, but considering how much they criticised us when we announced our initial proposals for a national allocation plan—

**Norman Baker** (Lewes) (LD): And they prayed against the regulations.

**Margaret Beckett:** Indeed, they also prayed against the regulations. So it is a bit ironic that they criticise us for trying to amend that plan.

**Mr. Yeo:** However hard the Secretary of State tries to mislead people—[HON. MEMBERS: "Oh."]—about the Conservative party's attitude to emissions trading, nothing will stop us telling the truth about the Government's failures. [HON. MEMBERS: "Withdraw."] We have always supported the principle of emissions trading—

**Mr. Speaker:** Order. Hon. Members sometimes tell me how to do my job. The hon. Gentleman is in order, but he is close to the edge.

**Mr. Yeo:** I am grateful for your guidance, Mr. Speaker.

Is it not disgraceful that at the time when the Prime Minister is putting climate change at the heart of Britain's presidency of the European Union, Britain, along with Greece and the Czech Republic, are not even in the emissions trading scheme? We all support the principle of targets, but it will not add to the Government's credibility if they defy the clear evidence that their targets for renewable energy and cutting carbon dioxide emissions will be missed, despite the fact that, after five years of continuous economic growth under the previous Government, they inherited falling carbon dioxide emissions.

The next Conservative Government will make transport greener, do more to promote energy efficiency for the benefit of households and business, and develop a wider range of renewable energy sources than Labour has done. Does the Minister realise that if we are to achieve our objectives and obligations, those are the very steps that the Government should be taking?

**Margaret Beckett:** I reject utterly any suggestion that I misled the House. All I did was remind it that the Conservative party—*[Interruption.]* I am sorry, but the hon. Gentleman said I was misleading people. I was not. I referred merely to the simple fact, which is on the record, that the Conservative party prayed against the emissions trading scheme regulations. I was delighted to be told the other day that, nevertheless, the Conservative party supported the principle of such regulations. I have not since said, and will not say, that the Conservatives oppose the principle, but I am entitled to draw attention to the record. I am certainly entitled to draw attention to the Conservatives' inconsistency in criticising us, as they did, for hitting British industry when we published our original proposals and now criticising us for trying to amend them.

I have made no attempt to deny where we are with the targets. It should concern everyone in the House that we are not finding it as easy to meet those targets as had been thought, and we will have to do more. I trust that we will get support from the Conservatives for the measures proposed in the climate change review programme.

As for the notion that the Conservatives would do more on energy efficiency, the Conservative Government did not recognise the issue of fuel poverty, and certainly no steps were taken on energy efficiency to help the millions of people who have been helped by this Government. The hon. Gentleman says that we need a wider range of renewables. I agree absolutely. What a pity, therefore, that the Conservatives cut the funding to programmes such as marine and coastal renewables when they were in power.

**Linda Gilroy** (Plymouth, Sutton) (Lab/Co-op): My right hon. Friend will know that nine out of 10 of the most costly insured weather catastrophes since 1970 happened in the past 15 years. Was the insurance industry represented at the conference? What prospect does she see for engaging that industry in urging those who are rather laggard in realising the dangers of climate change to take more urgent action?

**Margaret Beckett:** My hon. Friend is entirely right. The dangers to which she draws attention are very real. The insurance industry was not represented as such at the conference. It was a conference of scientists that was convened and run by the scientific community. My hon. Friend is right that there is increasing awareness not only in the insurance industry but, as I heard myself during recent conversations that my right hon. Friend the Prime Minister had with the World Economic Forum in Davos, in the banks, which are increasingly warning those who use their services that their preparations for and understanding of the risks of climate change will, in the long term, be a factor in the assessment of their financial record and probity.

**Norman Baker** (Lewes) (LD): May I welcome the work that the Secretary of State's Department has done in co-ordinating the scientific evidence on climate change? It has taken a lead within the Government in promoting the necessary radical action that we need, although sometimes it has lost out to other less enlightened Departments, which demonstrates the importance of the departmental structure. Have discussions been taking place within the Government on the possible abolition or reconfiguration of DEFRA, to be announced shortly after the election?

**Margaret Beckett:** I am not aware of any such discussions. I am constantly urged in conversations, particularly, for example, with non-governmental organisations, that my Department should take in all of energy policy, all of planning or all of transport. That is all very interesting, but I am aware of no plans that we should do so. I am grateful to the hon. Gentleman for his remarks.

Alongside the concerns expressed and warnings given about the increased danger and urgency of the problem, the scientific community also judged that many of the technological options for tackling the problem already exist, and that significant moves forward could be made at a lower cost than some had previously believed. That is an important and worthwhile message that I hope will come out of the conference.

### Wild Birds

3. **Mr. Ben Chapman** (Wirral, South) (Lab): If she will make a statement on numbers of wild birds in the UK. [215591]

**The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Mr. Ben Bradshaw):** Thanks to the policies of this Labour Government, wild bird numbers, after decades of decline, are now recovering. Among threatened species that are increasing are the bittern, the corncrake and the cirl bunting. Others, including some more common species, such as the house sparrow and starling, are still declining. However, I can announce that from 1 March the house sparrow and the starling will enjoy increased legal protection.

**Mr. Chapman:** Will my hon. Friend join me in congratulating the Royal Society for the Protection of Birds on the 25th anniversary and success of its big garden bird watch, in which nearly half a million people took part and which is important in identifying declining numbers of particular types of bird? Will he join me in congratulating the RSPB also on the stance that it has taken on the potential effects of dredging in the Dee estuary and the damage that that could cause to this important wild bird habitat? Will he urge the authorities concerned in reaching a decision on the dredging of the Dee to take a view that fully balances the important ecological considerations alongside those of commerce?

**Mr. Bradshaw:** Yes, on my hon. Friend's latter point I can give him the assurance that he seeks. I am happy to join his congratulations to the RSPB on the excellent work that it does, not least through the garden bird watch scheme, in which I would urge right hon. and hon. Members and the public to participate, as I do.

**Mr. James Gray** (North Wiltshire) (Con): The wild birds at Highgrove, which is just outside my constituency, will no doubt join me in congratulating my constituent, Mrs. Parker Bowles, on the exciting news of her forthcoming marriage.

We very much welcome the slowing of the decline of wild bird populations that the Minister described in his answer, but we remain concerned about some of the species that are still being heavily predated. Will he explain why it is that under the Hunting Act 2004 dogs may still be used for the protection of pheasants, grouse and partridge, but not for the protection of corn buntings and turtle doves?

**Mr. Desmond Swayne** (New Forest, West) (Con): What about cats?

**Mr. Bradshaw:** The hon. Member makes a good point from a sedentary position.

The hon. Member for North Wiltshire (Mr. Gray) is wrong that those species are still declining. Some are, but most of the species on the list are increasing, thanks to a number of policies that the Government have introduced, not least the agri-environmental schemes that will be built on by common agricultural policy reform.

The situation with raptors is variable. Sparrowhawks and buzzards are doing well, but the kestrel is doing less well. However, there is no evidence to suggest that the decline in some songbird species is the result, even primarily, of the actions of birds of prey. Cats, as the hon. Member for New Forest, West (Mr. Swayne) pointed out, are a far bigger danger.

**Jeff Ennis** (Barnsley, East and Mexborough) (Lab): Will the Minister join me in commending English Nature on transforming 40 derelict pit sites into lowland heath landscapes which, I am sure he will agree, are excellent habitats for many of our wild native birds?

**Mr. Bradshaw:** Yes, my hon. Friend has highlighted one of a number of projects supported by the Government to restore the habitats that the country has lost over preceding decades. The lowland heath habitat to which he referred is particularly important, partly because it is very rare, but also because it is home to some species that in the past have been most threatened.

**Mr. John Randall** (Uxbridge) (Con): The Minister claimed that the Labour Government have been good for birds. What are their plans for cormorants?

**Mr. Bradshaw:** Cormorants are one of the species that have done extremely well in the past 20 years, and their numbers have increased a great deal. The hon. Gentleman is right. Last year, after listening carefully to the views of both the RSPB and the angling community, we decided to change the licensing regime for cormorant culling because of the damage that they were inflicting on some fisheries. However, even if the maximum number of licences were issued, the cormorant population would still be far higher than it was under the Tories.

## Recycling

4. **Helen Southworth** (Warrington, South) (Lab): What initiatives her Department has undertaken to support recycling by local communities. [215592]

**The Minister for the Environment and Agri-environment (Mr. Elliot Morley):** DEFRA, through its waste implementation programme, is currently delivering a package of targeted support to both local authorities and local community sector organisations across England to help raise recycling, composting and re-use rates.

**Helen Southworth:** In the UK, we recycled 3 billion aluminium cans in 2003, including 1 million in the Novelis plant in Latchford in my constituency. That is a huge number but, in the same year, 4 billion cans were thrown away. Every single recycled aluminium can saves enough energy to power a television set for three hours, so we saved 600 million kW of energy in 2003. However, we wasted a lot more. Will my hon. Friend commission research to identify voluntary schemes that provide recycling incentives so that more consumers will recognise the value of their empty cans?

**Mr. Morley:** My hon. Friend is right to draw attention to the energy saved through recycling, which avoids the need to make new cans from raw materials. As she may know, we have been running a campaign, "Recycle Now". The evaluation is encouraging, as it shows that the message is getting through to people and

that they are being encouraged to change. I am pleased that our recycling rate has risen from 6 per cent. in 1997 to 17 per cent. today. There is a great deal more scope for improvement, and I accept the point made by my hon. Friend. I am pleased about the recycling rate for aluminium—the prices are also good—but there is an opportunity to do a great deal more, and the Government are committed to doing so.

**Miss Julie Kirkbride** (Bromsgrove) (Con): Given that recycling is such a good thing, would the Minister like to congratulate the Conservatives, as more Conservative councils operate recycling schemes and eight out of 10 of the best council recycling schemes are run by Conservative-controlled councils?

**Mr. Morley:** Let me be clear: I congratulate any council that has achieved and exceeded its targets. Many of the councils that the hon. Lady mentioned were Labour-controlled in the past, and there was a cross-party commitment to establish such schemes. Rather than being partisan about the records of individual councils, we should ensure that all councils achieve the recycling targets set by the Government. I am glad to say that, under this Government, they are doing so.

## Toxic Waste

5. **Mr. Colin Pickthall** (West Lancashire) (Lab): What discussions she has had with the Environment Agency on the control of emissions from toxic waste tips. [215503]

**The Minister for the Environment and Agri-environment (Mr. Elliot Morley):** The Department has frequent discussions with the Environment Agency on a wide range of issues arising from management of landfill sites.

**Mr. Pickthall:** I have here a list of substances classed as permitted waste, which have been dumped into a large toxic waste tip in my constituency. There are 350 of them and most are described as "dangerous". They range through arsenics, asbestos, phosphates, cyanides, mercury, effluent sludges and, ominously, other heavy metals, whatever they include. What work is done to examine how such materials react with one another once they are in such tips, and what monitoring is there of the effect of the emissions on surrounding populations? What work is being done to minimise such materials in production as well as in waste stream processing?

**Mr. Morley:** I understand that my hon. Friend is referring to the White Moss tip, and I appreciate the point that he makes. The White Moss tip has a licence for hazardous waste. It is monitored by the Environment Agency and I understand that action has recently been taken under the pollution prevention and control permits system in relation to odours from the site. The latest information that I have is that the issue comes from an old cell and not one of the new cells, which are engineered to very high standards and must meet the requirements of the Environment Agency and the relevant legislation. I might add that the tip always took hazardous waste and had a licence for former co-disposal. My understanding is that the owners are currently spending £100,000 to deal with the odour problems relating to one of the cells, and that the agency is supervising that and monitoring what goes into the tip.

**Mr. Michael Jack** (Fylde) (Con): The Minister may be interested to know that the Select Committee on Environment, Food and Rural Affairs has recently received from the organisation Beyond Waste a report using official statistics to calculate that 692,000 tonnes of hazardous waste are still unaccounted for. There is dispute about that number, but would he agree to receive a copy of that report and analyse it? Does he accept from me that correct data are required on the volumes of hazardous and toxic waste that have to be disposed of if industry is to have the confidence to make the necessary investments to provide appropriate facilities in the long term to deal with the problem?

**Mr. Morley:** I certainly accept the point that the right hon. Gentleman makes. We have recently put a great deal of effort and resources into improving data capture, which is very important not only in monitoring waste flows, but in guiding our policy. I shall be only too pleased to receive the information to which he referred, and I will look at it seriously, as it is important that we are never complacent about hazardous waste management issues.

Both the industry and DEFRA predicted a substantial fall in hazardous waste, mainly because between 60 and 70 per cent. of hazardous waste was contaminated topsoil. We know that there was an acceleration in the amount of topsoil going into sites before the new regulations were introduced. We also know that many sites will be developed at a later date and that many are also being remedied on site, rather than with the use of dig and dump, which is exactly the outcome that we seek. We want to limit the amount of all waste, including hazardous waste, going into landfill, and there are clear signs that the policies that we are putting in place are having that effect. The amounts are within our predictions, but I shall be only too pleased to look at the figures.

**Mr. Bill O'Brien** (Normanton) (Lab): In addition to the emissions from tips, will my hon. Friend also take into consideration the run-off of surface water into watercourses and rivers, and the experience in my constituency on the Wellbeck site, where a fire broke out and the water that was used to put it out drained into the River Calder? The quality of the water going into watercourses and rivers is an important matter. The Environment Agency addressed that situation, but we must have a great deal of further investigation and research into the toxic water waste from surface water on tips.

**Mr. Morley:** My hon. Friend is right that leachate from tips must be rigorously controlled, and that is a condition of the pollution, prevention and control permit that landfill sites must obtain. I had the pleasure of opening a reverse osmosis plant—I have opened many projects—to deal with leachate on a landfill site, which is an example of the rigorous standards. When a fire breaks out on a tip, the situation is an emergency and run-off is likely to occur. The Environment Agency

which attends such emergencies, has procedures to deal with water run-off and leachate, and it is important that adequate safeguards and regular monitoring are in place.

## Farm Incomes

6. **Mr. Hugo Swire** (East Devon) (Con): If he will make a statement on farm incomes. [215594]

**The Minister for Rural Affairs and Local Environmental Quality (Alun Michael):** Total income from farming in the UK is estimated to have fallen in 2004 by 5.4 per cent. in current prices, or by 8.1 per cent. in real terms, to £3.01 billion. Despite the recent fall, total income from farming in real terms was almost 70 per cent. higher in 2004 than at the low point in 2000.

**Mr. Swire:** Given that the Prime Minister is in an apologising mood, will the Minister take this opportunity to apologise to the hundreds of dairy farmers, and particularly those in the south-west, whose incomes have fallen year on year since Labour came to power? Given that the Secretary of State has consistently stated that she does not think it right or proper for the Government to get involved in negotiations on milk prices, what practical advice does the Minister have for the sector, which is suffering from a lack of Government understanding and woeful neglect?

**Alun Michael:** The apology should come from the Conservative party, which neglected agriculture for decades, so I am surprised that the hon. Gentleman had the cheek to ask the question. If one examines the issues, one sees that a wide gap exists between the performance of the most and least efficient dairy farmers—we concentrated on that issue at the last Environment, Food and Rural Affairs questions. We have made a grant of nearly £500,000 to the Food Chain Centre to examine how to improve dairy supply chain efficiency, because we must address the issue of productivity. In the next few weeks, we will receive a report from the Office of Fair Trading on the operation of the supermarket code of practice. The hon. Gentleman should recognise that the Government are contributing to the many things that are going on.

**Mr. David Drew** (Stroud) (Lab/Co-op): My right hon. Friend understands that farmers want an early sign that they will receive single farm payments. As we live in the era of the Freedom of Information Act 2000, does he agree that the figures on payments by the state to individual farm holdings should be disaggregated, so we can see that the payments are going where they are most needed and that we are getting the best return?

**Alun Michael:** I agree with the principle enunciated by my hon. Friend that it should be clear that money from the public purse is achieving the intended outcomes. Because we are discussing farm incomes generally, it is worth pointing out that the upper trend in incomes since the low point in 2000 reflects increased productivity in the farming sector—labour productivity is up 18 per cent. and total productivity is up 5 per cent. The farming industry is tackling its own problems, and the Government are working with it. As my hon. Friend has suggested, examining what is really happening rather than point scoring will help the industry in the long term.

**Sir Peter Tapsell** (Louth and Horncastle) (Con): Bearing in mind that many Lincolnshire farmers face an acute financial crisis, will the Minister say when the new single farm payment will be made? Will it be paid at the same time as or earlier than under the old system, and will it be staggered?

**Alun Michael:** If the hon. Gentleman had followed the exchanges at the last Environment, Food and Rural Affairs questions, he would know that the single farm payment will consist of a single payment, which will be made at the front end of the window. For a variety of technical reasons, we cannot promise to do that this year, when we hope to make the payment as early as possible. We are working with the industry on the best way of making sure that farmers benefit from the move to the single farm payment and on minimising any disadvantages in moving from the old system of partial payment and supplementary payments, which was not best for farmers. The situation is getting better.

**David Taylor** (North-West Leicestershire) (Lab/Co-op): A few days ago, I went to Cattows farm in Heather in my constituency with pupils from the local primary school to plant trees on that land. Those were some of the 6 million trees that have been planted over the past 10 years in the national forest largely located in my constituency. Will the Minister say a word or two about the potential of reafforestation in contributing towards a boost in farming incomes? Across north-west Leicestershire and south Derbyshire, we are seeing the fruits of what is being achieved in national forests.

**Alun Michael:** My hon. Friend raises a number of interesting points in what seems a simple question. The growth of some 7 per cent. in reafforestation makes a contribution to the income of farmers. Exercises such as that in which my hon. Friend was involved help young people to understand the importance of that, which is crucial. Of course, they also make a contribution to tackling climate change and general environmental improvement.

**Andrew George** (St. Ives) (LD): The Minister has already made it clear that he is aware that many thousands of farmers on the very margins of survival are anxious to hear more news and guarantees about the timing of the single farm payment, particularly its impact on tax records and cash flow. Will he therefore give serious consideration, in his discussions with farmers, to the possibility of an up-front payment of the bulk of the estimated payment before the end of this calendar year, with payment of the residue before the end of the payment window?

**Alun Michael:** If we followed that road, we would increase the bureaucracy involved. As we have said, we want to make the single payment as early as possible, bearing in mind that very complex processes have to be gone through to achieve that. As the hon. Gentleman's question implied, no one has any doubt that in the

longer term, once we have bedded in these systems, making the payment up front, at the beginning of the window, will be to the benefit of farmers, and that it is worth going through the change this year. We will consider with farmers' representative organisations what we can do to ease the transition.

The hon. Gentleman rightly says that many people, particularly farmers on the margins, are looking to the future with some trepidation. However, it is worth pointing out that, this year, the latest farm land values show an increase of 25 per cent., with farmers buying most of it for the first time in many years. Confidence in the industry is increasing. Productivity is the big challenge. We are addressing the variations in productivity across the industry through the strategy for sustainable farming and food and the investment that we are putting into helping the industry to be more efficient and effective and to have a successful future.

**Paul Flynn** (Newport, West) (Lab): Is it fair that farm income should be further boosted by raiding the taxpayers' pocket again for the £600 million by which animals were overvalued during the foot and mouth epidemic? Is it not time to break the link between valuers and farmers whereby farmers can choose their own valuers, who have a perverse incentive to overvalue animals because their commission is paid as a percentage of the animals' total value?

**Alun Michael:** I understand my hon. Friend's point, but compensation that has been paid has been paid: that is in the past. Furthermore, money has been withheld where there were doubts about whether the money was justified. We are sometimes criticised for not having paid out money quickly enough. We are genuinely considering the public interest and ensuring that it is protected, and there have been changes in the system as a result of the experience gained during the crisis. I understand the points that my hon. Friend makes, which have been very much taken on board in the systems that are now in place.

**Mr. James Paice** (South-East Cambridgeshire) (Con): I am sure that the Minister agrees that farmers' incomes in future will increasingly depend on whether they can command a premium in the marketplace to exploit the high standards of production, animal welfare and environmental care. Does he therefore understand the utter frustration that the National Farmers Union, the Tenant Farmers Association and the National Beef Association express about their inability properly to exploit those advantages while the Government continue to allow food to be labelled as British when it is not?

**Alun Michael:** I am not sure whether the labelling of food is the problem. The problems and the fall in income this year are to do with lower market prices for cereals, a rise in input costs—primarily, the higher world oil prices—and movements in the exchange rate. There have also been lower prices for some classes of cattle and sheep. That leads to a fall in income. However, the hon. Gentleman should acknowledge that farm incomes are volatile—they go up and down, year after year and are influenced by many factors. We want to ensure stability and sustainability in farming by increasing productivity. That will enable farmers to compete in the future and to cope with the inevitable volatility in the market.

## Flood Risks (Urban Areas)

7. **Hugh Bayley** (City of York) (Lab): What steps the Government are taking to reduce flood risks in urban areas. [215595]

**The Minister for the Environment and Agri-environment (Mr. Elliot Morley):** Flood risk from rivers and the sea in both urban and rural areas is managed by the Environment Agency and other operating authorities. The Government set the overall strategic framework and provide the great majority of funding, which was projected to be £570 million per annum throughout the 2004 spending review period.

**Hugh Bayley:** I congratulate the Government on sharply increasing their contribution to flood protection. Does my hon. Friend share my concern about the Yorkshire regional flood defence committee's decision to halve local authority contributions to flood protection? Does he believe that it should think again? Will he confirm that the Government's funding for flood defences in Yorkshire will not be cut as a consequence of that short-sighted decision by local authorities?

**Mr. Morley:** I need to talk to my hon. Friend about the details of what is happening in his area. However, I think I may know what has happened. We have moved to a block grant for regional flood defence committees and that means that the levy that local authorities formerly provided will go down. Instead of the money from central Government being paid through local authorities, it is now paid as a block grant to the Environment Agency and the regional flood defence committees. That is a much securer method of funding, which the flood defence committees and the agency have warmly welcomed. I know that approximately £1 million has been spent in my hon. Friend's area since 2000 on upgrading flood defences and, for example, repairing the pumps on the Foss barrier. There is a long-term commitment of £30 million for upgrading the whole catchment area. Part of that money will go to York.

**Miss Anne McIntosh** (Vale of York) (Con): The best way in which to prevent flooding on flood plains is not simply to make the Environment Agency a statutory consultee, but to make its advice obligatory for local planning authorities. Does the Minister agree that it is unacceptable that, out of almost 3,000 planning applications to which the Environment Agency objected, more than 300 were allowed to proceed in blatant contradiction of agency advice? What is his solution?

**Mr. Morley:** Well, I do not think that it is banning all forms of building on flood plains, which the hon. Lady advocated when we discussed the matter previously. The number of planning applications that have gone ahead against the Environment Agency's advice has dropped to approximately 12 per cent. That is a dramatic decline from the former position, including that under the

previous Administration. Some of the applications that went ahead may have been minor. She should understand that there are sometimes conflicts between planning authorities and the Environment Agency. Lincolnshire county council went to court to complain that the Environment Agency was taking too hard a stance in its planning advice. There must be a proper balance. In some cases, inappropriate development on flood plains must be turned down. In the case of appropriate developments on flood plains, the developers should make a contribution to not only defending those properties but mitigating any effect that they may have on other communities in the area.

**Mr. Eric Martlew** (Carlisle) (Lab): I thank my hon. Friend for visiting Carlisle and north Cumbria twice since the horrendous floods on 8 January. His words have been welcome, especially his comments on the new flood defences. However, there is an inquiry into the flood's consequences. Will he give me some indication of its time scale and perhaps its terms of reference?

**Mr. Morley:** Yes, I can. First, I reiterate my sympathy for the owners and occupiers of the 3,000 properties and businesses in Carlisle that were affected, which included the home of my hon. Friend. Having been there, I have seen how he has worked night and day to represent the interests of his constituents during this period. I was pleased, on my second visit, to see the progress that had been made on recovering from the floods. It is important to emphasise that business is getting back to normal in Carlisle; it is open for business and people should support it.

On the inquiry, after every major flood event, we expect the Environment Agency to produce a detailed analysis of its causes, so that we can learn from the event and feed that knowledge into future policy. That work is under way, and I am expecting a report on the Carlisle flood from the Environment Agency in March.

**Mr. Alan Reid** (Argyll and Bute) (LD): I think that we would all accept that the root cause of a lot of the flooding is climate change. Given that the United States undoubtedly puts the most greenhouse gases into the atmosphere, and that we are supposed to have a special relationship with the United States, what efforts are the Government making to—

**Mr. Speaker:** Order. The hon. Gentleman is moving much too far away from the target.

### Greenhouse Gas Emission Targets

8. **Alan Simpson** (Nottingham, South) (Lab): What plans she has to make greenhouse gas emission targets statutory and binding. [215596]

**The Secretary of State for Environment, Food and Rural Affairs (Margaret Beckett):** Ratification of the Kyoto protocol on 16 February will mean that the UK is legally bound by protocol to reduce greenhouse gas emissions by 12.5 per cent. below 1990 levels in 2008 to 2012. We are well on track to meet this commitment. We currently have no plans to make further specific and quantitative legally binding greenhouse gas emission targets.

**Alan Simpson:** Members on the Labour Benches will rightly be proud that it was a Labour Government who gave themselves the legally binding duty to abolish fuel poverty in its entirety by 2016, and who set targets for the reduction of domestic greenhouse gas emissions by 20 per cent. by 2010. Before the Secretary of State allows the Conservatives to berate her on this, she should recall that they opposed the introduction of that legally binding framework, warning the House that it would result in a nation—

**Mr. Speaker:** Order. I think that that is enough for the Secretary of State to go on.

**Margaret Beckett:** I am grateful to my hon. Friend. He is right to highlight the fact that many on the Conservative Benches denied the existence of fuel poverty. They certainly showed no sign of recognising its tremendous impact on many households in this country. We are very proud that more than a million families have been helped under this Government's programme, and that we are now able to invest extra resources in taking the programme forward to do even more to alleviate the distress caused to vulnerable households.

### Recreation (Rural Areas)

9. **Andy Burnham** (Leigh) (Lab): What initiatives her Department has introduced since 2001 to promote recreation in rural areas. [215597]

**The Minister for Rural Affairs and Local Environmental Quality (Alun Michael):** DEFRA will complete the introduction of the right of access to open country and registered common land for the purposes of open-air recreation by the end of this year. This has been widely welcomed in the north-west, which was one of the first regions to open. We are also working to improve and maintain the existing infrastructure and to increase the range of people who have access to the countryside. We have today published the draft Natural Environment and Rural Communities Bill. As set out in the rural strategy by my right hon. Friend the Secretary of State last July, the Bill will establish a new independent non-departmental public body, provisionally called the integrated agency. At the heart of its role will be the encouragement of open-air recreation and the promotion of access to the countryside and open spaces.

**Andy Burnham:** I thank the Minister for that reply and for the work that his Department is doing to promote the use of the countryside. The enjoyment of fishers and walkers is being seriously spoiled, however, by the growing use of off-road motor bikes in former mining areas such as the one that I represent. The Minister has indicated that he intends to legislate to tackle this problem. When will he do so? Will he also work with local councils to provide more designated areas for off-road motor biking?

**Alun Michael:** I am grateful to my hon. Friend for raising those points. According to our research, off-road vehicles cause a nuisance in some, but not all, areas of the country. Part of the solution could involve preventing the use of such vehicles in inappropriate

places, but another part will be about the better management of access. Two documents that I have published recently provide real meat for those who want to deal with this issue in a constructive manner, and I hope that local authorities will, as my hon. Friend suggests, engage with us in using best practice as well as looking to legislation.

**Alistair Burt** (North-East Bedfordshire) (Con): When this Labour Government look back on their stewardship of agriculture, and at the despair and sense of abandonment among the farming community, will they not appreciate that their initiatives to promote recreation in the countryside will have been achieved beyond their wildest dreams?

**Alun Michael:** That was a rather silly question if I may say so. The hon. Gentleman should be aware that agri-environment schemes pay for some 4,000 km of permissive access—footpaths, bridleways and disabled access. They are listed in DEFRA's conservation, walks and rides register, and can be found on DEFRA's website. That is a success story. This is a Government who believe in access to the countryside for all—everyone should be able to enjoy it—and in supporting farmers so that they have a sustainable future, rather than talking a lot about farming but not doing much to support it, which was the record of his Government.

**Andrew Bennett** (Denton and Reddish) (Lab): Does my right hon. Friend agree that there was an awful lot of doom and gloom, in this House and outside, when the Countryside and Rights of Way Act 2000 was going through. People were predicting that if ordinary walkers had access to large areas of mountain and moorland, there would be major problems. Given that we are now halfway through the implementation of that, does he agree that there have been none of those problems but a great deal of pleasure has been given to those who have access to areas that they have been kept off for more than 100 years?

**Alun Michael:** My hon. Friend is absolutely right. That point has dawned on a large number of people. For instance, it was welcome that the Country Land and Business Association and the National Farmers Union were part of the celebration of opening up access in the north-west when that welcome day dawned after many years of campaigning. It is also true that people now understand that open access is important to the whole rural economy. It is important to the future of farmers and everyone who lives in the rural communities. The only people for whom that penny does not seem to have dropped are those such as the hon. Member for North-East Bedfordshire (Alistair Burt), who does not understand how the countryside works.

**Mr. Alex Salmond** (Banff and Buchan) (SNP): May I put it to the Minister that my rural constituents would like less recreational time, because they were promised free extra days at sea by a letter from the Department dated 25 January—

**Mr. Speaker:** Order. The hon. Gentleman is out of order. That is far too wide.

**Supermarket Code of Practice**

10. **Mr. Alistair Carmichael** (Orkney and Shetland) (LD): What recent discussions she has had with colleagues in the Department of Trade and Industry regarding the supermarket code of practice. [215598]

**The Minister for Rural Affairs and Local Environmental Quality (Alun Michael):** The supermarket code of practice was one of a number of subjects discussed when my noble Friend Lord Whitty met the Minister with responsibility for competition on 1 February to talk about issues in the supermarket sector.

**Mr. Carmichael:** May I tell the Minister, however, that there is growing frustration among farming and crofting communities that while supermarkets announce ever-increasing profits, the farmers and crofters who supply them are struggling to survive? Does he agree that the present code, which is voluntary, has been largely ineffective, and that the code now needs to be made enforceable to embrace the whole supply chain? My farming constituents should not be left carrying the cost for special offers in supermarkets without ever having agreed to that.

**Alun Michael:** The hon. Gentleman rightly reflects the feelings of producers about the supermarket code of practice. That was reflected in the findings of the Office of Fair Trading on the views of producers. It has now commissioned the compliance audit, which is due to be published in the next few weeks. For the first time, that will provide focused information on the operation of the code. We should await that, read it with interest, and Members on both sides of the House will no doubt want to focus on it as soon as it is available.

**Mr. David Kidney** (Stafford) (Lab): It would help farmers and small businesses if the practice of predatory pricing by supermarkets were to be stopped. Other countries have laws preventing retailers from selling goods at lower than cost. Now that the Office of Fair Trading has said, at least in respect of alcohol, that minimum prices are not anti-competitive in some circumstances, will my right hon. Friend try to persuade the DTI to accept that in the case of our food and drink, minimum prices would be acceptable?

**Alun Michael:** What I am prepared to do is wait for the outcome of the compliance audit. That will provide us with a factual basis in order to discuss these matters further. As my hon. Friend knows, we are working, through the support of English Farming and Food Partnerships and the Food Chain Centre, to enable producers to get a fair return from the end price. I do not think that we should jump ahead of the publication of the compliance audit. We should all focus on that.

**European Trade**

11. **Dr. Vincent Cable** (Twickenham) (LD): What discussions she has held with European Trade Commissioners about health and sanitary standards as a barrier to trade in agricultural products. [215599]

**The Secretary of State for Environment, Food and Rural Affairs (Margaret Beckett):** I meet the Agriculture Commissioner regularly and the Trade Commissioner on occasion. I have not had occasion recently to discuss health and sanitary standards with them either generally or with regard to specific issues.

**Dr. Cable:** Will the Secretary of State agree to support Peter Mandelson in his efforts to remove unjustified trade restrictions by publishing her own list of trade-restricting standards that have no scientific basis—for example, aflatoxin content, which is used to exclude African products, despite a risk factor of fewer than one in a billion lives?

**Margaret Beckett:** We have, as yet, had no formal notification that the European trade department is intending to pursue such a step, but we will certainly consider with very great interest any proposal that comes forward.

## Speaker's Statement

12.30 pm

**Mr. Speaker:** I have a statement to make about the use of electronic devices by Members in the Chamber. I am aware that a new generation of such devices is being used by Members. My predecessor ruled in 1997 that Members carrying such devices should turn off the audio function before coming into the Chamber. She also ruled that it was totally unacceptable for a Member speaking in the Chamber to be prompted by information on the screen of such a device.

I have no objection to instruments that silently prompt the Members carrying them. Clearly, many Members use these devices and they serve a useful purpose, provided that they are unobtrusive. But I am not prepared to accept the use of electronic devices to communicate outside the Chamber nor to act as an aide-memoire by a Member participating in proceedings. This also applies to the wearing of earpieces used to receive messages—*[Interruption.]* Order.

In future, the Chair will order a Member seen to be using such an electronic device while speaking to resume his or her seat immediately. That ruling will be applied in Westminster Hall and in Standing Committee. Seated Members who disregard my ruling and use devices actively to communicate outside the Chamber will be asked to leave the Chamber forthwith.

## Business of the House

12.32 pm

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Will the Leader of the House please give us the business for the week after we return?

**The Leader of the House of Commons (Mr. Peter Hain):** The whole House will wish to send our warm congratulations to His Royal Highness the Prince of Wales and Mrs. Parker Bowles. As Secretary of State for Wales, I am personally delighted, and the House wishes them every happiness for the future.

The business for our next week is as follows:

MONDAY 21 FEBRUARY—Remaining stages of the Clean Neighbourhoods and Environment Bill.

TUESDAY 22 FEBRUARY—Motions relating to the draft Social Security Benefits Uprating Order 2005 and the draft Guaranteed Minimum Pensions Increase Order 2005, followed by remaining stages of the Drugs Bill.

WEDNESDAY 23 FEBRUARY—Opposition Day [5th allotted day]. There will be a debate on an Opposition motion. Subject to be announced.

THURSDAY 24 FEBRUARY—Consideration of an allocation of time motion, followed by all stages of the Electoral Registration (Northern Ireland) Bill [*Lords*].

FRIDAY 25 FEBRUARY—Private Members' Bills.

The provisional business for the following week will include:

MONDAY 28 FEBRUARY—Conclusion of Committee and remaining stages of the Constitutional Reform Bill [*Lords*].

I should like to inform the House that business for Westminster Hall for the first two weeks in March will be—

THURSDAY 3 MARCH—A debate on the report from the Committee on the Office of the Deputy Prime Minister on decent homes.

THURSDAY 10 MARCH—A debate on "Working, Caring and Life Balance: Supporting Choice".

**Mr. Heald:** May I associate myself and other Conservative Members with the congratulations extended to His Royal Highness the Prince of Wales and his bride to be? My right hon. and learned Friend the Leader of the Opposition has said today that he is also delighted at the news.

Is the Leader of the House able to give us the date of the Budget? He knows that I have been pressing for a long time for a foreign affairs debate so that we can have a proper discussion of developments in Africa and the middle east. It is a long time since we had such a debate: when can we expect to have another opportunity?

Despite his notorious claim that it is just a tidying-up exercise, the right hon. Gentleman knows that the European Union Bill raises very important issues and involves consideration of the more than 500 pages that

*[Mr. Heald]*

the new constitution comprises. One of the constitution's authors, the French statesman Alain Lamassoure has described it as the

"coronation of . . . the French vision of Europe, as opposed to the Anglo-Saxon vision."

A French meal always takes a little longer, so can we have at least one more day for debate in Committee? Will the Leader of the House please reconsider the short time that has been allowed so far?

Will the right hon. Gentleman also withdraw the remarks that he made last week criticising the commitment of the Opposition to the Northern Ireland peace process? The Secretary of State for Northern Ireland has always thanked my hon. Friend the Member for Aylesbury (Mr. Lidington) for the co-operation extended by him and by the Opposition as a whole. Surely the national interest requires an all-party approach to such issues.

There is concern in all parts of the House at the tactics being used by the Government to slow down information requests under the Freedom of Information Act 2000. That is in sharp contrast to what is happening with information about previous Governments. Some requests for more recent information are being delayed for further consideration, or refused on the ground of cost. That seems surprising, given the huge volume of documents made available speedily about the previous Government. More surprisingly, in response to two questions—on correspondence with the Qualifications and Curriculum Authority during the 2002 A-level marking crisis, and departmental assessments of grade inflation—the Department for Education and Skills even claims that no papers exist.

Can we have a debate in Government time about the tactics being used by the Government under the FOI, before it becomes known as the freedom of old information Act—or FOOI?

**Mr. Hain:** First, I cannot give the hon. Gentleman the date of the Budget yet. Secondly, I have already answered his question about a foreign affairs debate. Thirdly, he quoted rather selectively from one French person on the question of the European constitution. The truth is that, at the end of the process, every newspaper in France, Spain and Germany—and right across Europe—considered it to be a victory for my right hon. Friend the Prime Minister and for Britain's vision of Europe. That vision is based on a partnership of nation states, not a federal superstate.

The policy advocated by the Conservatives would put Britain in a risky position of isolation. That would not be in our interests. We are a leading European power, and always have been. Under this Government, we intend to be right at the heart of Europe. We shall not be isolated and left to whinge on the fringe.

The hon. Member for North-East Hertfordshire (Mr. Heald) asked me to withdraw what I said about Northern Ireland, but I will not. I have attended repeated statements by my right hon. Friend the Secretary of State for Northern Ireland, and witnessed many debates, and I have seen the Opposition engage in sniping and petty point scoring. When Labour was in opposition, we gave the previous Conservative Government 100 per cent. support for what they were doing to tackle terrorism and ensure that the peace process was driven forward. I just wish that Tory Front-Bench Members would do exactly the same, in the interests of the nation and of the people of Northern Ireland.

I remind the hon. Member for North-East Hertfordshire that this Government introduced the Freedom of Information Act. We want it to work well. The information that has come from the Treasury about Black Wednesday has nothing to do with Ministers. However, the previous Conservative Government were responsible for what was an absolute disaster for Britain and the Opposition are embarrassed about that. That is why the hon. Gentleman has raised the issue. I can assure him that requests under freedom of information legislation will be answered in due course and in the proper way. That has started to happen already.

On the question of A-levels, exam marking and so on, the Secretary of State for Education and Skills will note the hon. Gentleman's report.

I am surprised that the hon. Gentleman did not ask me for a debate on housing because the front page of today's edition of the *Daily Mirror* states:

"I lost my house through negative equity. I blame the last Tory Government for that and will never forget what you did to me."

That is not my statement, nor is it a statement of a *Daily Mirror* journalist; it is in the Conservative manual and guide to their election candidates, which also states that the Tories are

"out of touch, anti-women, greedy and divided"

as well as uncaring. That is a fitting prelude to a general election campaign.

**Sir Stuart Bell** (Middlesbrough) (Lab): Further to the congratulations and good wishes of the Leader of the House, supported by the shadow Leader of the House, following the announcement this morning that His Royal Highness the Prince of Wales will remarry, may I, as Second Church Estates Commissioner, say that the Archbishop of Canterbury has warmly welcomed the statement? The arrangements have his strong support and are consistent with the Church of England guidelines on remarriage, which the Prince of Wales fully accepts as a committed Anglican and as prospective Supreme Governor of the Church of England. As there are no constitutional implications, can I assume that there will be no statement next week?

**Mr. Hain:** Well, the House is not sitting next week, so there will certainly be no statement.

I am grateful for my hon. Friend's statement and we all echo his sentiments. The Archbishop of Canterbury has made clear his delight, as has the Prime Minister. We all share in that.

**Mr. Paul Tyler** (North Cornwall) (LD): I very much welcome what the Leader of the House and the hon. Member for Middlesbrough (Sir Stuart Bell) said. Prince Charles is Duke of Cornwall, which, as the Secretary of State for Wales will know, is his premier title. He has shared in our delights and disasters, most recently the floods in north Cornwall. I am sure that the people of Cornwall will be especially delighted by

today's news. On their behalf and on behalf of my hon. Friends, I wish Prince Charles and his future wife every happiness for their marriage. We shall all celebrate with the Duke and Duchess of Cornwall on 8 April.

In his business statement, the Leader of the House did not give any indication of when he expects the Budget statement. Surely he can give some indication of when it will be.

Can the Leader of House say whether a statement will be made on nuclear energy? He has a consistent record of opposition to the expansion and extension of the nuclear option. The Secretary of State for Environment, Food and Rural Affairs has previously said:

"We certainly do not need extra nuclear power in anything like a 10 or 15-year cycle".

However, she now seems to have made a U-turn, so can we have an absolute assurance from the Leader of the House that there is no prospect, before or after the general election, of a change of policy on nuclear energy? Will he give us that assurance now?

May we also have an urgent statement about the advice apparently given to the Secretary of State for Transport by the Strategic Rail Authority? This morning, *The Guardian* quoted the SRA as saying that there may need to be a cut of 25 per cent. in the national rail network if investment levels are not raised. Has that forecast been dealt with, can we be sure that the current overall pattern of the rail network will be maintained, and when can we expect to see a real end to the chaos and terrible consequences of the worst effects of the bungled privatisation of the rail network by his predecessors?

**Mr. Hain:** On the bungled privatisation by the last Conservative Government, the hon. Gentleman and I are absolutely at one. It was a disaster, and we have been clearing up the mess ever since we came to power. Despite his point, there has been a 25 per cent. increase in passenger journeys on the railways under this Government, 1,500 more trains running and record investment, all of which would be at risk if the Conservatives ever got into power and implemented their planned cuts.

I note the hon. Gentleman's congratulations and I welcome the House's unity in supporting the Prince of Wales and Mrs. Parker Bowles. As Secretary of State for Wales, I must dispute the hon. Gentleman's comment that the Cornish title is the premier title.

**Mr. Tyler:** It is the older one.

**Mr. Hain:** Well, "Prince of Wales" is the premier title as far as I am concerned, but I grant that Mrs. Parker Bowles will be known as the Duchess of Cornwall after the marriage.

On the Budget, no, I cannot give the date. On nuclear energy, there is no Government U-turn and no change of policy.

**Mr. Kevin McNamara** (Hull, North) (Lab): May I draw my right hon. Friend's attention to early-day motion 673, signed by myself and many of my hon. Friends, concerning the position of House of Commons cleaners?

*[That this House recognises the invaluable contribution made by House of Commons cleaners towards ensuring the smooth running of this House; is dismayed with the poor pay and working conditions of the cleaners who are paid a miserly £4.85 per hour with only 12 days' paid holiday per annum, statutory sick pay only and no company pension; finds these employment terms and conditions shameful and totally unacceptable in 21st century Britain; wholeheartedly supports the claim made by the Transport and General Workers Union, who represent cleaners in the House, for better wages and improved working conditions; believes that the cleaners' claim should not be ignored or their work continue to be taken for granted; and urges the House authorities and the contractors that employ the cleaners to accept their claim for £6.70 per hour, 20 days' paid holiday per annum, company sick pay and a company pension to ensure they receive a fair deal.]*

Their employment situation is outrageous; they have low wages, no proper pension scheme and derisory holidays. Does my right hon. Friend, in his role as our representative on the House of Commons Commission, believe that the contracts awarded to third parties should be of concern to the Commission, especially in terms of the wages and conditions of some of the people on whom we depend enormously for the good functioning of the House? They are in many ways invisible, but they are necessary for us to carry out our jobs properly and they should be remunerated accordingly and their firms should not be allowed to pay them such lousy wages.

**Mr. Hain:** This is of course a matter for the House authorities and ultimately for the House of Commons Commission. However, I understand the points that my hon. Friend is making. The cleaners perform a vital role for all of us, especially at a time when security is of paramount importance in the Palace. It is vital that they are treated properly and that their wages, albeit paid by private contractors contracted by both Houses, should be decent. Cleaners and their representatives from the Transport and General Workers Union came to see me this morning. Frankly, I could not live on their wages, and the whole issue should be looked at again in the negotiations to come.

**Mr. John Hayes** (South Holland and The Deepings) (Con): The Leader of the House asked why we had not called for a debate on housing and mentioned in his statement a forthcoming debate on decent homes. You, Mr. Speaker, certainly know, as the Leader of the House should, that yesterday at questions to the Deputy Prime Minister I asked for an explanation of why the Government are building only half as many social houses as the last Conservative Government did each year. The answer I received was about as useful and stimulating as a game of Scrabble against the Deputy Prime Minister. So that the forthcoming debate can be better informed, will the Leader of the House make an urgent statement on why the Government are building so few social houses and why they are letting down 100,000 people—a record number—trapped in temporary accommodation? Those people are being cheated by the Government.

**Mr. Hain:** I welcome the hon. Gentleman's interest in housing; it is an interest that every Member shares

*[Mr. Hain]*

He pointed to the past record and current performance, so may I remind him of the reality? When we came to power, the reality was that people were living rough in London—all over the streets and under the arches. The reality was massive problems of homelessness. The truth is that we have refurbished 1 million council properties and we are putting huge investment into social housing, every million pounds of which would be cut or at risk under the Conservatives' £35 billion cuts. The hon. Gentleman should sort out his Front-Bench colleagues on this matter. Let us have a common approach to dealing with social housing, providing more opportunities for housing, instead of savage cuts across the board, as the Conservatives promise.

**Mr. Tam Dalyell** (Linlithgow) (Lab): In more than 40 years as a Member of the House of Commons, I find it inconceivable that any previous Administration, including Mrs. Thatcher's—because I asked John Wakeham about it—would have denied the House a serious debate on the question of Iraq or any similar situation. Does the Leader of the House understand that it is not good enough simply to say that the House has been kept informed? Especially after the Iraq elections, Members in all parts of the House have views on the very serious situation of what might occur with the Kurds. They have views on relations between Iraq and Iran, which, heaven knows, are delicate enough. Why are we being denied the opportunity to express those views? Bluntly, without raising the anger of MPs from Northern Ireland, to spend a day on the electoral register in Northern Ireland, yet not to discuss Iraq, will be seen as very odd outside the House.

**Mr. Hain:** I do not agree that the day to be spent on the electoral reform needed in Northern Ireland is unimportant. The Secretary of State for Northern Ireland certainly takes that view, and I think that everybody involved agrees.

Obviously, I defer to my hon. Friend the Father of the House, with his 40 years of experience, but surely he must recognise that we were the first Government to permit a vote on going to war; no previous Government had done that. That is important. It was an important debate. We have always reported to the House and given every opportunity for hon. Members, including my hon. Friend, to express their views. *[Interruption.]* I respect the disagreement that my hon. Friend has with the Government on the original decision to topple Saddam and invade Iraq, but my right hon. Friend the Foreign Secretary came at the first opportunity—the first day back after the elections—and made a statement to the House. He has kept the House informed continuously. I simply do not recognise the picture that my hon. Friend has painted.

**Mr. David Trimble** (Upper Bann) (UUP): May I say to the Father of the House that we would happily give up the day for the debate if he wished. May I draw the attention of the Leader of the House to the welcome report of the Independent Monitoring Commission, which has made it clear that it would recommend the exclusion of Sinn Fein from office were the Northern Ireland Assembly sitting? May we have a debate on the matter as soon as possible so that we can establish a consensus, call on the Government to recall the Assembly and support the passing of a motion to exclude Sinn Fein, take the necessary action and rectify the anomaly of Sinn Fein's privileged position here at Westminster?

**Mr. Hain:** The right hon. Gentleman knows that all these matters have been agreed and implemented as part of the peace process and of cementing its detail. Obviously, as we set up the Independent Monitoring Commission we take any report from it or recommendation that it makes seriously, and my right hon. Friend the Secretary of State will take careful note of what it says.

**Anne Picking** (East Lothian) (Lab): Does the Leader of the House share my regret at the comments made by the hon. Member for Beaconsfield (Mr. Grieve) about the nation of Scotland? Does he agree that the remarks were offensive and insulting and that the people of Scotland share that feeling?

**Mr. Hain:** Particularly as my grandfather and grandmother were Scottish, I think Scotland is a fantastic place to live and to be proud of, second only to Wales. I agree with my hon. Friend.

**Sir George Young** (North-West Hampshire) (Con): On 23 February there will be a debate in Westminster Hall on House of Lords reform. As this is a subject on which Ministers have a range of conflicting views, can the Leader of the House give me an assurance that the Minister who replies will be a Minister who supports the Government's manifesto commitment to a more democratic and accountable House of Lords?

**Mr. Hain:** That is a very good question from my right hon. Friend and I will think about it carefully. Any Minister replying for the Government always supports the Government's view.

**Mr. Wayne David** (Caerphilly) (Lab): As the Leader of the House will be aware, Kofi Annan is in London today speaking on his recently published report on the future of the United Nations. Does my right hon. Friend agree that that is a vital document? Will he facilitate a debate on it on the Floor of the House as soon as practicable?

**Mr. Hain:** It is a vital document. Given the pace of legislation now going through the House, I cannot promise an early debate, but my hon. Friend is free to apply for one. I hope that there will be an opportunity for such a debate because, as my hon. Friend says, it is crucial for international stability and security, and the future of the world, that we have a powerful United Nations and a Security Council reorganised to deliver the UN mission right across the world.

**Mr. Peter Lilley** (Hitchin and Harpenden) (Con): May I support the request made by my hon. Friend the Member for North-East Hertfordshire (Mr. Heald) for a debate on the Government's selective and partisan use of the Freedom of Information Act—in particular the refusal by the Deputy Prime Minister to publish under

the Act the report that he has already received from the inspector about a planning proposal in my constituency to build up to 10,000 houses on the green belt? It has national significance because it will be the biggest ever encroachment on the green belt. The Deputy Prime Minister has received that report, but apparently wants to put off publication until after the general election. He admits that encouraging public debate is important, but says that publishing the document would not help with public debate. Can we have a debate on this rather contentious matter?

**Mr. Hain:** I recognise the constituency point that the right hon. Gentleman raises, which my right hon. Friend the Deputy Prime Minister will note carefully. I reject the right hon. Gentleman's central charge that there is some kind of selective release of information—officials advise on the release of information. In the instance of Black Wednesday, no Treasury Ministers were involved in the decision on the release of information. Indeed, the former Prime Minister, John Major, acknowledged as much on the "Today" programme this morning. The permanent secretary to the Treasury is in charge of all these matters. I am sure that, as a distinguished Secretary of State himself, the right hon. Gentleman would not want to accuse permanent secretaries of any partisanship, so I am sure that he was not doing so a moment ago.

**Mr. Michael Jabez Foster** (Hastings and Rye) (Lab): In view of the confusion about the Freedom of Information Act, especially the scurrilous accusations of partisanship by the Opposition, may we have a teach-in for hon. Members so that we can better understand what the Act says and how it operates? Perhaps the FOI commissioner could be asked to organise such an event.

**Mr. Hain:** As you will know, Mr. Speaker, there is guidance for Members of Parliament on some important issues for us in respect of the Act. The overall point is that we introduced the Act because we believed in greater transparency and accountability of government. That is what we believe in and will stick to. Despite these day-to-day processing stories that are being raised by the Opposition, in time the workings of the Act will settle down. Some complex matters are involved, such as how to protect the principle of ministerial responsibility but at the same time protect the position of officials and civil servants as well as national security and commercial confidentiality. Every request has to be judged carefully, and that we are doing with scrupulous fairness.

**Mr. Alex Salmond** (Banff and Buchan) (SNP): On behalf of the Scottish National party and Plaid Cymru, may I offer our congratulations and best wishes to the happy couple?

**Dr. Julian Lewis** (New Forest, East) (Con): Tony and Gordon is it?

**Mr. Salmond:** Might be.

May I ask for an urgent statement from the Fisheries Minister about the official information released to fishermen on 25 January promising them three extra days fishing at sea with the proviso that they fish in an environmentally sensitive way? Now they have been told that it was all a mistake and that the days on offer are being withdrawn. The Leader of the House knows how hard-pressed the fishing industry has been. He also knows that people have made financial commitments based on the official information that they were given. Will he ask his colleague to come to the House to make a statement about what can be done to allow the Government to live up to their word and not further prejudice things against the industry?

**Mr. Hain:** I realise the importance of fishing to the hon. Gentleman's constituency, to Scotland and to the whole of the United Kingdom. It is a vital industry. My hon. Friend the Minister will note carefully the points that the hon. Gentleman has made and I am sure that he will want to respond to him in writing.

**Julie Morgan** (Cardiff, North) (Lab): Is it possible to have a debate on miscarriages of justice? I am sure that the House was pleased that the Prime Minister was able to apologise with such sincerity to the Conlon and Maguire families yesterday. I am sure that anyone who heard Gerry Conlon's interview could understand the burden that had been taken off him after so many years of injustice.

Is my right hon. Friend aware that there are a number of miscarriages of justice in the south Wales area, in particular the so-called newsagent three, who were wrongly imprisoned for 11 years for the terrible murder of Philip Saunders, who was a constituent of my hon. Friend the Member for Cardiff, West (Kevin Brennan). Mike O'Brien—one of the Cardiff three, who is now my constituent—has always said how much it would have meant to him if someone had just said they were sorry. How can we take this forward?

**Mr. Hain:** I agree with the point that my hon. Friend makes about the moving response from the Conlon family to the Prime Minister's forthright apology for what was a grave miscarriage of justice. Any miscarriage of justice is a stain on the legal system, and the House will want to ensure that they are apologised for and that the necessary consequences follow. My right hon. Friend the Home Secretary will note the points that my hon. Friend has made in respect of the case that she raised.

**Mr. Richard Shepherd** (Aldridge-Brownhills) (Con): Has the Leader of the House has seen early-day motion 684, which is supported by a number of colleagues on both sides of the House and from all parties, and which details the consideration in Committee of the Identity Cards Bill, indicating that clauses 8, 9, 10, 11, 23, 24 and 25 were not considered?

*[That this House regrets that, because of the guillotine, the Standing Committee on the Identity Cards Bill was prevented from discussing Clauses 8, 9, 10 and 11 relating to issue etc of identity cards, renewal of identity cards for those compulsorily registered, functions of persons issuing designated documents and power to require information for validating register and Clauses 23, 24 and 25 relating to rules for using information without an individual's consent, appointment of National Identity Scheme Commissioner reports by Commissioner and jurisdiction of the Intelligence Services Commissioner and Tribunal;*

*[Mr. Richard Shepherd]*

*further regrets that, as a consequence, the total number of groups not reached because of knives was 10 and the number of Clauses and Schedules stand part not reached because of knives was six; and therefore deplores the restricted time allocated to the remaining stages of the Bill on Thursday 10th February.]*

The wider point, on which I should be grateful for a discussion as soon as we return after the recess, is how we restore to the House the proper examination and consideration of Bills, especially those that touch on the freedoms and liberties of the citizens of this country and those that raise big issues of the relationship of the citizen to the state.

**Mr. Hain:** As a Government, we have sought continuously to introduce sensible timetabling. The hon. Gentleman disagrees with me on that matter, and there may be individual cases where issues need to be addressed, but I think that I am right in saying that the Chairmen had repeatedly to pull up Conservative members of the Committee to which he referred for filibustering, and that additional time was offered.

The big picture is that we ought to back the introduction of identity cards, for the reasons that the Government have explained, and I want to know where the Conservative party stands on that. I gather that Conservative Members will abstain on the matter today. Are they for or against identity cards?

**Mr. Kelvin Hopkins** (Luton, North) (Lab): May I raise with my right hon. Friend once again the question of rail freight and the channel tunnel? A strategic rail freight network is developing on the continent of Europe, and the channel tunnel is underused and in financial difficulty, while on this side we have an inadequate railway system that does not deliver sufficient freight to the channel tunnel. We could put 30 extra freight trains a day through the tunnel—10,000 trains a year—thus making a tremendous difference to our freight industry. We could link our industrial areas directly to the continent of Europe if we had that freight delivery system. Can we not have a full debate on the need to develop a rail freight route that links Scotland and all Britain's industrial areas to the continent of Europe?

**Mr. Hain:** The Secretary of State for Transport will agree with my hon. Friend's objectives. We all want more freight to go by rail and less on the roads for environmental and efficiency reasons. It is undoubtedly true that there are opportunities to make greater use of the channel tunnel, which is why the Government seek to maximise those opportunities. My hon. Friend refers to the inadequate railway service, but I am sure that he will also want to welcome the huge investment that the Government are providing to improve our railway network, including for freight, and to compare it with both the dreadful situation that we inherited from the Conservatives and the cuts in rail investment that would follow as part of the £35 billion in cuts that they are promising if they win the next election.

**Dr. Julian Lewis** (New Forest, East) (Con): May I tell the Leader of the House that his responses on the Freedom of Information Act 2000 sound almost as though he is auditioning for the future role of Chancellor of the Duchy of Lancaster? He certainly gave the sort of answer that we get from the present incumbent of that post.

We need a debate on freedom of information. Of course, the Government introduced the Act, but the question is whether they did so to enable the even-handed disclosure of information or for partisan political advantage. When the right hon. Gentleman says that civil servants decide such things, he should bear in mind the civil service advice that was leaked, which advised that certain aspects of the exchange rate mechanism papers should not be revealed because they might be read across and then used by the Conservatives to insist on answers to some of the questions that we have asked. They are answering the questions that are helpful to the Government. Why are they not answering questions that would be helpful to the Opposition?

**Mr. Hain:** I congratulate the hon. Gentleman on getting in a reference once again to the Chancellor of the Duchy of Lancaster—he is absolutely expert at doing so.

On the substance of the hon. Gentleman's point, no, the Freedom of Information Act is very clear. Ministers are under an obligation to respect its terms and to implement it in full in response to requests, and we are doing so. I realise that the Conservatives have an interest in getting up some kind of process story about it because of their embarrassment at the disaster of Black Wednesday and the negative equity, the bankruptcies and the collapse of the economy that it heralded. That is their history—that is what they must live with—but they would take us back to that kind of situation if they were re-elected. I entirely reject the suggestion that there is one law on the release of information about the past Conservative Government and another law for the Government. We are operating the Freedom of Information Act absolutely even-handedly.

**Mr. Heald:** Ha ha!

**Mr. Hain:** The shadow Leader of the House says, "Ha ha!", as he is inclined to do. Is he or the hon. Member for New Forest, East (Dr. Lewis) suggesting that the permanent secretaries in charge of Whitehall Departments, who are ultimately responsible for giving advice on these matters, are operating in anything other than an even-handed way? If so, they should get up and say so.

**Ms Meg Munn** (Sheffield, Heeley) (Lab/Co-op): May we have a debate on the future of the new deal programme? Many of my constituents have benefited from the new deal, but a number of people are still unemployed, despite a dramatic fall in unemployment in my constituency. Is it not time for us to look at how we can go forward with that programme and deal with the real concerns that people may have that it might be abolished?

**Mr. Hain:** I fully agree with my hon. Friend. If there is an opportunity to debate the new deal, I will seize it with relish and persuade my colleagues to join me in providing time for it. A very important choice faces the

country on the new deal, which has helped about 1 million people to get work, skills and new opportunities and, including in my constituency, has transformed the lives of thousands of individuals. All that would go, all that would be axed if the Conservatives came to power—indeed, the Liberal Democrats have the same policy—so there is a very clear choice between future investment in and the modernisation of work opportunities, including for those who are economically inactive, or cutting off that lifeline and hope for many unemployed people. The country will chose whether it wants to go back to the Conservatives or forward with Labour.

**Norman Baker** (Lewes) (LD): Is the Leader of the House absolutely sure that the Freedom of Information Act is working well? Is he aware that I asked for details of the work being undertaken by the ministerial Sub-Committee on Freedom of Information and was told that it was a secret and that I could be told nothing about it? Can he confirm whether any parliamentary question will be treated as though it has the force of a freedom of information request or the force of a request under the environmental regulations that are parallel to the Act?

**Mr. Hain:** First, the proceedings of Cabinet Committees are obviously confidential—that is the only way that the Government can work—but any request that the hon. Gentleman may make under the Freedom of Information Act will be considered under the terms of the Act. I should have thought that, as a Liberal Democrat, he supported the Government for the fact that we have introduced the Freedom of Information Act. After all, his colleagues said at the time that the Act did not go far enough.

**Norman Baker:** That is right.

**Mr. Hain:** The hon. Gentleman is nodding at that. We introduced such an Act for the first time in British history—that is a good thing—and it makes the Government more transparent and accountable. Parliamentary questions are answered in accordance with the rules of parliamentary procedure. The operation of the Freedom of Information Act is a related, though separate, matter.

**Rob Marris** (Wolverhampton, South-West) (Lab): I welcome the Government's investment in higher education. The university of Wolverhampton, which is headquartered in my constituency, is the most accessible mainstream university in the United Kingdom. Therefore, it has more students who are poorer. That means it will hand out more £300 minimum-standard bursaries and have higher administration costs for those bursaries, and it has more part-time students. By comparison, Wolverhampton university will hand out five-and-a-half times as much of its additional fee income as Cambridge university. Unless the access regulator steps in to redress that, Wolverhampton university will be penalised for its success on access, and universities such as Cambridge will be rewarded for their poor access. May we have an early debate on the implementation of the Higher Education Act 2004, so that we can discuss what the access regulator is doing to redress the possible imbalances, what is happening with the administration costs for minimum-standard bursaries, and the fact that the Government are still deciding whether to allow deferral of tuition fees for part-time students, which is a particularly important issue, not only for Wolverhampton but for the Open university?

**Mr. Hain:** Questions to the Secretary of State for Education and Skills will be asked on the Thursday after we return from the recess, so my hon. Friend will have an opportunity to raise that point, if he catches your eye, Mr. Speaker. He raises a lot of important issues, and the Secretary of State will want to take careful note of them. It is certainly no part of the Government's plans to make good universities across Britain feel discriminated against in any way. He makes some important points about the student catchment and intake of the university of Wolverhampton, to which the Secretary of State will want to respond, but he must also bear in mind the fact that we are bringing back grants, which were abolished by the previous Conservative Government, and which will be of enormous assistance to students going to the university of Wolverhampton and welcomed by everyone.

**Mr. Adrian Flook** (Taunton) (Con): The Westcountry Ambulance Services trust has announced several proposed changes, and the paramedics' union has responded by considering strike action. One change would reduce cover at night, while another proposes replacing paramedics during enforced break periods with a "Dad's Army" of first-aiders, allegedly driving Renault Clios. Will the Leader of the House ask the Secretary of State for Health to come to the House to explain why it is right for Somerset's ambulance service to have Private Godfrey driving Corporal Jones's van?

**Mr. Hain:** The hon. Gentleman raises an important matter for his constituents. I know that the Secretary of State will pay careful attention to it, and I expect that he will want to make a detailed response in writing.

**Mr. Gwyn Prosser** (Dover) (Lab): When the Leader of the House finds time for us to discuss the excellent results of Labour's new deal programmes, will he widen the remit so that we can talk about the success of jobcentres in delivering jobs? Is he aware, however, of the decision of local managers in Kent to shut down Deal jobcentre at the very time when my constituency is facing 1,000 or more job losses? Does he agree that that is untimely, to say the least? Surely it flies in the face of Government policy. Is there not a mismatch between the Government's policy intention of removing barriers and hindrances to people getting back into work and the heavy-handed actions of local managers?

**Mr. Hain:** I understand the point that my hon. Friend makes in representing, as excellently as he does, his constituents' interests. I also understand that Deal jobcentre has a relatively small unemployment register and is unable to deliver the full Jobcentre Plus service. Although such changes are difficult in individual constituencies—I have experienced that in Neath—they are all designed to improve front-line services for the residents of Deal and elsewhere in the country.

*[Mr. Hain]*

Whatever the transitional difficulties in that process of change, it will deliver a much better service on the ground for everyone by making efficiency savings in back-room staff and releasing extra resources to the front line.

**Mr. John Bercow** (Buckingham) (Con): May we please have an oral statement from the Prime Minister or the Foreign Secretary on the continuing crisis in Darfur, western Sudan, given that the United Nations-backed international commission of inquiry found evidence of war crimes by Government forces in Darfur that might be no less serious or heinous than genocide? Several hon. Members heard harrowing personal testimonies to such crimes during a visit to the region last week? Does the Leader of the House agree that the best way in which to demonstrate the international community's revulsion at those crimes, and its determination to bring the perpetrators to justice, would be to put the suspects on trial as soon as possible before the International Criminal Court?

**Mr. Hain:** The House is grateful to the hon. Gentleman for bringing these matters to our attention and for the eloquent and consistent way in which he raises the plight of people in the Darfur region. The crimes are totally unacceptable, and the Foreign Secretary is monitoring the situation closely with other colleagues throughout the world. They will take note of what the hon. Gentleman said.

**Mr. Andrew Miller** (Ellesmere Port and Neston) (Lab): When my right hon. Friend meets the House authorities to discuss our cleaning staff, will he bring to their attention the e-mail that I received this morning from Union Network International, the international trade union operating out of Geneva, which includes messages of support for our cleaners from cleaning workers in countries as far afield as Australia and South Africa? Given the importance of the image that we create, will he try to reach agreement with his opposite number to ensure that the Conservatives, too, support our campaign to get proper wages for the people working around us?

**Mr. Hain:** I do not want to make this a partisan issue; it is a House issue. I agree with my hon. Friend that we all want our cleaners to be remunerated properly and given good conditions of service that are reflected in their hourly rates, overtime and night-time duties and holidays—all those points were put to me today. I know that the House authorities will have taken note of hon. Members' points. Albeit working through an independent contractor, the House must be a model employer, so in these circumstances we have to ensure that we really act as such.

**Mr. Andrew Turner** (Isle of Wight) (Con): In view of the obvious but sadly unfulfilled desire of the Prime Minister to apologise to the House for something for which even the most partisan observer could not possibly hold him responsible, may we have a session every week called Prime Minister's apologies? He would thus have the opportunity to apologise for the dome, weapons of mass destruction, his broken promises on tax, his broken promises on dentistry, misleading "Newsnight" on hunting, his failure to help to promote democracy in Zimbabwe, and so on.

**Mr. Hain:** That question was straight out of one of this morning's Conservative tabloids. When the Prime Minister appeared before the Liaison Committee for well over two hours, no one said a glove on him. It was a dominating performance and he answered every question directly. Far from apologising, the Prime Minister can take great credit, as now the longest-serving Labour Prime Minister, for record employment, economic stability, continuous growth, low mortgage rates, low inflation and record public investment, all of which would be put at risk if the Conservatives won the election and returned us to public spending cuts and boom and bust.

**Mrs. Louise Ellman** (Liverpool, Riverside) (Lab Co-op): I am very encouraged by moves towards peace in the middle east and especially by the Prime Minister's success in convening the Palestinian conference in London. Will there be a statement to indicate how the important question of Palestinian Authority incitement to violence against Jews and Israelis is being tackled? Does the Leader of the House agree that statements such as those coming from the Palestinian Authority saying that the characteristics of Jews are betrayal and treachery cannot be accepted?

**Mr. Hain:** Of course those statements cannot be accepted. My hon. Friend will welcome the steadfast determination and leadership on the matter that the Prime Minister has shown, including by persuading the American Administration to make promoting the middle east peace process a priority—it is welcome that that is being done under Secretary of State Condoleezza Rice. That should be taken forward with great energy because there is no dispute that it is more important to resolve in the current international situation than the conflict between the Palestinians and the Israelis. A secure Israel must be the outcome, with an independent Palestinian state existing alongside it in friendship, rather than anger. The London meeting on 1 March will play an important part in helping the Palestinian Authority to assume a proper governing role in Palestine, rather than playing that which it has had over the past few years.

**Mr. Tony McWalter** (Hemel Hempstead) (Lab Co-op): Will my right hon. Friend prevail on his Cabinet colleagues to arrange an early cross-cutting debate on the ramifications, and especially the economic consequences, of having *laissez-faire* in student choice for universities? For example, the Forensic Science Society recognises that forensic scientists need a degree in chemistry or biology followed by a masters degree in forensics, but we have 57 undergraduate forensic science degrees, none of which are recognised, or will get people jobs. That is an example of the way in which universities provide courses that are pretty near useless and give the wrong impression to people who want to work in such fields.

**Mr. Hain:** I am sure that the odd useless degree is being offered throughout the country, and it would be

surprising if that was not the case, given the thousands of degree courses that are offered. Surely my hon. Friend should welcome record investment in our universities and the fact that we are introducing a fair student financing system by restoring grants and bringing into effect a system through which people will repay fees and loans only if they are in work and earning more than £15,000 a year. He might have noticed a report this morning that graduates are earning more than ever before.

**David Cairns** (Greenock and Inverclyde) (Lab): May I draw my right hon. Friend's attention to a report out this morning from the Jewish Community Security Trust which records a record increase in violent anti-Semitic assaults in the UK, including 20 incidents against Jewish school children and Jewish schools." [Interruption.] This is a serious issue and Conservative Members demean themselves with that sort of heckling. Will my right hon. Friend find time in the busy schedule after the recess for a debate on the increase in anti-Semitic assaults so that we send both a clear signal from every quarter of the House that anti-Semitism will not be tolerated in this society and a clear message to members of the Jewish community that their protection and safety matters as much as that of any other citizen?"

**Mr. Hain:** I agree entirely. The rise in— [Interruption.]

**Mr. Speaker:** Order. The hon. Member for Aldershot (Mr. Howarth) must not behave in that way.

**Mr. Hain:** The rise in such incidents recorded in the latest report by the Jewish Community Security Trust reveals a totally unacceptable level of attacks and other incidents. That is why there have been regular meetings between the Home Secretary and the president of the Board of Deputies of British Jews, until about collaboration between the police and the Community Security Trust. We have also strengthened the law against racism, including raising the maximum penalty for incitement to racial hatred. We want those laws applied energetically to anyone who practises anti-Semitism or commits such horrific attacks.

**Jim Sheridan** (West Renfrewshire) (Lab): My right hon. Friend will be aware of the private Member's Bill, promoted by my hon. Friend the Member for Jarrow (Mr. Hepburn), on directors' responsibilities for health and safety. It would be inappropriate to ask for Government support at this stage, but will my right hon. Friend use his good offices to ensure that the Bill gets a fair wind through the House of Commons? If it is successful, it will go a long way to reducing the number of accidents and fatalities at the workplace, which is a vital concern for all our constituents.

**Mr. Hain:** I think that the Bill gets its Second Reading on 4 March. Health and safety is important and must be paramount, and the Government have given it that position. We will obviously want to consider my hon. Friend's points carefully.

**Dr. Alan Whitehead** (Southampton, Itchen) (Lab): My right hon. Friend has greatly enhanced the opportunities for pre-legislative scrutiny and has stated the ambition that it should be a normal occurrence. Does he harbour similar ambitions for post-legislative scrutiny, in particular the scrutiny of Executive agencies charged with implementing legislation once it is passed by the House?

**Mr. Hain:** My hon. Friend makes a valuable and [illegible] academic interest in such matters. He has a point. We should find ways to have better post-legislative scrutiny and to monitor the impact of legislation. For example, it was only as a result of Back Benchers' experiences of the disastrous Child Support Agency, as then configured, in their surgeries in the early 1990s that its whole operation was reviewed. It might have been better if the House had had a proper mechanism for monitoring that. We need to consider such scrutiny, perhaps in the new Parliament.

**Mr. David Chaytor** (Bury, North) (Lab): My right hon. Friend will know that the Government intend to publish their White Paper on reform of the 14 to 19 curriculum in our schools and colleges in the very near future. Given the extremely long time scale that is likely to be needed for implementing the proposals and the absolute necessity to build across-party consensus in support of the Government's proposals, will he find time in the busy schedule over the next weeks for a full debate on the subject—not just a statement from the Secretary of State—as part of the process of building that all-party consensus?

**Mr. Hain:** I cannot promise a debate. However, the subject is vital and the Secretary of State wants to make a statement at some point, if there is an opportunity for her to do so. Indeed, she gave an interesting presentation in Cabinet this morning about the Government's plans. Raising the skills levels of people in the British economy and focusing on improvement and reform in 14-to-19 education is, she indicated, probably the greatest priority that our educational system faces.

**David Taylor** (North West Leicestershire) (Lab/Co-op): In terms of topicality for debate after the recess, should not the private finance initiative take priority over Northern Ireland electoral registration? More than 10 per cent. of GDP is tied up in such schemes. Service is teetering on the edge of the financial abyss. Fourteen PFI projects are at a standstill, including London's Whittington hospital acute facilities, with £180 m. refusing to step in. Finally, today saw the publication of Sir John Bourn's National Audit Office report on the Darent Valley hospital in Kent. It shows inflated performance scores, leading to unearned profits, and refinancing, leading to unearned rates of return to The Hospital Company (Dartford) Ltd., the contractor, at 76 per cent., which is 60 per cent. higher than planned. Does not all that show that PFI is prohibitive in cost, flawed in concept and intolerable in consequence to the taxpayers, patients and NHS workers?"

**Mr. Hain:** No, it does not.

## Points of Order

1.25 pm

**Norman Baker** (Lewes) (LD): On a point of order, Mr. Speaker. This is a serious and genuine point of order. You are a stout defender of the rights of Members of this House, and we look to you for that protection and rely on you to discharge that function, which you do. Will you reflect on whether it might help the House to make a Speaker's statement to clarify the relationship between parliamentary questions and the Freedom of Information Act 2000, and in particular to rule whether they should be treated with the same force as a freedom of information request? It would be intolerable if parliamentary questions carried less weight than a request from someone outside the House.

**Mr. Speaker:** I think it would be best if the hon. Gentleman wrote to me. I can then give the matter reasoned consideration.

**Mr. Gerald Howarth** (Aldershot) (Con): On a point of order, Mr. Speaker. Yesterday, you rebuked Defence Ministers for failing to provide full and accurate answers to me, my hon. Friend the Member for Gosport (Mr. Viggers) and the hon. Member for Portsmouth, South (Mr. Hancock) about Swan Hunter. I regret to have to seek your guidance today, but a Standing Committee on Delegated Legislation will this afternoon debate the armed forces pensions appeal tribunals. Unfortunately, there is little on the face of the statutory instrument to indicate what it is all about.

The Department has helpfully provided an explanatory memorandum, which better explains the measure. Interestingly, it says:

"Ex-Service organisations . . . are being informed about the proposals in parallel with laying this instrument."

As 93 per cent. of all represented appeals by ex-servicemen are represented by the Royal British Legion, and as it told me this morning that it has not received that information, how can we proceed this afternoon given that the principal organisation—a charitable organisation—charged with undertaking the responsibility of representing ex-servicemen has been unable to study the information and therefore advise Members of Parliament on how we should deal with it?

**Mr. Speaker:** Every hon. Member of this House has a high regard for our ex-servicemen and the organisations that represent them, including the Royal British Legion. My understanding is that the hon. Gentleman can attend the Standing Committee, and he should raise that matter with the Minister there, which will put the Minister in the position of making a reply that goes on the record. That will be beneficial to the ex-servicemen's organisations.

**Mr. Oliver Heald** (North-East Hertfordshire) (Con): Further to that point of order, Mr. Speaker. Is it possible for a dilatory motion to be made in circumstances in which information provided to a Committee is misleading in such a way? Clearly, the views of the Royal British Legion on pension appeals are crucial. If they are not known, there should be a delay—or at least there is an argument for a delay—in that Committee's sitting. Can you give us guidance on whether that would be in order?

**Mr. Speaker:** All members of my Chairmen's Panel are experienced. That is why they are Chairmen of Committees. It would be a matter for the Chairman of that Committee as to whether such a motion was acceptable.

## BILL PRESENTED

### Second Chamber of Parliament

Mr. Paul Tyler, supported by Mr. Kenneth Clarke, Mr. Robin Cook, Tony Wright and Sir George Young, presented a Bill to make provision for and in connection with membership of the Second Chamber of Parliament: And the same was read the First time; and ordered to be read a Second time on Friday 8 April, and to be printed [Bill 60].

## Identity Cards Bill (Programme) (No. 2)

1.30 pm

**The Minister for Citizenship and Immigration (Mr. Desmond Browne):** I beg to move,

That the Order of 20th December 2004 (Identity Cards Bill (Programme)) be varied as follows:

For paragraph 4 substitute—'

4. Proceedings on consideration shall be taken in the order shown in the first column of the following Table and shall be brought to a conclusion (so far as not previously concluded) at the times specified in the second column.

TABLE

| *Proceedings* | *Time for conclusion of proceedings* |
|---|---|
| New Clauses relating to the purposes and scope of registration and identity cards. | 2.45 p.m. on the day on which proceedings on consideration are commenced. |
| New Clauses relating to the National Identity Scheme Commissioner, Amendments relating to Clauses 24 and 25 | 3.45 p.m. on that day. |
| Remaining new Clauses, Amendments relating to Clauses 1 to 23, Amendments relating to Clause 26, Amendments relating to Clauses 33 to 45, new Schedules, Amendments relating to Schedules 1 and 2 | 4.30 p.m. on that day. |
| Amendments relating to Clauses 27 to 32 and any remaining proceedings on consideration | 5.00 p.m. on that day. |

The motion is intended to assist the House in using the time that we have available—*[Interruption.]* Perhaps Opposition Members might wait for the punch line before they laugh. It is intended to assist the House in using the time that we have available this afternoon for consideration on Report to the best possible effect.

We have made good progress with the Bill so far. Indeed, it was clear from the pace with which we dealt with many parts of the Bill in Committee that, in huge part, this is not highly contentious legislation. I will put before the House the evidence of that.

The Bill has been given proper scrutiny. Indeed, in preparation for it we had a six-month public consultation exercise, starting in 2002. There was an inquiry by the Home Affairs Select Committee, starting in 2003. There was further consultation on a draft Bill in 2004. The Government responded to all those consultations in the way in which the Bill was presented to the House.

On the last sitting of the Standing Committee, on the afternoon of 27 January, we dealt with amendments and agreed to 20 clauses and one schedule—clauses 26 to 45 and schedule 2. That indicates how quickly progress could have been made in large parts of the Bill.

After the first two sittings of the Committee, the Government proposed a timetable motion for the remaining consideration of the Bill in Committee. That was at the beginning of the fourth day on the morning of 25 January. The motion was agreed to only after we had spent an inordinate time debating a group of two amendments to clause 8—one hour and 10 minutes on the afternoon of 20 January followed by a further one hour and 35 minutes on the morning of 25 January. Two and three quarter hours was spent on the same group of amendments.

A group of amendments could have justified two hours and 45 minutes, but I do not rest my case only on the time. The Chairman of the Committee, my hon. Friend the Member for Bexleyheath and Crayford (Mr. Beard), had to intervene nine times to remind Opposition members of the Committee of the need to keep in order on the morning of the second of those two sittings alone. The debate was brought to a close when, unusually, the Chairman agreed to a motion that the Question be now put. I do not have extensive experience in the House, but I have served on a number of Standing Committees. I have never before known a Chairman of a Standing Committee to accept a motion that the Question be now put. It is clear to me that the Chairman, having intervened of his own volition on nine occasions, had no alternative but to do that.

**Mr. Desmond Swayne** (New Forest, West) (Con): The Minister told us that the proceedings had been uncontentious. Clearly they were not.

**Mr. Browne:** The hon. Gentleman allows me to reinforce a point that I made earlier, which he clearly did not hear. I shall repeat what I said because I wrote it down. I said that the proceedings in Committee proved that, in large part, this was not contentious legislation.

It was clear to me that, had there been a proper use of the time allotted for the Committee, we would have scrutinised every clause. I had already said that I would be happy to sit late and for there to be another Committee sitting.

**Mr. John Bercow** (Buckingham) (Con): Will the right hon. Gentleman give way?

**Mr. Browne:** I am not a right hon. Member, but I will give way.

**Mr. Bercow:** I apologise if I prematurely elevated the Minister to the Privy Council. I feel sure that for a demonstration of such loyalty to the Government it is only a matter of time.

Some of us find it peculiarly offensive to be told that such and such an allocation of time was provided in Committee and that members of the Committee had every opportunity to consider the Bill, and so on and so forth. That is because I speak as a humble Back Bencher, or at any rate as a Back Bencher who ought to be humble, who was not fortunate enough to receive the preferment of a celebrated appointment to the Committee. I have not had a chance. I am not very pleased about that and I want the chance today.

**Mr. Browne:** I am very keen that the hon. Gentleman should be pleased about his contribution to the House. My loyalty to my party in Government is modelled on his own loyalty to his party in Opposition. I look to him as a model of that. I know that he is well qualified to speak on that subject.

I am explaining to the hon. Gentleman and to other Members, who I suspect have not engaged in this level of research into the workings of the Committee, why the

*[Mr. Browne]*

Bill comes before the House with certain parts of it unscrutinised by the Committee. The opportunity was there for that to be done and significant progress was made on large parts of the Bill in short measure in Committee. However, a significant part of the Committee's consideration was taken away by filibustering, which was identified by the Chairman and responded to by him. *[Interruption.]* I say that because I am sure that, in opposing the motion, Opposition Members will make the point that parts of the Bill were not scrutinised by the Committee. It is a legitimate part of my argument and I will continue with the argument.

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): Will the Minister give way?

**Mr. William Cash** (Stone) (Con): Will the Minister give way?

**Mr. Browne:** No, I will continue with the argument at this stage.

To offer the opportunity for the completion of the work in Committee, the Government made the offer of additional time, an additional sitting or a late sitting, but that was not taken up. It is clear to me that, at least in part, some Opposition Members were making use of parliamentary procedures to frustrate the passage of the Bill. As a result, we had to divide the timetable today to ensure that all parts of the Bill are properly scrutinised. That is the purpose of the motion. It is a consequence of what was done in Committee.

On Second Reading, the official Opposition voted in favour of the principle of the Bill. We know that the right hon. and learned Member for Folkestone and Hythe (Mr. Howard) is in favour of ID cards. *[Interruption.]* I accept that some Opposition Members are against them. When the right hon. and learned Gentleman was Home Secretary in the last Conservative Government, some other right hon. Members who are in the Chamber were also Ministers. They were apparently in favour of them as well. They were part of that Government's programme. The right hon. and learned Gentleman remained in favour of ID cards. In an article in *The Daily Telegraph* on 20 September, he wrote:

"We must protect our citizens in every way that we can and, in my judgment, that includes ID cards."

He is right. He is no doubt aware that a recent survey found that 88 per cent. of Conservative voters support ID cards.

**Sir Robert Smith:** What has the fact that the Leader of the Opposition supports the Bill got to do with the timetable, which is about allowing time for Back Benchers to take part in the debate? Surely it is precisely when Back Benchers disagree with their Front Bench that parliamentary time should be generous. Given that the Leader of the House has told the House that the current hours for Thursday make it unsuitable for major legislation, will the Minister tell us why the Bill has been scheduled for a Thursday? Does it mean that the Government do not see the Bill as major legislation?

**Mr. Browne:** As the hon. Gentleman knows, the Bill has been scheduled for a Thursday because the usual channels agreed that the Bill should be presented to the House today, and I am not part of those discussions.

If the Opposition want to allow debate on the Bill, as they suggest that they do, whether from the Back Benches or the Front Bench, they should agree with the motion. Last week, the hon. Member for Sutton Coldfield (Mr. Mitchell), during a debate on the programme motion on the Serious Organised Crime and Police Bill, said:

"Our debates on programme motions often have the qualities of a choreographed Greek chorus, with outrage expressed by the Opposition about the nature of the motion".—[*Official Report*, 3 February 2005; Vol. 430, Col. 1024.]

I am offering an opportunity to the House not to do that in these circumstances and to avoid the temptation of the "choreographed Greek chorus". I am offering the opportunity not to fall into that trap and instead to agree that it would be better for us to spend time debating the Bill rather than taking time, at length, to debate the timetable motion. The motion will help order our debate in a sensible way.

**Mr. Tam Dalyell** (Linlithgow) (Lab): I thought it apposite to remind my hon. Friend of the wise words of my first Prime Minister, Harold Macmillan, who said that when Front Benches were united they were almost always united in error.

**Mr. Browne:** I always listen to the wisdom of the Father of the House and have enormous respect for his views. Part of my argument, if only by implication, is that I am not that certain that there is unity between the Front-Bench teams on the Bill. The motion will help to order our debate in a sensible way and I commend it to the House.

1.40 pm

**Mr. Humfrey Malins** (Woking) (Con): I urge my right hon. and hon. Friends to vote against the programme motion, for the simple reason that it is the latest in a long line of insults to the House of Commons. We face a Government who are determined to ride roughshod over elected Members of Parliament and to get their own way at any cost. They have consistently ignored the principle of proper parliamentary scrutiny. I shall take a look at what happened in Committee in a moment but, make no mistake Mr. Deputy Speaker, this is a major Bill with major implications for the lives of all of us. As my hon. Friend the Member for Aldridge-Brownhills (Mr. Shepherd) said in a question a little while ago, it touches on the sensitive relationship between the individual and the state, so it has enormous implications for civil liberties, and it is not just about identity cards.

The Bill's principal purpose—not understood widely outside the House—is the creation of a national register or database under which people will be obliged to provide dozens of pieces of personal information to the Government register, to which many others will have access. If one does not supply that information there is a penalty—some say a fine—of £2,500. The Bill is clearly important and has huge constitutional and civil liberties implications.

**David Winnick** (Walsall, North) (Lab): As someone who has made it clear that I am not in favour of the Government's proposals, having written a minority report for the Home Affairs Committee and voted against the Bill on Second Reading, may I put it to the

hon. Gentleman that, whatever the Government's failure to provide time, we are where we are? If the purpose of the main Opposition party is to utilise all the time allowed to debate the programme motion, that would effectively result in less time to debate the matters of substance before us. It would be most unfortunate if that were its tactic, because it would aggravate a situation in which the Government have not provided the time that we would like.

**Mr. Malins:** I have enormous respect for the hon. Gentleman who, throughout proceedings on the Bill, has opposed the Government. If the debate on the programme motion takes time away from the debate on new clauses, it is the Government's fault, not ours.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): I hope that my hon. Friend will not be seduced by the argument of the hon. Member for Walsall, North (David Winnick). We must assert the right to scrutinise legislation. The only way in which we can do so is to speak in these debates and vote on these timetable motions. If we do not do so, we are not performing our duty.

**Mr. Malins:** My right hon. and learned Friend is right, as always. What power do we have? All that we can do in practice is speak in these debates, make our protest known and vote when the time comes. That is what we are going to do.

If ever a Bill needed detailed and thorough scrutiny in Committee, this is the Bill. It did not receive it, and that was the Government's fault. I shall tell the House what the Government did. At a stage in Committee when he did not have any justification whatever for his charge, a Government Back Bencher falsely accused the Opposition of over-long speeches and filibustering. It was an absurd allegation that was utterly rejected by the Committee Chairman. Throughout our proceedings, we had kept to the point. Yes, there were long speeches, but the Minister made a speech in excess of one hour. I do not criticise him for doing so—he was giving a lengthy, if unsatisfactory, response to points that we were making.

Following that absurd intervention by a Government Back Bencher, the Government introduced knives or what people outside the House would call a viciously short timetable for the rest of the Bill. As a result, whole clauses were not debated or scrutinised. Part of clause 8 was not debated; clause 9 was not debated at all; clauses 10 and 11 were not debated at all; clauses 23, 24 and 25 were not debated at all. Those important clauses deal with the commissioner and his or her powers, as well as the provision of information about an individual without their consent. None of those clauses was debated, so they were not subject to any scrutiny. By any standards, that is a disgrace.

After the Committee's proceedings had finished, the Joint Committee on Human Rights reported. It said that the Government's identity card and register proposals raised "serious question" about possible breaches of human rights and it regarded Ministers' failure to explain why they believed their Bill was compatible with the Human Rights Act 1998 as "deeply unsatisfactory". I warned the Government on day one of the Committee that the Joint Committee would shortly report, and I suggested gently because that is my style, that they wait for that report so that we could consider it during our deliberations on the Bill. The Government did not take any notice of my suggestion whatsoever. It is ludicrous that we had to go through the entire Committee stage without the benefit of that important report.

One might ask whether there was a good reason for that unseemly hurry and ridiculous rush. I believe that the main motive of this utterly discredited Home Office is to secure some last-minute headlines before the general election. It wants to give the appearance of being tough, but it has completely ignored the need for proper parliamentary scrutiny of a vital Bill. Today, Members on both sides of the House wish to speak to amendments and new clauses that they have tabled, including the hon. Member for Walsall, North (David Winnick) and his hon. Friend the Member for Hull, North (Mr. McNamara). The hon. Member for Walsall, North is wholly against his Government and has as much right as any hon. Member to speak to his amendments. The hon. Member for Banff and Buchan (Mr. Salmond) and his colleagues have tabled a number of amendments and they have the right to speak to them.

**Mr. Hogg:** Does my hon. Friend agree that one of the perverse effects of this truncated procedure is that it dissuades hon. Members from becoming interested in a Bill, as they know that they do not have an opportunity to discuss it on the Floor of the House or, indeed, in Committee?

**Mr. Malins:** My right hon. and learned Friend makes a good point. Increasingly in recent years, right hon. and hon. Members have wondered what is the point of tabling an amendment or coming to the Chamber to try to debate something, as there will be a guillotine and their contribution will be cut out. That has a serious impact on parliamentary democracy.

**Mr. John Gummer** (Suffolk, Coastal) (Con): I very much agree with my hon. Friend, but I hope that he accepts that because many Conservative Members take such comments seriously, we need a constant reminder that when we are returned to Government automatic guillotining will stop. That has not been stated with sufficient strength, and until my hon. Friend does so his comments lack moral authority.

**Mr. Malins:** My right hon. Friend makes an interesting point. I can only speak personally and I choose my words with care: I hope that when we are returned to Government, considerably more time will be made available for vital Bills of this sort.

**Mr. Cash:** On the point that my hon. Friend so ably made about the impact on the House of Commons, does he agree that the extent to which people are concerned that they are being effectively cut out also contributes to the lack of turnout in general elections? People who witness what is happening and see that it is such an invasion of constitutional rights and civil liberties say to themselves in a state of fury, "The House of Commons is impotent and decisions are taken without regard to the people we have elected." They then do not bother to turn out, so it is the destruction of democracy as well.

**Mr. Malins:** My hon. Friend is right. The situation contributes to lack of turnout not just in elections, but,

*[Mr. Malins]*

I venture gently to suggest, among colleagues throughout the House of Commons who feel that it is not worth turning up.

**Mr. John Taylor** (Solihull) (Con): Does my hon. Friend agree, perhaps along with my right hon. Friend the Member for Suffolk, Coastal (Mr. Gummer), that one of the best ways of ensuring that all this guillotining is not necessary is to introduce fewer Bills so that they can all be considered properly?

**Mr. Malins:** My hon. Friend is right—there is far too much legislation and far too little scrutiny. Today we have Report and Third Reading, and we have less time than my hon. Friend the Member for Newark (Patrick Mercer) had for his private Member's Bill last Friday. I refer also to the report quoted earlier from the Select Committee on Modernisation, which mentioned restoring longer hours on Thursday to take substantial business. If this is not substantial business, I do not know what is.

Today should be the chance for all Members of the House to express their views on the detail as well as the principle of the Bill. The Government have taken that chance away from all of us by giving us a matter of a few hours—not even one full day—to debate the vital issues. When times for votes are taken out, the position is even bleaker and even more unfair.

Today, we cannot stop the Government driving a steamroller over Members of the House. Today, we cannot stop the Government showing their contempt for Parliament. But we can still—thank God—protest, and I hope that our protest is heard by the millions of people outside this building who care deeply about parliamentary scrutiny and parliamentary democracy.

1.52 pm

**Mr. Richard Allan** (Sheffield, Hallam) (LD): I do not wish to speak for long on the motion, but I want at least to place on record the disgust felt in my party at the Executive's lack of regard for Parliament.

The Minister said that a Greek chorus was the appropriate metaphor for the current circumstances. I am quite a fan of Greek tragedy. If I remember correctly, the role of the chorus is to explain to the audience the narrative of the protagonist rushing headlong to their doom. In the context of the Bill, being in a Greek chorus is quite an apt metaphor for what we are doing.

The Bill is complex and has significant technical, financial and privacy implications that cannot be covered under the programme motion before us today. Its complexity has grown during the passage of the Bill thus far, so there are many areas that need further clarification that we will not have time to deal with.

**Mr. Alan Reid** (Argyll and Bute) (LD): My hon. Friend is quite right: there is simply not enough time to discuss all the important amendments that have been tabled. For example, between 3.45 and 4.30, there are three sets to consider, but a vote on the clauses that finish at 3.45 would take out a quarter of an hour, and a vote on the use of information from the register would take another quarter of an hour. Even if the debate on the use of information from the register takes only a quarter of an hour, we will have no time to discuss all the later amendments that affect Scotland and remote rural areas.

**Mr. Allan:** I am grateful to my hon. Friend for his intervention; the amendments are important, as I have said. The Scottish National party did not have anyone on the Standing Committee, so this is its only opportunity to raise issues—my hon. Friend the Member for Orkney and Shetland (Mr. Carmichael) also raised them, and there was an interesting debate about them—about people who live in remote Scottish areas.

**Mr. Hogg:** Does the hon. Gentleman agree that he made a serious point about the disabling of minority parties? If minority parties are not represented— *[Interruption.]*

**Mr. Deputy Speaker (Sir Michael Lord):** Order. We must have no more interventions from a sedentary position. If hon. Members want to intervene, they must stand up and do so in the proper way.

**Mr. Hogg:** If minority parties are not represented in the Standing Committee, as was apparently the case in this instance, Report is the only opportunity that they have to speak on the detail of the Bill.

**Mr. Allan:** The right hon. and learned Gentleman is entirely correct and I have a lot of sympathy with his point. I come from one of the more compact parliamentary parties in this Parliament and for us to cover all legislation is a challenge. Report is an important opportunity for smaller parties to intervene—and if that is curtailed there is nowhere else for them to be heard.

**Mr. Browne** *rose—*

**Mr. Allan:** I know the point that the Minister is going to make, but I shall let him make it anyway.

**Mr. Browne:** I will not disappoint the hon. Gentleman and I am grateful to him for giving way. He made an enormous contribution to the debate in Committee, but he must tell the House that his party had two people on the Committee, only one of whom was ever present at any time.

**Mr. Allan:** That is known as teamwork: we were running a relay operation. The serious point is that it is difficult for smaller parties—they will speak for themselves – to cover all the Committees that take place in the House, and Report remains an important part of the structure of legislation for precisely such purposes. I do not think that it has ever been the tradition that smaller parties cover every single Standing Committee.

**Mr. Gummer:** Does the hon. Gentleman agree that the other problem is that there are disagreements within parties about such Bills? I happen to be very much in favour of the principle of the Bill, while others in my party take a different view. This is the only opportunity

that we all have to show what parts we agree with and where we might want alteration, so that there can be greater consensus. With a Bill of this sort and of this importance, that consensus becomes very important.

**Mr. Allan:** That intervention was entirely helpful. People often say that the debates in the House are meaningless because all parties come in with a single party Whip and troop through the Lobby, not having listened to the debate or changed their minds. This afternoon, we are dealing with precisely the sort of issue on which people will engage in debate and on which they may change their minds, as has been shown by the course of our proceedings so far. It is on precisely this sort of issue that we need additional time on Report.

**Mr. Bercow:** I am grateful to the hon. Gentleman for giving way. Given that most members of the public have not seen the selection of amendments for consideration today, would the hon. Gentleman agree that it is important, in order to underline the gravity of the situation and our complaint, that people should be aware that there are 150 minutes in which to debate no fewer than 77 new clauses and amendments? In other words, even if there were no votes, which is not realistic or desirable, there would be fewer than two minutes for the consideration of each. That is an outrage and an insult.

**Mr. Allan:** I am grateful to the hon. Gentleman for those mathematical calculations. Even at the speed at which I customarily speak, it would be difficult to get through those amendments in that time.

Briefly, I shall tell the Minister off, if I may, in my own gentle style for one point that he made in his introduction. He said that there were certain points on which we made progress in Committee. I will be completely honest: there were times when we had too little time in Committee and on other occasions people spent too long debating matters that did not need so much time. I am not going to pretend that everything in Committee worked smoothly, but the reality was that the Committee did not have sufficient time overall. There were occasions on which hon. Members such as I felt that we ought to assist in making some progress in order to get on to other things, so we did not spend as much time debating clauses as we wanted. Having tried to be co-operative and helpful, we find it a little difficult to have that thrown back at us afterwards, as if to say, "You went through these clauses quickly, so everything was fine and they were non-contentious." I want to put that on the record because it is not an entirely fair comment.

If we stick to the timetable that we have before us, hon. Members will be asked to vote—I must be careful with my imagery—for a pig in a poke. That is the correct metaphor to describe what we are being asked to buy, something about which we do not have sufficient detail. In my party, we do not want to buy this pig at all. We have made our position clear on the Bill. The Conservatives have explained that they do not yet know enough about the pig, and that what they have seen they do not like. I understand that they are officially planning not to vote at all. However, we will be united in voting against the programme motion, which is essential if we are to have the detail that we need to make a proper informed decision. That is, after all, what we should be here to do.

1.59 pm

**Mr. Richard Shepherd** (Aldridge-Brownhills) (Con): The programme motion is nearly as bad as it gets. It is not quite as bad as the instrument that the Government use to deem that a Bill has been considered, but it is close. Most Government Members would accept that to deem without consideration is an outrage. The programme motion does not even pretend that we will consider the Bill.

As the hon. Member for Sheffield, Hallam (Mr. Allan) has pointed out, the Bill is essentially an enabling Bill. It gives huge powers to the Secretary of State, but what do those powers enable him to do? The point about a pig in a poke is correct. The House has a right to examine the Bill.

The Minister takes a lofty view of Committees, which are for the convenience of the House. In years gone by, Bills were traditionally taken on the Floor of the House in order to meet the reasoned observations of hon. Members. We have all been elected and all represent a point of view. We should all have the opportunity to express how the Bill may bear on our constituents and to form a judgment whether the legislation merits passing.

**Mr. Hogg:** Does my hon. Friend agree with this proposition: by curtailing debate, the Government are showing contempt for the views of hon. Members and, more importantly, for the views of the public, who might seek to use their representative to express their views?

**Mr. Shepherd:** I have spoken so often in debates on guillotine motions that I sometimes think that my remarks are explicit, when they are merely implicit. I am grateful to my right hon. and learned Friend for yet again underlining one of the crucial reasons why we have parliamentary debate.

An early-day motion has been tabled to point out to hon. Members and Members of the other place how lamentable the process has been. As my hon. Friend the Member for Woking (Mr. Malins) has pointed out, the EDM lists the clauses that were not debated—clauses 8 to 11 and 23 to 25. Is that a mere technical matter in an enabling Bill that should not fuss us? Clause 8 sets out the procedure for issuing identity cards. Is that a small matter and should we have the right properly to consider it? Clause 8 concerns matters such as issuing identity cards and designating documents.

Clause 11 contains the power to require information for validating the register. It is enormously important because it is crucial to the operation of the scheme, but it has not been debated. Clause 11(1) places a duty on a person to provide information to the Secretary of State for the purposes of verifying an individual's entry on the register. Not unreasonably, we would like to discuss that duty.

Clause 23 has also not been discussed. It concerns

"Rules for using information without individual's consent".

If the world at large knew what this Government are about in their construction of a security and police state, it would be truly alarmed by databases that can be

*[Mr. Shepherd]*

accessed by other people and information that must be given under the threat of law. We want to know to whom the information must be given and for what purpose.

Clause 23(1) states that information—photographs, signature, fingerprints or other biometric information—provided under clauses 19 to 22 may be authorised only when the Secretary of State, an omnipresent individual who wants to know everything about us,

"is satisfied that it would not have been reasonably practicable for the person . . . to have obtained the information by other means."

For example, if fingerprint information were recorded on the register, the police would first have to search their own register of fingerprint records before requesting information from the register. That is an illustrative example, but it touches on how the Bill will encroach on the very privacy of our lives.

My hon. Friend the Member for Woking has mentioned the work of the Joint Committee on Human Rights. The Bill has been galloped through with less than 28 hours of consideration in Committee, and we are discussing the heart of the Bill—issuing ID cards, the commissioner and databases. The strongest civil liberties argument is that we have seen no detail because we are examining an enabling Bill. The Bill's vagueness, which is inappropriate, was a principal concern of the Joint Committee on Human Rights. How will the Bill affect an individual's privacy?

I do not accept that we should reduce ourselves to nothing, which is the presumption of all those Labour Members who say, "Let's get on with it. Let's consider the Bill and do what we can." The matter concerns one of Parliament's primary functions, which is to look at that to which we give the power of law—if only the Leader of the House could remember his own dual duty. We must solemnly ask ourselves whether the procedure is right.

This is not a party matter. When we vote on the programme motion, which concerns the suppression of the freedom of expression of elected Members of Parliament, we should make a personal judgment. Some might say that that contradicts the purpose of the modern Parliament, because we are merely party men who must do as we are bid. We are, however, individuals who represent human beings—our constituents. Should we agree to a meaningless and monstrous consideration that defeats the very purpose for which we are sent here?

2.7 pm

**Mr. Alex Salmond** (Banff and Buchan) (SNP): The Minister has confirmed my determination never to hire him as an advocate if I am on trial for anything at all serious. He has said that the Bill is non-contentious. The title might be non-contentious, but much of the rest is highly contentious.

The Minister has said that the timetable motion will allow debate. That would be true if it had enough time in it, which it clearly does not. As has already been pointed out, my hon. Friends and I have tabled no fewer than nine amendments to a key passage of the Bill, but that passage has been allocated 45 minutes of consideration, almost certainly half an hour of which will be taken up by voting. Those nine amendments affect Scotland, a country which the Minister might remember from time to time, but not one of them is likely to be reached under this disgraceful timetable motion.

**Mr. Gummer:** Will the hon. Gentleman not be taken in by the Government's use of the word "timetable"? "Timetable" suggests that time is available; this is a guillotine motion that is designed to cut off debate. It is a foreign motion and a foreign word and we should pronounce it in a foreign way. We should vote against the guillotine motion.

**Mr. Salmond:** The Conservative party is embracing all things French—I knew that it was only a matter of time before that happened.

**Mr. Cash** *rose—*

**Mr. Salmond:** I give way to the Francophile.

**Mr. Cash:** Does the hon. Gentleman agree that in the light of the disgraceful way in which the Government continuously introduce programme motions, the more that personal liberty is put at risk, the more certain one can be that one will get less time? We should call the motion a garrotte.

**Mr. Salmond:** I always agree with the hon. Gentleman, except when I disagree with him. Nevertheless, his point is substantial. The timetable motion makes it impossible to reach any of the nine amendments.

The Minister said that we should examine the splendid example of the Serious Organised Crime and Police Bill. Some of us tried to debate that Bill on Monday, when two extraordinary things happened. First, a whole series of amendments was no longer applicable because at the last minute the Government removed the bit of the Bill to which the amendments referred; such was the spatchcock nature of the legislation. Secondly—this is almost unprecedented in the history of this place—the Home Secretary had to adopt other parties' amendments, including one from the Scottish National party. The Government, in headlong retreat from aggravated trespass in Scotland, found themselves having to assimilate the amendments of other parties and then found that, under the timetable, they did not even have time to explain why. I know that the Minister has been preoccupied with this Bill, but he should look at what his colleagues are doing before he cites another Bill as a splendid example of examination and parliamentary democracy.

Finally, let me say this to the Minister—

**Mrs. Claire CurtisThomas** (Crosby) (Lab): Will the hon. Gentleman give way?

**Mr. Salmond:** No, I will not take further interventions because I am anxious to complete this point.

I smell a debacle. We are informed under the freedom of information legislation that the retreat from the exchange rate mechanism cost £4 billion. I suspect that this debacle will cost double that. In days to come, when the Minister looks back at the wreckage of a once

promising parliamentary career, and as this hangs around his neck like an albatross, he will say, "I wish I'd listened to Alex Salmond on 10 February 2005. I wish I'd allowed those amendments on Scotland and on the rights of the Scottish Parliament and of people in far-flung areas of Scotland to be debated, because if I had, perhaps I and the Government would not be in the ridiculous position of spending £8 billion on a pile of nonsense."

2.11 pm

**Mr. Mark Fisher** (Stoke-on-Trent, Central) (Lab): This is a major Bill because it takes us into wholly uncharted waters in terms of the relationship between the individual and the state, yet we are trying to discuss it in one afternoon—the shortest of the week. It may not be a constitutional Bill, but it is semi-constitutional, in that it distinguishes a new era for the relationship between the individual and the state. A sane Parliament would give it at least two full days of debate.

Like other hon. Members, I supported the Bill on Second Reading, but with considerable reservations. I did not object to the card itself, but had many reservations about the details, such as the role of the commissioner, what will be on the register and our ability to access and change erroneous material on it. I was hoping, and thought that I had assurances from the Government, that many of those things would be addressed and changed in Committee, but I cannot see that they have been. This is the first opportunity for Back Benchers such as me, who have serious and growing reservations, to hear the debate and participate in it—yet, as hon. Members on both sides of the House have said, we simply will not have enough time.

This is a hugely important Bill and once we pass it, the relationship between individuals and the state will never be the same again. I regret bitterly that this afternoon we will be so constrained in our consideration. The Government are making a huge error.

2.13 pm

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): It is a pleasure to follow the hon. Member for Stoke-on-Trent, Central (Mr. Fisher), with whom I agree so often on such matters.

The detail of the Bill has been examined fully by my hon. Friend the Member for Aldridge-Brownhills (Mr. Shepherd) and I will not repeat what he said, but I would like to summarise my objections.

We are perpetrating a fraud on the electorate because we tell them that Bills are discussed, but this Bill has not been discussed. It is also a fraud on the judiciary, who often say when interpreting legislation that Parliament decided on it after consideration. We are not considering and we have not decided. We are dissuading hon. Members from becoming involved in legislation, because they know that they will not have a chance to speak to the detail.

**Mr. John Taylor** *rose—*

**Mr. Hogg:** If I may just finish this point, of course I shall give way.

We are disqualifying the minority parties from playing a proper role in the discussion—

*It being forty-five minutes after the commencement of proceedings on the motion,* MR. DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Standing Order No. 83A(8).*

*Question put:—*

*The House divided:* Ayes 220, Noes 131.

**Division No. 80]** **[2.14 pm**

**AYES**

Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Austin, John
Baird, Vera
Banks, Tony
Barnes, Harry
Battle, rh John
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Berry, Roger
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Cousins, Jim
Cranston, Ross
Crausby, David
Cryer, John *(Hornchurch)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Field, rh Frank *(Birkenhead)*
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hutton, rh John
Iddon, Dr. Brian
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kennedy, rh Jane *(Wavertree)*
Kidney, David

King, Ms Oona *(Bethnal Green & Bow)*
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Lewis, Ivan *(Bury S)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Marin, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Mole, Chris
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Munn, Ms Meg
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Soley, Clive
Southworth, Helen
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Wadey, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Wood, Mike *(Batley)*
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Ayes:**
**Mr. Nick Ainger and**
**Mr. Jim Murphy**

**NOES**

Allan, Richard
Ames, David
Arbuthnot, rh James
Atkinson, David *(Bourn'mth E)*
Bacon, Richard
Baker, Norman
Barker, Gregory
Begg, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bennett, Andrew
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brake, Tom *(Carshalton)*
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Cotter, Brian
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flook, Adrian
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jenkin, Bernard
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kirkbride, Miss Julie
Laing, Mrs Eleanor
Leigh, Edward
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Malins, Humfrey
Mawhinney, rh Sir Brian
Mercer, Patrick
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Oaten, Mark *(Winchester)*
Opik, Lembit
Ottaway, Richard
Pugh, Dr. John
Randall, John
Reid, Alan *(Argyll & Bute)*
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spicer, Sir Michael
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Widdecombe, rh Miss Ann
Willis, Phil
Wilshire, David
Winnick, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Young, rh Sir George

**Tellers for the Noes:**
**Mr. Peter Atkinson and**
**Mr. Mark Prisk**

*Question accordingly agreed to.*

**Mr. Malins:** On a point of order, Mr. Deputy Speaker. We now have no more than 18 or 19 minutes to discuss no fewer than 24 amendments and three new clauses. That is a disgrace. It gives us no chance to make meaningful contributions. Is there any way that the Government could be persuaded through you to take the proceedings out of today and return on another day when we can have a proper debate? Otherwise, the proceedings are a farce.

**Mr. Deputy Speaker:** The hon. Member will appreciate that the Chair is not responsible for the result of the Division. The programme motion is now in place and we must proceed with the debate.

**Mr. Hogg:** Further to that point of order, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** I have dealt with the matter sufficiently for the time being. I do not want to prolong debate on it. We should move on.

# Identity Cards Bill

*As amended in the Standing Committee, considered.*

*[Relevant document: The Fifth Report from the Joint Committee on Human Rights, Session 2004–05, on the Identity Cards Bill (House of Commons Paper No. 283).]*

## New Clause 1

NATIONAL IDENTIFICATION SCHEME

'(1) The Secretary of State shall establish a National Identification Scheme ("the Scheme") consisting of—

(a) a register of individuals ("the Register"), and

(b) the provision of Identity Cards to individuals.

(2) The purposes of the Scheme are confined to—

(a) enabling individuals to establish their identity to others by providing registrable facts about themselves, and

(b) enabling others to be able to establish the identity of individuals whenever that is necessary in the public interest.

(3) Something is necessary in the public interest if and only if it is—

(a) of assistance to the Secretary of State in the preventing or detecting terrorist acts in the United Kingdom or elsewhere or otherwise in the interests of national security,

(b) for the purposes of controlling illegal immigration and enforcing immigration controls,

(c) of assistance to the Secretary of State in preventing or detecting crime save crime which gives rise to offences triable only summarily, or

(d) for the purposes of securing proper provision of public services.

(4) In this Act "registrable fact", in relation to an individual, means and is limited to it—

(a) his full name,

(b) his date and place of birth,

(c) his address, and

(d) his current residential status (which shall mean his nationality and his entitlement to remain in the United Kingdom).'—*[Mr. Malins.]*

*Brought up, and read the First time.*

2.30 pm

**Mr. Humfrey Malins** (Woking) (Con): I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker (Sir Michael Lord):** With this it will be convenient to discuss the following: New clause 5—*Commencement and continuation in force of certain provisions of this act*—

'(1) This section applies to the following provisions of this Act—

(a) section 5(2) to (6),

(b) sections 6 and 7,

(c) section 9,

(d) sections 15 to 17, and

(e) sections 19 to 22.

(2) The provisions of this Act to which this section applies may only—

(a) be brought into force, and

(b) continue in force,

in accordance with the provisions of an order under this section.

(3) The Secretary of State may not make an order under this section unless he is satisfied that either the conditions in subsection (4) or the conditions in subsection (5) are met.

(4) The conditions in this subsection are that—

(a) an emergency within the meaning of Part 2 of the Civil Contingencies Act 2004 (c. 36) has occurred, is occurring or is about to occur, and

(b) it is necessary to make arrangements under the provisions of this Act to which this section applies for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency.

(5) The conditions in this subsection are that—

(a) a public emergency within the meaning of Article 15(1) of the European Convention on Human Rights exists in the United Kingdom, and

(b) it is necessary to make arrangements under the provisions of this Act to which this section applies for the purpose of preventing, controlling or mitigating an aspect or effect of the public emergency.

(6) The Secretary of State may not make an order under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(7) No order under this section may provide for the continuation in force of a provision of this Act to which this section applies for more than a period of twelve months.'.

Amendment No. 1, in page 1, line 2, leave out clause 1.

Amendment No. 42, in clause 1, page 2, line 10, leave out 'previously'.

Amendment No. 11, in clause 1, page 2, line 11, at end insert

'during the previous five years'.

Amendment No. 43, in clause 1, page 2, line 12, after 'resident', insert

'during the previous three years'.

Amendment No. 2, in clause 3, page 4, line 8, leave out 'statutory purposes' and insert

'purposes of the National Identification Scheme specified in section [National Identification Scheme]'.

Amendment No. 3, in clause 3, page 4, line 14, leave out 'statutory purposes' and insert

'purposes of the National Identification Scheme specified in section [National Identification Scheme]'.

Government amendment No. 52.

Amendment No. 44, in clause 5, page 4, line 43, at end insert

'(d) state that the individual does not consent to be included in the Register on the basis of the application.'.

Amendment No. 4, in clause 5, page 5, line 21, leave out 'statutory purposes' and insert

'purposes of the National Identification Scheme specified in section [National Identification Scheme]'.

Amendment No. 5, in clause 6, page 7, line 7, at end insert

'(1A) An ID card may only be issued for the purposes of the National Identification Scheme specified in section [National Identification Scheme].'.

Amendment No. 45, in clause 10, page 9, line 5, after 'card', insert

'and about whom there is an entry in the Register'.

*[Mr. Deputy Speaker]*

Amendment No. 34, in clause 12, page 10, line 30, after 'circumstances', insert

'save details of a change of address for any place where he has lived for a period of less than three months'.

Amendment No. 6, in clause 12, page 11, line 9, leave out 'statutory purposes' and insert

'purposes of the National Identification Scheme specified in section [National Identification Scheme]'.

Amendment No. 50, in clause 15, page 14, line 12, leave out from beginning to 'evidence' in line 13.

Amendment No. 51, in clause 15, page 14, line 13, leave out from 'himself' to end of line 14.

Amendment No. 61, in clause 17, page 15, line 39, after 'he', insert 'reasonably'.

Amendment No. 62, in clause 17, page 15, line 41, at end insert

'(1A) Information provided under this section shall be limited to—

(a) a person's full name,

(b) his date and place of birth,

(c) his address, and

(d) his current residential status (which shall mean his nationality and his entitlement to remain in the United Kingdom).'.

Amendment No. 7, in clause 43, page 36, line 35, leave out from 'the' to end of line 36 and insert

'Register established as part of the National Identification Scheme under section [National Identification Scheme];'.

Amendment No. 8, in clause 43, page 36, line 37, leave out '1(5)' and insert

'[National Identification Scheme](4)'.

Amendment No. 9, in clause 43, page 36, leave out line 41.

Amendment No. 63, in clause 45, page 38, line 17, after 'from', insert

'the provisions to which section [Commencement and continuation in force of certain provisions of this Act] applies'.

Amendment No. 64, in clause 45, page 38, line 20, leave out 'to bring' and insert

'under this section to bring certain'.

Amendment No. 10, in schedule 1, page 40, line 15, leave out paragraph (h).

Amendment No. 13, in schedule 1, page 40, line 32, at end insert

'and the number of any ID card issued to him, which numbers shall be the same'.

Amendment No. 14, in schedule 1, page 40, line 33, leave out paragraph (b).

**Mr. John Gummer** (Suffolk, Coastal) (Con): On a point of order, Mr. Deputy Speaker. Given the position that we now face, would it be convenient for the Chair not to use the expression, "With this it will be convenient"? It is not convenient for the House; we are proceeding in the current manner because we have to. That is altogether different.

**Mr. Deputy Speaker:** The right hon. Gentleman is an experienced Member of the House. I simply refer to the way in which the amendments are grouped, not the time allowed for them.

**Mr. Mullin:** I repeat that our problem is that we now have 17 minutes in which to get through a great deal of business and it simply cannot be done properly. I had intended to outline new clause 1 at some length. In fairness, I cannot do that because other hon. Members want to make some contribution to the debate, and I shall ensure for my part that they have an opportunity to do that.

My hon. Friends and I would very much like to divide the House on new clause 1. We have already discussed the fact that the purpose of the Bill is principally to set up the national identity register. New clause 1 would change the existing clause 1 in a number of respects. Under the existing clause, I shall be obliged to provide "registrable facts" about myself to others, so that they may check on me. I have already remarked on the vast number of registrable facts that an individual will have to provide. New clause 1 seeks to limit that number. After all, if I am seeking to establish my identity, why on earth should I provide more than my full name, my date and place of birth, my address and my residential status?

**Mr. Richard Allan** (Sheffield, Hallam) (LD): It would be helpful to the Liberal Democrats if the hon. Gentleman could confirm that his new clause seeks dramatically to restrict the functions of the scheme. He will be aware that we are opposed to the scheme as a whole. If he is seeking our support, we might find something that seeks to restrict it preferable to the Government's option, although that would be no indication of our support for the scheme as a whole.

**Mr. Mullin:** The hon. Gentleman contributed significantly in Committee and I respect his views on this matter. He is right: we are seeking to place restrictions on these measures, in this brief debate.

The purpose of clause 1 ought to be to establish the real purpose of the scheme. The Information Commissioner himself has said:

"The lack of a clearly defined purpose for ID cards, including the continuing change in focus causes concern".

Having heard different arguments over the past two or three years about what the Bill is for, I believe that it is time to establish in the Bill what the card and the register are going to do, and what the purpose of the scheme is. Surely the Government should insert in the Bill the statement that its principal purpose is to assist the Secretary of State

"in the preventing or detecting terrorist acts in the United Kingdom or elsewhere or otherwise in the interests of national security",

as new clause 1 would do. I believe that it is essential that that vital purpose should be specifically set out, although the Government appear to disagree.

We have not yet been persuaded that the register and the cards will significantly contribute to reducing acts of terrorism. We also need to be persuaded that the costs involved will be worth while. Could the money be better spent elsewhere? The Information Commissioner, Mr. Thomas, also told the Home Affairs Committee:

"I want to see on the face of the statute right at the outset a very clear indication of the stated purposes for this card."

**Dr. Nick Palmer** (Broxtowe) (Lab): The list in new clause 1(3) differs significantly from the provisions in

clause 1 only in that it omits any mention of illegal employment. Do the Opposition not care about illegal employment?

**Mr. Malins:** I have made it quite clear that the significant difference is that we want to insert in the Bill a reference to terrorism, which we believe is very important.

I want to illustrate the uncertainty that exists among Ministers by quoting some exchanges between them and others in the past. In 2002, in answer to a question from my hon. Friend the Member for Rochford and Southend, East (Sir Teddy Taylor), the then Home Secretary said that he would not rule out the possibility of the cards making a

"substantial contribution to countering terrorism"

He said on a later occasion that they could make a contribution towards countering terrorism, but that it would not be their primary purpose. The hon. Member for Sunderland, South (Mr. Mullin) was taking a break from ministerial office at the time—otherwise he would not have asked these questions of the then Home Secretary:

"May I ask my right hon. Friend, first, whether he accepts that it is for those who are in favour of the card to make a case for it, not the other way round? Secondly, will he confirm that the card will be little or no use in combating terrorism? Thirdly, given the unhappy history ... of Government information technology projects, are we not entitled to be sceptical about some of the claims made for the card?"

The Home Secretary replied:

"I can say yes to all three."—[*Official Report*, 1 July 2002; Vol. 388, c. 231-236.]

So there are serious doubts on this matter.

**Lembit Öpik** (Montgomeryshire) (LD): Is the hon. Gentleman suggesting that the Government might be resistant to his new clause because they themselves do not believe that an identity card can significantly reduce the risk of terrorism?

**Mr. Malins:** The hon. Gentleman makes an interesting point. That could well be the case. In Committee, the Government certainly did not persuade us on that point.

On illegal immigration, a MORI poll found that a third of the people surveyed tended to support a card because they believed that it would prevent illegal immigration. Are they right? In the few moments remaining to me, I should like to point out that all new asylum seekers—the poll showed that most people were referring to asylum seekers—are already issued with a biometric card, so they are already covered. What about the 250,000 failed asylum seekers who are already in the country? How will the card help in that regard?

**Mr. Allen:** Does the hon. Gentleman have any sympathy with our amendment Nos. 68 to this group? We may not get to it, but we would like to divorce the Home Office from ID cards from passports. British passport holders are the last people we need to issue with an ID card, as they already have a secure document.

**Mr. Malins:** The hon. Gentleman makes an interesting point.

What will the card do to prevent illegal immigration? What effect will it have on the millions of people who come to this country on short-term visits of up to three months? They would not need to register or have a card. Have the Government persuaded us that the card or the register will have an effect on illegal immigration? No, they have not. Have they persuaded us that the card will have a sensible effect on identity theft or benefit fraud? No, they have not.

Our other amendments are restrictive. I am concerned that the registrable facts that we shall have to supply include information about addresses at which we have previously resided in the United Kingdom and elsewhere. I have tabled amendment No. 11 to restrict that to the previous five years. We also seek to limit the nature of information about the addresses where we have lived. We are trying to limit the Government.

If the principal purpose of clause 1 is to help us to prevent terrorism—or if it is not—the Government should say so. Our debate is uninformed unless we know that. Furthermore, we need convincing that it will do that. I am also reluctant for the state to have quite so much information from me as an individual, and the new clause seeks to restrict the information to an amount that we regard as reasonable in the circumstances.

**David Winnick** (Walsall, North) (Lab): I should like to speak to new clause 5. In the limited time available, I want to explain that it aims to limit the use of identity cards to dealing with terrorism or an emergency and that it would introduce the necessity for the Government to seek parliamentary approval every year. As I have explained elsewhere, including on Second Reading, I do not accept that identity cards would help in the fight against terrorism. They would certainly have been of no assistance during the 30 years of IRA violence and murder.

Nevertheless, the Government put great emphasis—more than on anything else—on the view that identity cards would help in the fight against terrorism. Therefore, I believe that, if we are to have such cards, their use should be confined to terrorist outbreaks or the kind emergency that I describe in the new clause. It would then be necessary for the Government to come to the House of Commons to defend and justify their view that such an emergency was about to occur, and to seek the approval of Parliament for the use of identity cards—incidentally, we have not had such cards for more than half a century—and then, if Parliament gives its approval, it would do so on the basis of 12 months. Obviously, the Government would then come back if they require a renewal of powers given by Parliament for that purpose.

For all those reasons, we should confine identity cards along the lines that I have suggested. I hope that the Government will consider the matter more carefully than they have done.

**Lynne Jones** (Birmingham, Selly Oak) (Lab): As my hon. Friend concerned that the Government have made no response available to hon. Members to the concerns raised by the Joint Committee on Human Rights about the human rights aspects of the Bill?

**David Winnick:** That was mentioned in the debate on the programme motion. That is unfortunate and

*[David Winnick]*

perhaps the Minister will refer to it on Third Reading. The criticism that has been made by the Joint Committee on Human Rights is very important. I do not want to appear in any way immodest, but in some respects, it draws on some of the matters raised in the minority report of the Home Affairs Committee, which I recommend, with due modesty, that some Members read, even if the footnotes were not included as they should have been.

**Mr. John Bercow** (Buckingham) (Con): Read out the report.

**David Winnick:** I will resist that temptation.

My other amendment relates to public services. In effect, my argument is that it should not be necessary for those seeking hospital treatment or access to other public services to produce an ID card. At Prime Minister's Question Time yesterday, my hon. and learned Friend the Member for Dudley, North (Ross Cranston), who is a supporter of identity cards, said nevertheless that people do not want a society in which the response is, "Where's your papers?" Neither do I, although it would be, "Where's your identity card?" There are already enough checks on people coming along for registration or treatment at a GP surgery or hospital. It would be an undesirable state of affairs in which the first inevitable question asked of a new patient at a GP's premises or hospital is, "Can you show me your identity card?" That is what will occur if the measure is passed without amendment.

**Mr. John Taylor** (Solihull) (Con): The hon. Gentleman is addressing the question of producing an identity card in anticipation of public services. Would he take note of my recent experience buying a new motor car last autumn when the dealer required me to produce my passport? I suggest that the application of identity cards would not be confined to public services but might also become widespread in private sector transactions.

**David Winnick:** I note that point, but the hon. Gentleman satisfied the motor car dealer by producing his passport. If he did not have a passport, he would no doubt produce other evidence. There is all the difference between that sort of evidence, which we all carry on us, and an identity card. That relates to the debate on Second Reading.

**The Minister for Citizenship and Immigration** (**Mr. Desmond Browne**): Is my hon. Friend aware that the Government's reply to the report of the Joint Committee on Human Rights is available in the Vote Office?

**David Winnick:** That is useful.

**Lynne Jones:** I went to the Vote Office just before the debate began and it was not available.

**David Winnick:** Perhaps it is corrected, but it will not be after the Minister's intervention. If the Government have responded in a positive way—I have not read it—that would be very encouraging.

**Mr. Allen:** I want to speak briefly to amendments Nos. 42 to 45, which address issues raised in the Joint Committee on Human Rights report.

Amendments Nos. 42 and 43 would restrict the amount of historic address information. That came up in Committee and we did not receive a satisfactory answer. We want to ensure that any address information is necessary and proportionate to that which is sought to be achieved, and we are not yet clear what the bounds of that are.

Amendments Nos. 44 and 45 are important, particularly amendment No. 44, which has cross-party support and on which we would seek to divide the House, as it is intended to break the link between applications for passports and ID cards. The Committee pointed out that assigning ID cards to those who apply for passports is a fairly arbitrary method. Those who have passports are the very category who do not need ID cards. Therefore, we would seek to make the scheme genuinely voluntary by breaking that link. I hope that hon. Members will support the amendment on that basis. If the Government want compulsion later, they can use clause 6 powers to introduce compulsion in a much more open and transparent way, rather than using the passport system.

**Mr. Cameron:** Does not the House see that the Minister has not had a chance to answer any of these points, which shows that we are once again held in contempt? The Minister must remember that even small cogs in wheels are in the end guilty of destroying great institutions. He ought to remember that he will be held responsible for allowing this scandalous situation, when we can neither debate properly nor can he answer properly.

*It being Eleven minutes to Three o'clock,* **Mr. Deputy Speaker** *put forthwith the Question already proposed from the Chair, pursuant to Order [this day].*

*Question put,* That the clause be read a Second time.

*The House divided:* Ayes 128, Noes 229.

**Division No. 89**] [3.48 pm

**AYES**

Allen, Richard
Atkins, Charlotte
Baldwin, Rt Hon Tony
Barnes, Harry
Beard, Nigel
Begg, Miss Anne
Bell, Stuart
Bellingham, Henry
Bercow, John
Blunt, Crispin
Boswell, Tim
Bottomley, Peter (Worthing W)
Brake, Tom (Carshalton)
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burrowes, David
Burstow, Paul
Bush, Alison
Butterfill, Rt Hon John
Cable, Sir Vincent
Cameron, David
Carmichael, Alistair
Clark, Michael

Clarke, Rt Hon Kenneth (Rushcliffe)
Clegg, Nick
Clelland, David
Collins, Rt Hon Tim
Conway, Derek
Cotter, Brian
Curry, Rt Hon David (Skipton & Ripon)
Davies, Geraint (Croydon Central)
Davies, Rt Hon Jonathan (Pontypridd)
Davies, Quentin (Grantham & Stamford)
Davies, Rt Hon Dr Stephen (Chesterfield)
Dismore, Andrew
Dobbin, Jim (Heywood & Middleton)
Doran, Frank
Duncan, Alan (Rutland)
Duncan Smith, Rt Hon Iain
Dunwoody, Mrs Gwyneth
Edwards, Huw
Ellman, Mrs Louise
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark (Cities of London & Westminster)
Flight, Howard
Foster, Don (Bath)
Francois, Mark
Gale, Roger (N Thanet)
Garnier, Edward
George, Andrew (St Ives)
Gibb, Nick (Bognor Regis)
Goodman, Paul
Green, Damian (Ashford)
Greenway, John
Grieve, Dominic

Hague, Rt Hon William
Hancock, Mike
Harris, Dr Evan (Oxford W & Abingdon)
Harvey, Nick
Hayes, John (South Holland & The Deepings)
Heath, David (Somerton & Frome)
Hendry, Charles
Hermon, Lady
Hoban, Mark
Holmes, Paul
Horam, John
Howarth, Rt Hon George (Knowsley N & Sefton E)
Howarth, Gerald (Aldershot)
Hughes, Simon (Southwark N & Bermondsey)
Hunter, Andrew
Jack, Rt Hon Michael
Jackson, Mrs Glenda (Hampstead & Highgate)
Jackson, Robert (Wantage)
Jenkin, Bernard
Johnson, Alan (Hull W & Hessle)
Johnson, Boris (Henley)
Jones, Lynne (Selly Oak)
Kaufman, Rt Hon Gerald
Keetch, Paul
Kennedy, Rt Hon Charles (Ross, Skye & Inverness W)
Kidney, David
Kirkbride, Miss Julie
Knight, Greg (E Yorkshire)
Knight, Jim (S Dorset)
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, Rt Hon Oliver
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter
Lyell, Rt Hon Sir Nicholas
Lyons, John (Strathkelvin & Bearsden)
Mackay, Rt Hon Andrew (Bracknell)
Maclean, Rt Hon David
Maclean-Bristol, Mrs Catherine
Malins, Humfrey
Mallaber, Judy
Mandelson, Rt Hon Peter
Marsden, Gordon (Blackpool S)
Marshall-Andrews, Robert
Mates, Michael
Maude, Rt Hon Francis
Maxton, John (Cardiff E)
McAvoy, Thomas
McCabe, Steve
McCrea, Dr William
McDonnell, John
McGuire, Mrs Anne
McIntosh, Miss Anne
McKechin, Ann
McLoughlin, Patrick
Meacher, Rt Hon Michael
Merron, Gillian
Michael, Rt Hon Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Moore, Michael
Moran, Margaret
Morgan, Julie
Mudie, George
Mullin, Chris
Murphy, Jim
Murrison, Dr Andrew (Westmorland & Lonsdale)
Norman, Rt Hon Archie
Oaten, Mark (Winchester)
Öpik, Lembit
Osborne, George (Tatton)
Page, Richard
Paice, James
Pickles, Eric
Pollard, Kerry
Pond, Chris (Gravesham)
Prentice, Gordon (Pendle)
Prisk, Mark (Hertford & Stortford)
Prosser, Gwilym
Randall, John
Rendel, David
Robathan, Andrew
Robertson, Hugh (Faversham & Mid Kent)
Robertson, Rt Hon John (Glanford & Scunthorpe)
Robertson, Laurence (Tewkesbury)
Rosindell, Andrew
Ruffley, David
Russell, Bob (Colchester)
Russell, Christine (City of Chester)
Ryder, Rt Hon Richard
Salmond, Alex
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Shaw, Jonathan
Simmonds, Mark
Simpson, Alan (Nottingham S)
Smith, Angela (Basildon)
Smith, Rt Hon Chris (Islington S & Finsbury)
Smith, Rt Hon John (Vale of Glamorgan)
Smith, Sir Robert (W Aberdeenshire & Kincardine)
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spring, Richard
Stanley, Rt Hon Sir John
Steen, Anthony
Stevenson, George
Stewart, David (Inverness E, Nairn & Lochaber)
Stewart, Ian (Eccles)
Stoate, Dr Howard
Strang, Dr Gavin
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Rt Hon Hugo (E Devon)
Syms, Robert
Taylor, Dr Richard (Wyre Forest)
Taylor, Sir Teddy (Rochford & Southend E)
Thomas, Gareth (Harrow W)
Thomas, Simon (Ceredigion)
Thurso, John
Tonge, Dr Jenny
Tredinnick, David
Truswell, Paul
Turner, Dr Desmond (Brighton Kemptown)
Turner, Neil (Wigan)
Tyrie, Andrew
Vaz, Keith (Leicester E)
Viggers, Peter
Walker, Rt Hon Sir John (Dudley S)
Walker, Sir Michael (Torbay)
Wallace, Ben (Lancaster & Wyre)
Walter, Robert
Watkinson, Angela
Webb, Steve (Northavon)
Whittingdale, John
Widdecombe, Rt Hon Ann
Wiggin, Bill
Willetts, David
Williams, Hywel (Caernarfon)
Willis, Phil
Wilshire, David
Winnick, David
Wishart, Pete
Wright, Anthony D (Great Yarmouth)
Wright, Tony (Cannock & Burntwood)
Yeo, Tim (Suffolk S)
Young, Rt Hon Sir George (Acton)

**NOES**

Adams, Irene (Paisley N)
Ainger, Nick
Ainsworth, Rt Hon Bob (Coventry NE)
Alexander, Rt Hon Douglas
Allan, Richard
Anderson, Rt Hon Donald (Swansea E)
Anderson, Janet (Rossendale & Darwen)
Armstrong, Rt Hon Ms Hilary
Ashdown, Rt Hon Paddy (Yeovil)
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony (Newham N W)
Barnes, Harry
Barron, Rt Hon Kevin
Battle, John
Bayley, Hugh
Beckett, Rt Hon Margaret
Begg, Miss Anne
Benn, Hilary (Leeds C)
Benn, Rt Hon Tony (Chesterfield)
Bennett, Andrew (Denton & Reddish)
Benton, Joe (Bootle)
Berry, Roger
Betts, Clive (Sheffield S)
Blackman, Liz
Blears, Ms Hazel
Blizzard, Bob (Waveney)
Blunkett, Rt Hon David
Boateng, Rt Hon Paul
Borrow, David (S Ribble)
Bradley, Rt Hon Keith (Withington)
Bradley, Peter (The Wrekin)
Brake, Tom (Carshalton)
Brand, Dr Peter
Brennan, Kevin
Brown, Rt Hon Gordon (Dunfermline E)
Brown, Nicholas (Newcastle E & Wallsend)
Brown, Russell (Dumfries)
Browne, Rt Hon Desmond
Bruce, Ms Diana (Oxford S)
Buck, Ms Karen (Regent's Park & Kensington N)
Burden, Richard
Burgon, Colin
Butler, Mrs Christine
Byers, Rt Hon Stephen
Cairns, David
Caborn, Rt Hon Richard
Campbell, Alan (Tynemouth)
Campbell, Mrs Anne (Cambridge)
Campbell, Rt Hon Menzies (NE Fife)
Campbell, Ronnie (Blyth Valley)
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian (Brigg & Goole)
Chaytor, David
Chidgey, David
Chope, Christopher
Clapham, Michael
Clark, Rt Hon Alan (Plymouth Sutton)
Clark, Rt Hon Dr Lynda (Edinburgh Pentlands)
Clark, Paul (Gillingham)
Clarke, Rt Hon Charles (Norwich S)
Clarke, Tom (Coatbridge & Chryston)
Clarke, Tony (Northampton S)
Clwyd, Ann (Cynon Valley)
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Rt Hon Robin (Livingston)
Cooper, Rt Hon Yvette
Corbett, Robin
Corbyn, Jeremy
Cousins, Jim
Cox, Tom (Tooting)
Crausby, David
Cruddas, Jon
Cryer, John (Hornchurch)
Cummings, John
Cunningham, Rt Hon Dr Jack (Copeland)
Cunningham, Jim (Coventry S)
Cunningham, Tony (Workington)
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, Rt Hon Alistair
Davey, Edward (Kingston)
Davidson, Ian
Davies, Rt Hon Denzil (Llanelli)
Davies, Geraint (Croydon Central)
Davies, Rt Hon Jonathan (Pontypridd)
Davies, Quentin (Grantham & Stamford)
Davies, Rt Hon Dr Stephen (Chesterfield)
Dismore, Andrew
Dobbin, Jim (Heywood & Middleton)
Doran, Frank
Duncan, Alan (Rutland)
Duncan Smith, Rt Hon Iain
Dunwoody, Mrs Gwyneth
Edwards, Huw
Ellman, Mrs Louise
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark (Cities of London & Westminster)
Flight, Howard
Foster, Don (Bath)
Francois, Mark
Gale, Roger (N Thanet)
Garnier, Edward
George, Andrew (St Ives)
Gibb, Nick (Bognor Regis)
Goodman, Paul
Green, Damian (Ashford)
Greenway, John
Grieve, Dominic

Cameron, H. John
Hammond, Philip
Harris, Dr. Evan (Oxford W. & Abingdon)
Hawkins, Nick
Hayes, John (S. Holland)
Heath, Oliver
Heathcoat-Amory, H. David
Hendry, Charles
Hogan, Mark (Fareham)
Hogg, H. Douglas
Holmes, Paul
Horam, John (Orpington)
Howarth, Gerald (Aldershot)
Hughes, Simon (Southwark N.)
Jack, H. Michael
Jenkin, Bernard
Jones, Nigel (Cheltenham)
Kirkwood, Mrs. Julie
Lang, Mrs Eleanor
Legh, Edward
Lewis, Dr. Julian (New Forest E.)
Liddell-Grainger, Ian
Livingston, David
Lilley, H. Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter (W. Worcs.)
McIntosh, Miss Anne
Maclean, Hon. David
Madel, David
Malins, Humfrey
Mawhinney, H. Sir Brian
Mercer, Patrick
Moore, Michael
Moss, Malcolm
Norman, Dr. Andrew
Oaten, Mark (Winchester)
Ottaway, Richard
Page, Mrs. Linda (Hertford)
Pugh, Dr. John
Rich, Hon. (Hon) H. Evan
Ruffley, David

Robathan, Andrew
Robertson, Angus (Moray)
Robertson, Hugh (Faversham & W. Kent)
Robertson, Laurence (Tewk'sbury)
Rob, Hans Wilson
Ruffley, David
Russell, Bob (Colchester)
Salmond, Alex
Shephard, Richard
Simmonds, Mark
Smith, Sir Robert (W. Aberdeens & Kincardine)
Soames, Nicholas
Spicer, Sir Michael
Stanley, H. Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo (E. Devon)
Syms, Robert
Taylor, John (Solihull)
Taylor, Sir Richard (Wyre F.)
Taylor, Sir Teddy
Turner, Andrew (Isle of Wight)
Tyler, Paul (N. Cornwall)
Tyrie, Andrew
Viggers, Peter
Waller, Robert
Waterson, Nigel
Watkinson, Angela
Webb-Hooper, H. Mrs. Ann
Willis, Phil
Wilshire, David
Winterton, Ann (Congleton)
Winterton, Sir Nicholas (Macclesfield)
Young, H. Sir George

**Tellers for the Ayes:**
**Lyndon Harbar and**
**Mr. John Randall**

**NOES**

Angel, Nick
Ainsworth, Rob (Coventry NE)
Bard, Ivor
Barry, Tony
Barnes, Harry
Battle, H. John
Beale, Hugh
Beard, Nigel
Bennett, H. Margaret
Begg, Miss Anne
Bell, Sir Stuart
Benton, Joe (Bootle)
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Bradley, H. Keith (Withington)
Bradley, Peter (The Wrekin)
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Burt, Ms Alison
Butler, Christine
Byers, Stephen
Byrne, Liam (B'ham Hodge H.)
Caborn, Richard
Campbell, Ronnie (Blyth V.)
Caplin, Ivor
Cann, Jamie
Casale, Sir Roger
Caton, Martin
Chaytor, David
Chidgey, David
Chisholm, Malcolm
Clapham, Michael
Clark, Dr. Lynda (Edinburgh Pentlands)
Clarke, Tony (Northampton S.)
Clelland, Ian (Cynon V.)
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, Frank (Stockton N.)
Corbett, Jim
Corbyn, Jeremy
Crausby, David
Cryer, John (Hornchurch)
Cunningham, Tony (Workington)
Curtis-Thomas, Mrs Clare
Darvill, Keith
Davidson, Ian
Davies, Geraint (Croydon C.)
Davis, Terry (B'ham Sparkbrook)
Dawson, H. Hilton
Dean, Mrs Janet (Burnley)
Dismore, Andrew
Dobbin, Jim (Heywood)
Donohoe, H. Brian
Doran, Frank
Drown, Ms Julia (Swindon W.)
Eagle, Maria (L'pool Garston)
Eagle, Angela (Wallasey)
Eagle, Mrs Louise (Bootle)
Ennis, Jeff (Barnsley E.)
Field, H. Frank (Birkenhead)
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul (Newport W.)
Foster, Michael (Hastings & Rye)
Francis, Dr. Hywel
Gapes, Mike (Ilford S.)
George, H. Bruce (Walsall S.)
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane (Reading E.)
Griffiths, Nigel (Edinburgh S.)
Grogan, John
Hain, H. Peter
Hall, Mike (Weaver Vale)
Hall, Patrick (Bedford)
Hanson, David
Harman, H. Ms Harriet
Harvey, Nick (Glasgow Cathcart)
Hewitt, Ms (Minister, Lab. & Whitney)
Hepburn, John
Heppell, John
Hesford, Stephen
Hoey, Kate (Vauxhall)
Hood, Jimmy (Clydesdale)
Hopkins, Kelvin
Howarth, H. Alan (Newport E.)
Howarth, George (Knowsley N. & Sefton E.)
Hughes, H. Beverley (Stretford & Urmston)
Hughes, Kevin (Doncaster N.)
Iddon, Dr. Brian
Illsley, Eric (Barnsley Central)
Jackson, Glenda (Hampstead & Highgate)
Jackson, Helen (Hillsborough)
Jackson, Robert (Wantage)
Jamieson, David
Jenkins, Brian
Johnson, H. Alan (Hull W.)
Johnson, Miss Melanie (Welwyn Hatfield)
Jones, Martyn (Clwyd S.)
Joseph, H. Peter
Kaufman, H. Sir Gerald
Keeble, Ms Sally
Kemp, Ben (Hillingdon)
Kemp, Mrs Jane (Bromley)
Kidney, H. Keith (Bristol W.)
Kennedy, H. Jane (Liverpool)
Kidney, David
King, Ms Oona (Bethnal Green & Bow)
Lammy, David
Lepper, Ben (Leeds N.)
Leslie, Christopher
Lewis, Ivan (Bury S.)
Lewis, Martin
Liddell, Mrs (Minister)
Linton, Martin
Love, Andrew
Lucas, Ian (Wrexham)
Lyons, Dr. Eric (Newcastle E.)
Mackinlay, Andrew
McAllion, H. Thomas
McAvoy, Thomas
McCabe, Steve
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, H. John
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
Macnaughtan, Fiona
McNulty, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, Mrs (Scarborough)
Marsden, Dr. Gerry (Bedford E.)
Marshall, Dr. David (Glasgow Shettleston)
Marshall-Andrews, Robert
Martlew, Eric
Michie, H. Ch.
Mitchell, David
Moffatt, Laura (H. Cornwall)
Moonie, Dr. Lewis
Moore, Mrs (Minister)
Morgan, Julie (Cardiff N.)
Morley, Elliot
Mowlam, Rt. Hon. Dr. Marjorie (Minister)
Mudie, George
Mullin, Chris
Murphy, Jim (Eastwood)
Naysmith, Dr. Doug
O'Brien, Bill (Normanton)
O'Brien, Mike (N. Warks)
Ogden, Eddie
Osborne, Sandra (Ayr)
Palmer, Dr. Nick
Parfitt, Lynne
Pearce, Teresa
Perham, Ms Linda
Pickthall, Colin
Pike, Peter (Burnley)
Pilgrim, Jenny
Prentice, Ms Bridget (Lewisham E.)
Prescott, Hon. John
Primarolo, Dawn
Purchase, Ken
Quin, Joyce
Quinn, Lawrie
Radice, Giles (N'ton Centre)
Rapson, Syd (Portsmouth N.)
Reed, Andy (Loughborough)
Rendel, David
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie (Dundee W.)
Roy, Frank (Motherwell)
Ruddock, Joan
Russell, Ms (Ynys'dd & Chester)
Ryan, Joan
Salter, Martin
Sanders, Adrian
Sawford, Phil
Shaw, Jonathan
Shipham, Mark
Skinner, Dennis
Smith, Jo (N'ton Campbell)
Smith, Angela
Smith, H. Andrew (Oxford E.)
Smith, H. Chris (Islington S. & Finsbury)
Southworth, Helen (Warrington S.)
Squire, Ms Rachel
Starkey, Dr. Phyllis
Steinberg, H. Gerry
Stevenson, George
Stott, Roger (Wirral W.)
Strang, Dr. Gavin (Edinburgh E.)
Straw, Rt. Hon. Jack (Minister)
Sutcliffe, Gerry (Bury N.)
Taylor, David (N.W. Leics.)
Taylor, Ms Dari (Stockton S.)
Thomas, Gareth (Harrow W.)
Thomas, Gareth (Clwyd W.)
Timms, Stephen
Todd, Mark (S. Derbyshire)
Touhig, Don (Islwyn)
Turner, Dennis (Wolverh'ton SE)

Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes: Gillian Merron and Margaret Moran**

*Question accordingly negatived.*

**New Clause 4**

APPLICATION OF FREEDOM OF INFORMATION ACT

'(1) The following provisions shall have effect in relation to reports and information which have been prepared in relation to this Act.

(2) The Commissioner is a public authority under the Freedom of Information Act 2000 (c. 36).

(3) In relation to requests for information to the Commissioner under the Freedom of Information Act 2000, the exemptions in sections 35 (formulation of Government policy) and 36 (prejudice to effective conduct by public affairs) of that Act cannot be applied.

(4) In relation to requests for information to the Commissioner under the Freedom of Information Act 2000, any exemption which was considered subject to the provisions in section 23 (information relating to bodies dealing with security matters) shall instead be treated as if the exemption were subject to section 24 (national security) of that Act.'.—*[Mr. Malins.]*

*Brought up, and read the First time.*

**Mr. Malins:** I beg to move, That the clause be read a Second time.

**Mr. Deputy Speaker:** With this it will be convenient to discuss the following: Amendment No. 20, in clause 24, page 21, line 15, leave out third 'and'.

Amendment No. 21, in clause 24, page 21, line 16, at end insert

'and

(e) the workings of the Identity Card Scheme and the Register including complaints made to him in relation thereto.'.

Amendment No. 15, in page 21, line 17, leave out from 'Commissioner' to end of line 33 and insert

'include general policy matters, but do not include—

(a) the exercise of powers which under this Act are exercisable by statutory instrument or by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I.1979/1573 (N.I.12)) unless any particular case affected by these powers or rules raises a concern of substantial public interest;

(b) the imposition of civil penalties, objections to such penalties or appeals against them, unless a particular penalty, objection or appeal raises a concern of substantial public interest;

(c) the operation of so much of this Act or of any subordinate legislation as imposes or relates to criminal offences in any particular case, unless a particular case raises a concern of substantial public interest;

(d) the provision of information to the Director-General of the Security Service, the Chief of the Secret Intelligence Service or the Director of the Government Communications Headquarters in any particular case, unless the provision of information in any particular case raises a concern of substantial public interest; or

(e) the provision to another member of the intelligence services, in accordance with regulations under section 23(5), of information that may be provided to that Director-General, Chief or Director in any particular case, unless the provision of information in any particular case raises a concern of substantial public interest.'.

Amendment No. 23, in clause 24, page 21, line 18, leave out paragraphs (a) to (c).

Amendment No. 16, in page 21, line 33, at end insert—

'(3A) The Commissioner may, where appropriate—

(a) before undertaking a review which includes the policy towards the provision of information to the Director-General of the Security Service, the Chief of the Secret Intelligence Service or the Director of the Government Communications Headquarters, liaise with the Intelligence Services Commissioner with a view to referring responsibility for that review to that Commissioner, or

(b) liaise with the Information Commissioner in relation to any processing of personal data.'.

Amendment No. 24, in clause 24, page 21, line 45, at end insert

'to a maximum of ten members of staff'.

Government Amendment No. 56

Amendment No. 17, in clause 24, page 21, line 46, after 'section', insert—

'"Information Commissioner" means the Commissioner established by the Data Protection Act 1998 (c. 29);'.

Amendment No. 18, in clause 24, page 21, line 47, at end insert—

'"personal data" has the same meaning as in section 1 of the Data Protection Act 1998 (c. 29).'.

Amendment No. 26, in clause 25, page 22, line 3, leave out from 'must' to 'about' and insert

'lay before each House of Parliament a general report'.

Amendment No. 27, in clause 25, page 22, line 5, leave out subsections (2) to (5) and insert—

'(2) The Commissioner may also, at any time, lay before each House of Parliament such other reports on any matter relating to the carrying out of those functions as the Commissioner thinks fit.'.

Amendment No. 28, in clause 25, page 22, line 5, leave out subsection (2).

Amendment No. 29, in clause 25, page 22, line 8, leave out subsection (3).

Amendment No. 35, in clause 25, page 22, line 8, leave out 'annual'.

Amendment No. 36, in clause 25, page 22, line 9, at end insert 'and (2)'.

Amendment No. 38, in clause 25, page 22, leave out lines 12 to 15 and insert

'would cause substantial harm to the public interest'.

Amendment No. 37, in clause 25, page 22, line 12, leave out from 'security' to end of line 15.

Amendment No. 39, in clause 25, page 22, line 12, at end insert 'serious'.

Amendment No. 40, in clause 25, page 22, line 13, leave out from 'crime' to 'or' in line 14.

Amendment No. 25, in clause 25, page 22, line 14, leave out from 'authority' to end of line 15.

**Lynne Jones:** On a point of order, Mr. Deputy Speaker. I want to make it clear that the letter in response to questions from the Joint Committee on Human Rights was available in the Vote Office, but that the staff there did not seem to understand that that was what was being requested. However, the Committee asked for a reply by 7 February and said that it would consider the response and report back. There has been no opportunity for the Committee to report back on the Government's response.

**Mr. Deputy Speaker:** That is not really a matter for the Chair, but the point made by the hon. Lady is now on the record.

**Mr. Malins:** Further to that point of order, Mr. Deputy Speaker. May I ask you to indicate—or the Minister, through you—what opportunity it is felt that hon. Members have to consider their response to the Joint Committee report before we continue our debate?

**Mr. Deputy Speaker:** That is not a point of order for the Chair at this stage. All the official documents necessary for dealing with the debate should, of course, be available to the House. That matter has been raised before, and I trust that the documents have been made available.

**Mr. John Bercow** (Buckingham) (Con): Further to that point of order, Mr. Deputy Speaker. I seek your guidance. Is it not important for us to know exactly when the Government's response to the Joint Committee's report was deposited in the Vote Office? If information is supposed to be available before the debate, surely considerations of reasonableness must apply. Did the Government intend to put the response in the Vote Office only today? Was that an insult, incompetence, or a combination of the two? I think that we ought to be told.

**Mr. Deputy Speaker:** That is not a matter with which I can deal precisely at this time. I repeat what I said earlier—that all Government documents necessary for the debate ought to be available to all hon. Members before the debate starts. I think that we should now proceed, as time is limited today.

**Mr. Alex Salmond** (Banff and Buchan) (SNP) *rose*—

**Mr. Deputy Speaker:** No, we have dealt sufficiently with that matter for the time being. If the Government have not done something that they should have done, that will obviously be looked at later.

**Mr. Malins:** Thank you, Mr. Deputy Speaker. I should be extremely grateful if, at the end of this debate, we can have Divisions on new clause 4 and amendment No. 26. I shall speak to the latter in a moment.

The debate has been under way for a little while, and it is time for me to pay tribute to my hon. Friend the Member for Buckingham (Mr. Bercow). On Second Reading, he had something to say about the commissioner. I pause only to remind the House that clause 24 was not debated at all in Standing Committee, even though it is the vital clause that deals with the appointment of the national identity scheme commissioner. Neither was clause 25 debated in Committee, but on Second Reading my hon. Friend very properly expressed his disappointment that the Bill made it clear that the commissioner's report

"can, and probably will, be doctored by the Secretary of State before being presented to Parliament".

He went on to say:

"Does that not underline our anxiety that the commissioner will prove to be but a craven lickspittle of the Government?"

He was right to draw our attention to that issue. My right hon. Friend the Member for Haltemprice and Howden (David Davis) said that he had

"a prejudice in favour of the commissioner reporting to the House rather than to the Government".—[*Official Report*, 24 December 2004, Vol.428, c. 1958.]

What is the effect of my new clause and the associated amendments? Clause 25 provides that the commissioner must make a report to the Secretary of State about the carrying out of his functions. Clause 25(3) states:

"The Secretary of State must lay before Parliament a copy of every annual report made to him under subsection (1)."

So far, so good. However, the tricky bit comes next. Clause 25(4) states:

"If it appears to the Secretary of State, after consultation with the Commissioner, that the publication of a particular matter contained in an annual report ... would be prejudicial to national security,"—

so far, I think, so good—

"the prevention or detection of crime or"—

and the House should mark the next words—

"the continued discharge of the functions of any public authority, or ... would be otherwise contrary to the public interest"

it could be excluded.

**Mr. Douglas Hogg** (Sleaford and North Hykeham) (Con): Does my hon. Friend agree that the phrase

"would otherwise be contrary to the public interest"

is couched in such wide language as to have no meaning other than that the Secretary of State may do as he pleases?

**Mr. Malins:** My right hon. and learned Friend is right. I hope that the Minister will correct me if I am wrong, but the clause seems to give the Secretary of State the power to say, "I don't want Parliament to know about this bit of the report. I don't have to justify it on grounds of national security. I can catch this point under any of these little subsections." Frankly, I am not happy about that.

New clause 4 offers a different way to proceed that would avoid the House getting a watered-down report. As a general proposition, it is impossible to review the Secretary of State's actions independently and properly if the commissioner's reports to Parliament are filtered by him. For that reason, the new clause would establish an alternative scrutiny mechanism under the Freedom of Information Act 2000. New clause 4(2) identifies the

*[Mr. Malins]*

commissioner as a public authority under that legislation, and there is no obvious dispute about that. Proposed new subsection (3) would disapply the exemption in the 2000 Act relating to the formulation of Government policy, as well as the prejudice to effective conduct by public affairs. It means that legal advice in relation to human rights and the ID card could be accessible to people who request it. The reason for that is that the Government, as the Joint Committee has shown, cannot be trusted on human rights issues.

New clause 4(4) would remove the absolute national security exemption, mainly because the service has, for example, secret access to details on the register under paragraph 9 of schedule 1. I commend the House to examine that paragraph.

My proposed change would not jeopardise national security, as the 2000 Act contains an additional, non-absolute national security exemption that can be used case by case. In short, new clause 4 would set up a new mechanism that would allow the House of Commons to have access to some information to which it would not have access otherwise but which may be very important. There is no intention to jeopardise national security, to which the new clause poses no threat. All we seek is a method whereby more information can be made available to parliamentarians.

**Mr. Bercow:** Clause 25 is a recipe for the exercise of ministerial fiat. The new clause that my hon. Friend the Member for Woking (Mr. Malins) has commended to the House is absolutely indispensable to provide a brake on the use and abuse of Government power, and I warmly welcome it.

My hon. Friend's words about my little intervention on Second Reading were generous. I am thoroughly depressed about this obnoxious and distasteful Bill, but as a result of his characteristic generosity, I shall go about my business for the rest of the day with a glint in my eye and a spring in my step that would otherwise have been lacking.

**Mr. Malins:** If I have brought a glint to my hon. Friend's eye and a spring to his step, I—

**Mr. Richard Shepherd** (Aldridge-Brownhills) (Con): Apologise!'

**Mr. Malins:** Well, if my comments have caused those reactions in my hon. Friend the Member for Buckingham, I am delighted. It is probably my most useful act of the day.

**Mr. Hogg:** Should the Minister decline to accept the new clause, would my hon. Friend consider advising colleagues in the other place to delete the phrase

"the continued discharge of the functions of any public authority"

and paragraph (b)? Does he agree that if those amendments were made, subsection (4) would be less offensive?

**Mr. Malins:** My right hon. and learned Friend is right. The other place will certainly consider that message. He has made an extremely valid point.

I am conscious of the time and want to make two further points. First—my right hon. and learned Friend touched on this—it would be better if those offensive parts of clause 25(4) relating to the

"discharge of the functions of any public authority, or ... otherwise contrary to the public interest"

were removed from the Bill, because we do not want to give the Home Secretary carte blanche to do what he likes without the House of Commons knowing about it.

My second point relates to amendment No. 26, which is simple and essential. It would change the clause so that instead of stating that

"the Commissioner must make a report to the Secretary of State",

it would require the commissioner to

"lay before each House of Parliament a general report".

That is essential, which is why I hope that all hon. Members will support my amendment.

There is a further minor amendment. In Committee we debated the cost of the scheme as much as we could—we were heavily curtailed—but never received a satisfactory answer. One of my amendments in Committee, which is now amendment No. 24, relates to the appointment of the national identity scheme commissioner. Clause 24(6) requires the Secretary of State to

"provide the Commissioner with such staff as the Secretary of State considers necessary for the carrying out of the Commissioner's functions."

I pause only to say that at no stage have we been reassured about how many members of staff would be employed by the commissioner. My probing amendment suggests that it should be limited to 10, but it is only a probing amendment. Why would I probe? The answer is simple—it would be helpful when looking at the cost of the whole scheme to know what the cost of the commissioner and his staff will be. At the end of the day, someone must pay. There was an exchange in Committee when the Minister said that the issue had very little to do with taxpayers' money because the burden would be on the individual to pay for the service—*[Interruption.]* Well, if I have misquoted him, he will put me right, because he will have a chance today to speak to the House. He has not had that chance yet, but I hope that he will.

3.15 pm

The national identity scheme commissioner should have broad and strong powers, and they should be wide-ranging and not limited. The commissioner should have greater powers to take any steps that he or she wants to take in relation to the scheme, even to the extent of receiving complaints from individuals about the way in which it is running. I do not want his powers to be limited. That is the genus of our amendments.

I am certain that any decent Government—I hope that this Government are decent—would accept the proposition that the commissioner should report direct to the House of Commons and would also accept that while matters concerning national security should perhaps be kept from the House, that is the limit of what should be kept back. Matters should not be excluded just because it suits the Secretary of State for us not to hear about them, otherwise there would be yet a further diminution in our influence and power. I hope that the

debate on my new clause and amendments will produce some interesting arguments during the amazingly short time left to us.

**Mr. Mark Fisher** (Stoke-on-Trent, Central) (Lab): When my hon. Friend the Minister replies to this group of amendments, will he explain how and in what way the commissioner will have the power to protect the rights of the individual? The hon. Member for Woking (Mr. Malins) touched on that. If information on the register is inaccurate and wrong, or if the register is in some way abused, how will our constituents seek redress? I cannot see in these clauses that the commissioner has specific powers to act as a tribunal and guardian of individuals' rights. Should our constituents appeal to the commissioner, either through us or in their own right, and what could the commissioner do to put the matter right?

I suspect that every hon. Member has had constituents who have found that their credit rating is incorrect. A couple of years ago, one of my constituents had that problem and although the credit card company recognised and eventually admitted that its information was wrong and my constituent should not have been denied a credit rating, it took me nine months and unending correspondence to get it corrected. If that happens with a relatively small commercial data bank, how will constituents obtain redress and correct information? Surely, we must have a fast-track method of appeal to the commissioner, or to someone else, to have such information corrected. Otherwise, there will be absolutely no confidence in the scheme.

**Mr. Hogg:** Does the hon. Gentleman agree that the commissioner might wish to use his annual report to identify such errors and to bring them to the attention of the House, so is it not undesirable to give the Secretary of State the power to amend the commissioner's report in the wide terms set out in clause 25?

**Mr. Fisher:** I agree with the right hon. and learned Gentleman. He is addressing—correctly—the strategic macro point, but I do not want to lose my micro point about individuals. Whatever the virtues of the scheme, it will be completely discredited if it is seen to abuse the rights of individuals and people will not have confidence in it. In a scheme of this scale, which requires individuals to submit 56 pieces of information, things are bound to go wrong and there must be a fast-track procedure to put them right.

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): I appreciate the hon. Gentleman's concern from past experience of things going wrong. When the previous Government introduced the poll tax, one of its flaws, in addition to its unfairness, was that it attempted to keep a register of where everyone lived and, in the process, managed to introduce many mistakes. That register involved just names, addresses and locations of people, not the wealth of information that the national identity scheme will require.

**Mr. Fisher:** It is inevitable that there will be mistakes, so it is essential that our constituents have an easy, comprehensible and swift way of putting them right, otherwise their career and many other aspects of their life could be put at prejudice. I hope that the Minister will be able to respond to that point before we vote on the new clause.

**Mr. Richard Allan** (Sheffield, Hallam) (LD): I am pleased that this group of amendments has been tabled, as it is an opportunity to explore at more leisure than we had on the previous group whether the commissioner will be any more than a fig leaf to cover the Government's embarrassment or genuinely an organisation or individual who will be a fearless champion for the citizen. That is what we are interested in.

When discussing these issues we must remember why an individual might want to go to the commissioner. What might have happened to them? They may be seeking redress for a range of serious circumstances. We know that the cards will be used for public services. A person may have had all kinds of hassle accessing a public service; they may have found it difficult to obtain health care or education. Those are serious matters for an individual. The person may have been falsely arrested and have had problems with the criminal justice system. We have seen how errors in the Criminal Records Bureau system have led to individual cases of hardship, where a person has been denied a job because a record is fake or has been falsely matched. We must be aware that people could be seeking redress for serious circumstances.

A person could have had travel difficulties. They might have failed to buy a car that they were after.

**Mr. John Taylor:** On cue! The hon. Gentleman knows my theme—about needing a passport to acquire a new car. He was talking about accessing public services with the aid of an identity card. Would he care, just for a moment, to speculate on how widely the use of an identity card might be made necessary in private sector transactions?

**Mr. Allan:** The hon. Gentleman is correct. A typical circumstance that someone may take to the commissioner is that in a financial transaction a bank has denied them access to financial services or they have been hauled up on suspicion of doing something they had not done, because the identity card checking process has gone wrong somehow, as it will do in some cases.

In Committee, we discussed the fact that there will be a trickle-down effect. Banks will be offered a voluntary service for checking people against the identity register and will be charged for that service. That is in the Bill. But then the Government could come along with money laundering regulations that will make the process mandatory if the banks want to be in the clear under those regulations. There will be a trickle-down effect: the ID card could come into play for a huge range of everyday transactions, for all of which people might want to go to the identity commissioner.

We must take the amendments seriously. They try to remove some of the restrictions that the Government have placed on the ability of the commissioner to carry out his or her work. Governments increasingly like commissioners for all sorts of things. We have seen how some of them—for example, the Information Commissioner, Richard Thomas, and the data protection commissioner, Elizabeth France before him—can build

*[Mr. Allan]*

their roles and perform a good function. The Parliamentary Commissioner for Standards performs an effective function. The measure of that is the extent to which commissioners can criticise Ministers and the Government, on a serious and well-founded basis, and have that criticism accepted.

Well-functioning commissioners have an important role in making criticisms of particular instances and in drawing lessons from them to show why the system is flawed. That is what we want the identity scheme commissioner to be able to do. If, as we fear, the identity card system contains serious flaws, we want the commissioner genuinely to be able to highlight them and bring them to Parliament so that we can hold an informed debate and either scrap the scheme or change it, depending on the depth of concern. Our fear is that unless we accept some of the amendments or the Government make their own proposals to strengthen the commissioner's hand, the commissioner will be too weak.

The Government, like previous Governments, have been desperately keen to avoid judicial review of anything that they do. It now seems to be built into legislation—Ministers do not like being hauled up before the courts and told that their legislation is poor. I suspect that the commissioner process is part of that. The Government hope that the commissioner will deflect some of the criticisms that might otherwise come through the courts and be directed at a Minister.

I fear that the proposed commissioner system will still leave citizens having to take the judicial review route, which is much less satisfactory than being able to put the case to the commissioner, particularly in respect of the exclusion applied to the commissioner looking at the way that fines are levied. As we understand it, the Secretary of State, almost personally, will be taking people to court. The Secretary of State will take people to the county court saying, "You owe me £1,000 because you didn't register. You didn't notify your change of details or do x, y or z." The county court could send the bailiffs round if a person did not pay up. The Government are trying to avoid poll tax martyrs, so they have set up a complicated civil recovery scheme, yet the commissioner, unless the clause is amended, will have no power to look into that system.

**Mr. Bercow:** Have the Government offered any explanation at all of subsection (4)(b) of clause 25, the circumstances in which uncensored publication of the commissioner's report would be

"otherwise contrary to the public interest"?

If such an explanation has been offered, I have not yet heard it and it is palpable that, particularly in the early stages when all sorts of mistakes are made, the Government will have a huge vested political interest in suppressing publication on the ground that otherwise confidence in the whole scheme might—perish the thought—be damaged.

**Mr. Allan:** The hon. Gentleman is right to draw attention to that point. We received no explanation whatever in Committee because the clause was not debated; it just passed through. We had no opportunity to go into the detail of how the process would work. There is a clear statement in the clause that the Secretary of State can suppress matter if it would be contrary to the

"continued discharge of the functions of any public authority".

I think that plays to the hon. Gentleman's point. If the functioning of the identity card scheme would be damaged by publishing criticism of the scheme, we shall not criticise it. The law as currently drafted would seem to permit the Secretary of State to do that. If the Government have something to be embarrassed about, if they have dirty washing, let us have it out in public. What is the point of having a commissioner if they are not able to do that?

Unless the clause is amended, sadly, we shall have a fig leaf commissioner rather than, as I want to see, a fearless champion of the citizen. There will be a spill-over. If people cannot obtain satisfaction from the commissioner, there will be judicial review. The case will go to the parliamentary commissioner, the ombudsman, instead of to the identity commissioner. People will bypass the process. For example, if the problem was with the health service, they would go to the health service commissioner. We run the risk of creating a real mess and that is not satisfactory from the citizen's point of view.

**Mr. Hogg:** Does the hon. Gentleman agree that the great advantage of new clause 4 is that it makes information available to the citizen, on the back of which the citizen can go to the court for judicial review if he feels that the Secretary of State has acted unreasonably?

**Mr. Allan:** The right hon. and learned Gentleman is entirely correct about the citizen having access to information. There are other examples of the kind of harm we are talking about. Something may have happened to the system that meant that a citizen was denied entry to another country. They may have spent several thousand pounds to somewhere, but then have immediately been flown home again. That would be a serious incident in anyone's life. If that occurs, they must be able to obtain information about what went wrong. If there is any suggestion of blanket coverage, if the individual was told for example, that it was an agreement between the UK and the United States authorities covered by terribly secret terrorism provisions, when they were merely going on holiday to Disneyworld, that would not be satisfactory in terms of the citizen's ability to obtain redress. I question the point of having a commissioner if they were unable to expose that type of information. I hope that the citizen could go to the commissioner and say, "I turned up at Orlando airport and they sent me back. They said it was something that came out of the identity system that we are all part of now." I hope that the commissioner could say, "Right, I'm going to get on with that. We will take the case through whatever process we need to get the redress that you are after."

My fear is that the citizen will meet a blank wall and the commissioner will not offer such satisfaction. I hope that the Minister, in the time available to him, will be able to offer some more assurances. I suspect that this is one of the issues that will have to be picked up at greater length in the Committee proceedings down the corridor

in the Lords, where they often do have sufficient time to consider such things. I certainly feel that to establish the commissioner without testing his real powers and accepting some of the amendments will not offer citizens the safeguards that they need for a scheme of this significance.

3.30 pm

**Mr. Hogg:** I shall be brief because this is a time-limited debate. I shall confine myself to three points. First, the hon. Member for Stoke-on-Trent, Central (Mr. Fisher) made an important point. It is certain that errors will be made with regard to individuals. One of the problems about the Bill is that the individual will not be well placed, perhaps not placed at all, to identify the fact of an error or to challenge it. The advantage of the proposal made by my hon. Friend the Member for Woking (Mr. Malins) is that it will make it possible for a citizen, using the procedure set out in new clause 4, to identify errors of fact made in relation to them. Once an error of fact has been identified, corrective action is possible. I say to the hon. Member for Stoke-on-Trent, Central that new clause 4 goes directly to the anxiety that he has properly expressed.

Secondly, looking at the wide powers set out in clause 25(4), one has to accept that, in reality, they give the Secretary of State of the day the power to amend at will the report of the commissioner. Phrases such as

"would be otherwise contrary to the public interest,"

and

"prejudicial to . . . the continued discharge of the functions of any public authority"

are so wide that there are few Secretaries of State who could not bring their own prejudices within the parameters of those phrases. And of course the discharge of that amending function is not reviewable, which takes one back to new clause 4. If new clause 4 is accepted, individuals—whether they be Members of this House or someone else—will be able to say, having obtained that information, that the exclusion of material from the commissioner's report is unreasonable and does not fall within the language of this Bill and either raise it as a parliamentary matter or seek judicial review of it. That is particularly important when one reflects that the commissioner might well wish to use his annual report as a vehicle for criticising the Government's use of the scheme. It would be intolerable if the Secretary of State was able, by using the language of clause 25(4), to delete that criticism.

My final point is that my own preference, and one that I commend to the House, and through this House to the other place, is the approach recommended by my hon. Friend the Member for Woking, namely, to approve new clause 4 or something like it and to amend the language of clause 25(4) broadly in terms of amendment No. 38, which is in this group, so as to remove the offensively wide language on which I have addressed the House.

As time is pressing, that is all that I wish to say, although were time not so limited, I would wish to say a lot more.

**Mr. Browne:** I rise to oppose the new clause and amendments and to speak to amendment No. 56, which I think, when I explain it, will give some significant comfort to hon. Members, especially those who espouse the provisions of new clause 4. Amendment No. 56 in substantial measure covers exactly the same ground as new clause 4, although there are qualifications, which I shall come to in a moment.

Before I deal with the new clause and amendments and the questions that I have been asked—to the extent that I am able to answer them—it is important that I put on record the position in relation to the Government's response to the Joint Committee on Human Rights report. I am disappointed at the way in which hon. Members have implied in the House that the Government were dilatory or that there was some attempt not to make the information available to Members of the House at the earliest possible opportunity. I might say that those observations were made to some degree in bad faith because no one asked me about the matter at any point or made any inquiries about the true circumstances.

The fact of the matter is that my hon. Friend the Member for Stoke-on-Trent, Central (Mr. Fisher) is correct. The Chairman of the Joint Committee on Human Rights requested that the Home Secretary respond to the Committee's report within seven days and named the date of 7 February. The letter that was sent from my right hon. Friend the Chairman of the Joint Committee on Human Rights was dated 26 January, and it arrived at the Home Office and was received by the Home Secretary on 28 January. He responded by 8 February, which was one day out. Bearing in mind the fact that the report was received two days after the date of the letter that accompanied it, I do not think that that is a matter of serious criticism.

I think that all hon. Members have now had access to the letter, and they will see that its final paragraph contains an appropriate request to the Chair of the Joint Committee that with her permission, which was sought by implication in the request,

"it would be helpful . . . to make this reply available to the House for the remaining stages of the Bill on 10th February."

That permission was given yesterday, and the letter was deposited in the Vote Office before 10 o'clock this morning. Nothing could have been done in any sense any quicker, and I do not think that there can be any criticism of the way in which the Government and my right hon. Friend the Home Secretary have acted in relation to this issue.

**Lynne Jones:** The Committee set the date of 7 February, but it would not have been aware that we would debate the Bill on Report so soon. Obviously, the Committee has not been given sufficient time to report to the House about whether it considers the Home Secretary's response satisfactory.

**Mr. Browne:** I thank my hon. Friend for that contribution. All those observations are truisms, but the workings of the Joint Committee on Human Rights are matters entirely for the members of the Joint Committee, and the timetable for their work and the priority that they give to their work are matters entirely for them. The Bill has been published in draft form—substantially the same form as at present—for some months now. I make no criticism of the members of that Committee. Indeed, I was a member of it at one stage

*[Mr. Browne]*

and served with some members of the current Committee for whom I have the greatest regard. However, it cannot be a criticism of the Government that a Committee of the House adopted a certain timetable—that is the only point that I make.

**Mr. Bercow** *rose—*

**Mr. Shepherd** *rose—*

**Mr. Browne** I will give way to the hon. Member for Aldridge-Brownhills (Mr. Shepherd), as I understand that he is a member of the Joint Committee.

**Mr. Shepherd:** I am a member of the Joint Committee. Of course, the drumbeat of Home Office legislation that touches on human rights matters is so great that we are running behind the Government. That is the difficulty that this huge volume of legislation places on us, as well the constraints that lie within it. It is in the Government's gift to make reasonable the passage of Bills and the deliberation of Select Committees. That is what all this is about.

**Mr. Browne:** I hear what the hon. Gentleman has to say, but I remind the House that, before the Government's incorporation of the European convention on human rights into the law of this land, there was probably no need in the House for the Joint Committee on Humans Rights.

**Mr. Bercow:** I am afraid that that simply will not do. I have the very highest regard for the Minister's ability, as he knows. Moreover, I do not on a daily basis make partisan points for the sake of it—when the Government are right, I am quite happy to say so—but what we have just heard in relation to this matter from the Minister is a very shabby piece of buck-passing. No hon. Member on the Floor of the House is suggesting for one moment that the timetable for the activities of the Joint Committee, or those of any other Committee, should properly be a matter for the Minister. Does the Minister accept that one is entitled to say that the Government should operate on a joined-up basis? If the Minister did not know what the Whips Office had in mind when scheduling the Bill's consideration on Report and Third Reading, he certainly should have done. It should have been his priority to do everything that he could to ensure that the Joint Committee's report was available for consideration by Members well before today's debate.

**Mr. Browne:** I do not want this to turn into a mutual admiration society, but I have great regard for the hon. Gentleman, too, although he is perhaps inflating the debate on this issue slightly. The report of the Joint Committee on Human Rights has been available to hon. Members for some time. Nothing that the Government have done has interfered in any way with hon. Members' ability to access the report. I thought that I would be able to cover this matter in a few minutes, but it has turned into a mini-debate of its own. However, hon. Members will agree that some comments that were made strongly implied that the Government delayed their response to the report and produced it at the last minute. I was merely pointing out that the Government responded within the Joint Committee's requested timetable—albeit one day out—and that a further day's delay was required before the Joint Committee gave permission for the letter to be placed in the Vote Office.

**Mr. Malins:** I never attribute bad faith to the Minister—quite the reverse—but now is the time for frankness. Does he think that it would have been helpful to the Standing Committee if it had had the benefit of the report during its deliberations? Does he also think that all hon. Members would have benefited if the Government had produced their report a little earlier? I am sure that he will be frank and say yes.

**Mr. Browne:** I will be frank and say yes. It would be nonsensical to say anything but that that would have been helpful. I am merely explaining to the House how events arose because although there was a clear implication that timings were manipulated, they were not.

In the few minutes that remain, may I try to reassure hon. Members who want to be satisfied that the Government intend the commissioner to work with teeth and be a formidable person? The Government's response to the report of the Home Affairs Committee made it clear that we accepted the recommendation that the national identity scheme commissioner should have a broader oversight of the whole scheme, which is provided for by clauses 24 and 25. The commissioner's remit will thus include examining the uses to which ID cards are put, the dealings of all recipients of information held on the register and the administration of the issuing of cards.

**Mr. Salmond:** Will the Minister specify the relationship of the commissioner with the Scottish Parliament and its Committees?

**Mr. Browne:** The commissioner will have no relationship with the Scottish Parliament and its Committees under the Bill's structure because we are not considering a devolved matter. There would be no reason for the commissioner to have a direct relationship with the Scottish Parliament.

**Mr. Salmond:** The Minister said that one aspect of the commissioner's remit will be examining the uses to which identity cards are put. Many of the uses to which they will be put in England will not be those to which they will be put in Scotland. How can the Minister maintain that that is of no relevance to the Scottish Parliament and its Committees?

**Mr. Browne:** I am not suggesting that the commissioner's actions will be of no relevance to the Scottish Parliament and its Committees. The hon. Gentleman asked me a specific question to which I gave a specific answer.

Hon. Members posed questions about the commissioner's ability to listen to specific complaints. The commissioner will of course be able to listen to specific complaints and will have a strong advisory role to the Secretary of State. I understand that there is a clear and established process if there are errors in the

issuing of driving licences, which eventually ends with the possibility of judicial review, as the hon. Member for Sheffield, Hallam (Mr. Allan) pointed out. The commissioner will be able to take individual complaints from people who are affected by the process and from people whose attempts to correct information on the register were not successful.

New clause 4 relates to the status of reports and information from the national identity scheme commissioner in respect of the Freedom of Information Act 2000. The most important aspect of the new clause is that subsection (2) would make the commissioner a public authority under that Act. Schedule 1 of the Freedom of Information Act lists all public authorities for the purpose of the Act.

I am grateful to Opposition Members for raising that. They are no doubt aware that it is not strictly necessary for the Bill to be amended because it is possible to add to the list of public authorities by order. The Government could do that later, which was our intention. However, as dealing with that important issue in the Bill has merit, I accordingly tabled Government amendment No. 56 to do just that. I must, however, reject subsections (3) and (4) of the new clause which relate to Freedom of Information Act exemptions for the formulation of Government policy.

*It being fifteen minutes to Four o'clock,* MADAM DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [this day].*

*Question put,* That the clause be read a Second time:—

*The House divided:* Ayes 126, Noes 233.

**Division No. 82]** **[3.45 pm**

**AYES**

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Baker, Norman
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Bottomley, Peter *(Worthing W)*
Brake, Tom *(Carshalton)*
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Foster, Don *(Bath)*
Francois, Mark
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jones, Nigel *(Cheltenham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kirkbride, Miss Julie
Laing, Mrs Eleanor
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M'Worcs)*
McIntosh, Miss Anne
Malins, Humfrey
Mawhinney, rh Sir Brian
Mercer, Patrick
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Oaten, Mark *(Winchester)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Pugh, Dr. John
Randall, John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M'Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Shepherd, Richard
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spicer, Sir Michael
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Willis, Phil
Winterton, Sir Nicholas *(Macclesfield)*
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. Mark Prisk and**
**Mr. Geoffrey Clifton-Brown**

**NOES**

Anger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Cousins, Jim
Cranston, Ross
Crausby, David
Cryer, John *(Hornchurch)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Fitzpatrick, rh Frank *(Birkenhead)*
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, Michael Jabez *(Hastings & Rye)*

Francis, Dr Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hinchliffe, David
Hood, Jimmy *(Clydesdale)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Iddon, Dr. Brian
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Ms Oona *(Bethnal Green & Bow)*
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Lewis, Ivan *(Bury S)*
Lloyd, Tony *(Manchester C)*
Love, Andrew
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverhampton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Roy, Frank *(Motherwell)*
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Southworth, Helen
Starkey, Dr. Phyllis
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverhampton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Gillian Merron and**
**Margaret Moran**

*Question accordingly negatived.*

## Clause 24

APPOINTMENT OF NATIONAL IDENTITY SCHEME COMMISSIONER

*Amendment made*: No. 56, in page 21, line 45, at end insert—

'( ) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities for the purposes of that Act), at the appropriate place insert—

"The National Identity Scheme Commissioner".' *[Mr. Heppell.]*

## Clause 25

REPORTS BY COMMISSIONER

*Amendment proposed*: No. 26, in page 22, line 3 [Clause 25], leave out from 'must' to 'about' and insert

'lay before each House of Parliament a general report'. *[Mr. Malins.]*

*Question put*, That the amendment be made.

*The House divided*: Ayes 125, Noes 236.

**Division No. 83]** **[3.59 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Atkinson, Peter *(Hexham)*
Baker, Norman
Barker, Gregory
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Blunt, Crispin
Bottomley, Peter *(Worthing W)*
Brake, Tom *(Carshalton)*
Brazier, Julian
Browning, Mrs. Angela
Bruce, Malcolm
Burnett, John
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Evans, Nigel
Ewing, Annabelle
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Foster, Don *(Bath)*
Francois, Mark
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*

Howarth, Gerald (*Aldershot*)
Hughes, Simon (*Southwark N*)
Jack, rh Michael
Jones, Nigel (*Cheltenham*)
Kennedy, rh Charles (*Ross Skye & Inverness*)
Kirkbride, Miss Julie
Laing, Mrs Eleanor
Leigh, Edward
Lewis, Dr Julian (*New Forest E*)
Liddell, Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter (*M Worcs*)
McIntosh, Miss Anne
Malins, Humfrey
Mawhinney, rh Sir Brian
Mercer, Patrick
Moore, Michael
Moss, Malcolm
Murrison, Dr Andrew
Oaten, Mark (*Winchester*)
Opik, Lembit
Osborne, George (*Tatton*)
Ottaway, Richard
Page, Richard
Pugh, Dr John
Reid, Alan (*Argyll & Bute*)
Rendel, David
Robathan, Andrew
Robertson, Angus (*Moray*)
Robertson, Hugh (*Faversham & M Kent*)
Robertson, Laurence (*Tewk'bry*)
Roe, Dame Marion
Ruffley, David
Russell, Bob (*Colchester*)
Salmond, Alex
Shepherd, Richard
Simmonds, Mark
Smith, Sir Robert (*W Abd'ns & Kincardine*)
Soames, Nicholas
Spicer, Sir Michael
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo (*E Devon*)
Syms, Robert
Taylor, John (*Solihull*)
Taylor, Matthew (*Truro*)
Taylor, Dr Richard (*Wyre F*)
Taylor, Sir Teddy
Turner, Andrew (*Isle of Wight*)
Tyler, Paul (*N Cornwall*)
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Willis, Phil
Winterton, Ann (*Congleton*)
Winterton, Sir Nicholas (*Macclesfield*)
Young, rh Sir George

**Tellers for the Ayes:**
**Mr. Mark Prisk and**
**Mr. John Randall**

**NOES**

Ainger, Nick
Ainsworth, Bob (*Cov'try NE*)
Allen, Graham
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bell, Sir Stuart
Benton, Joe (*Bootle*)
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Bradley, rh Keith (*Withington*)
Bradley, Peter (*The Wrekin*)
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byrne, Liam (*B'ham Hodge H*)
Cairns, David
Campbell, Ronnie (*Blyth V*)
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian (*Brigg*)
Challen, Colin
Chaytor, David
Clark, Mrs Helen (*Peterborough*)
Clark, Dr Lynda (*Edinburgh Pentlands*)
Clark, Paul (*Gillingham*)
Clarke, Tony (*Northampton S*)
Clwyd, Ann (*Cynon V*)
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank (*Stockton N*)
Cousins, Jim
Cranston, Ross
Crausby, David
Cryer, John (*Hornchurch*)
Cunningham, Jim (*Coventry S*)
Cunningham, Tony (*Workington*)
Curtis-Thomas, Mrs Claire
Dalyell, Tam
David, Wayne
Davidson, Ian
Davies, rh Denzil (*Llanelli*)
Davies, Geraint (*Croydon C*)
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dismore, Andrew
Dobbin, Jim (*Heywood*)
Dobson, rh Frank
Doran, Frank
Dowd, Jim (*Lewisham W*)
Drew, David (*Stroud*)
Drown, Ms Julia
Eagle, Angela (*Wallasey*)
Eagle, Maria (*L'pool Garston*)
Ellman, Mrs Louise
Ennis, Jeff (*Barnsley E*)
Field, rh Frank (*Birkenhead*)
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul (*Newport W*)
Foster, Michael Jabez (*Hastings & Rye*)
Francis, Dr Hywel
Gapes, Mike (*Ilford S*)
George, rh Bruce (*Walsall S*)
Gerrard, Neil
Gibson, Dr Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane (*Reading E*)
Griffiths, Nigel (*Edinburgh S*)
Grogan, John
Hain, rh Peter
Hall, Mike (*Weaver Vale*)
Hall, Patrick (*Bedford*)
Hanson, David
Harman, rh Ms Harriet
Harris, Tom (*Glasgow Cathcart*)
Havard, Dai (*Merthyr Tydfil & Rhymney*)
Henderson, Doug (*Newcastle N*)
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hinchliffe, David
Hood, Jimmy (*Clydesdale*)
Hopkins, Kelvin
Howarth, rh Alan (*Newport E*)
Howarth, George (*Knowsley N & Sefton E*)
Hughes, rh Beverley (*Stretford & Urmston*)
Hughes, Kevin (*Doncaster N*)
Iddon, Dr Brian
Iranca-Davies, Huw
Jackson, Helen (*Hillsborough*)
Jackson, Robert (*Wantage*)
Jamieson, David
Jenkins, Brian
Johnson, rh Alan (*Hull W*)
Johnson, Miss Melanie (*Welwyn Hatfield*)
Jones, Kevan (*N Durham*)
Jones, Martyn (*Clwyd S*)
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan (*Feltham*)
Keen, Ann (*Brentford*)
Kemp, Fraser
Kennedy, rh Jane (*Wavertree*)
Khabra, Piara S
Kidney, David
King, Ms Oona (*Bethnal Green & Bow*)
Ladyman, Dr Stephen
Lammy, David
Laxton, Bob (*Derby N*)
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Lewis, Ivan (*Bury S*)
Lloyd, Tony (*Manchester C*)
Love, Andrew
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John (*Bassetlaw*)
Marris, Rob (*Wolverh'ton SW*)
Marsden, Gordon (*Blackpool S*)
Marshall, David (*Glasgow Shettleston*)
Martlew, Eric
Meacher, rh Michael
Meeran, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Austin (*Gt Grimsby*)
Mole, Chris
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Munn, Ms Meg
Murphy, Jim (*Eastwood*)
Naysmith, Dr Doug
O'Brien, Bill (*Normanton*)
O'Brien, Mike (*N Warks*)
Osborne, Sandra (*Ayr*)
Palmer, Dr Nick
Perham, Linda
Pickling, Anne
Pickthall, Colin
Pike, Peter (*Burnley*)
Pluskitt, James
Prentice, Ms Bridget (*Lewisham E*)
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd (*Portsmouth N*)
Raynsford, rh Nick
Reed, Andy (*Loughborough*)
Robinson, Geoffrey (*Coventry NW*)
Rooney, Terry
Roy, Frank (*Motherwell*)
Ruddock, Joan
Russell, Ms Christine (*City of Chester*)
Saltter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn (*B'ham Erdington*)
Simpson, Alan (*Nottingham S*)
Singh, Marsha
Smith, rh Andrew (*Oxford E*)
Smith, Geraldine (*Morecambe & Lunesdale*)
Smith, John (*Glamorgan*)
Soley, Clive
Southworth, Helen
Starkey, Dr Phyllis
Stoate, Dr Howard
Strang, rh Dr Gavin
Sutcliffe, Gerry
Tami, Mark (*Alyn*)
Taylor, Dan (*Stockton S*)
Taylor, David (*NW Leics*)
Timms, Stephen
Todd, Mark (*S Derbyshire*)

Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverhampton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Mr. Tom Watson and James Purnell**

*Question accordingly negatived.*

## New Clause 3

### Disclosure from the Register: Unlawful Activities

'(1) This section shall have effect in relation to any disclosure from the Register which is authorised by provisions in sections 19 to 23.

(2) It shall be unlawful for any person who obtains information about an individual from the Register to retain copies of that information for the purpose of duplicating the Register or part of the Register.

(3) It shall be unlawful for any person who obtains information about a particular individual from the Register to disclose that information about that individual to another public authority unless an entry relating to that disclosure is recorded in the Register for that individual.

(4) It shall be unlawful for any person who obtains information about a particular individual from the Register to disclose that information about that individual to another person for his (the second person's) purpose where the other person is not authorised to obtain that information directly from the Register.

(5) The term "connected with" shall not be construed as meaning that the connection with a particular event is remote or unlikely, but to the contrary, that the connection with an event is significant or that failure to obtain the information from the Register could prejudice an investigation into that event.

(6) The phrase "in the interests of national security" shall be construed as meaning that failure to obtain the information from the Register would cause prejudice to the objective of safeguarding national security.

(7) Any person who obtains information from the Register shall take all reasonable steps to ensure that any obtaining, use or disclosure of the information is consistent with the requirements of the Human Rights Act 1998 (c. 42).'.—*[Patrick Mercer.]*

*Brought up, and read the First time.*

**Patrick Mercer** (Newark) (Con): I beg to move, That the clause be read a Second time.

**Madam Deputy Speaker (Sylvia Heal):** With this it will be convenient to discuss the following: New clause 6—*The Register and CCTV Systems*—

'Use of the National Identity Register in conjunction with CCTV systems shall be considered to be directed surveillance for the purposes of Part 2 of the Regulation of Investigatory Powers Act 2000 (c. 23).'.

Government amendment No. 53.

Amendment No. 46, in clause 22, page 19, line 43, after 'information', insert

'not falling within paragraph 9 of Schedule 1'.

Government amendments Nos. 54 and 55.

Amendment No. 47, in clause 22, page 20, line 1, after 'person', insert 'in the United Kingdom'.

Amendment No. 30, in clause 23, page 20, line 13, leave out 'reasonably practicable' and insert 'possible'.

Amendment No. 32, in clause 23, page 20, line 26, leave out from 'person' to end of line 28.

Amendment No. 31, in clause 23, page 20, line 47, at end insert—

'(6) The Secretary of State must not make any regulations under this section unless a draft of such regulations has been laid before Parliament and approved by a resolution of each House.'.

**Patrick Mercer:** I am conscious that we have a lot to get through in a very short space of time. Certainly, Conservative Members feel that we did not have enough time to cover as many clauses as we would have liked in Committee, where we constantly ran out of time, although I hope that I spoke with great brevity. I will try to do so again today, so that Members who are interested in speaking to their amendments in the available 15 minutes or so will have the opportunity to take part in the debate.

I will speak briefly to new clause 3, as well as amendments Nos. 30 to 32. It is designed to address the issue of disclosure from the register in terms of unlawful activities. First and foremost, I am extremely concerned about the wide powers in clause 19(1), which, to remind the House, says:

"The Secretary of State may, without the individual's consent, provide a person with information recorded in an individual's entry in the Register if . . . the provision of the information is authorised by this section; and . . . there is compliance with any requirements imposed by or under section 23 in relation to the provision of the information."

I am concerned about such wide powers to disclose information held on the register without the consent of registered individuals. The range of eligible authorities under clause 19(2)—the director general of the Security Service, the chief of the Secret Intelligence Service, the director of the Government Communications Headquarters and the director general of the Serious Organised Crime Agency—means that far too wide a register of individuals can be concerned with this. Moreover, the test on what information can be disclosed to such bodies—in other words, "for purposes connected with"—is insufficient. That is why new clause 3 would provide that the

"term 'connected with' shall not be construed as meaning that the connection with a particular event is remote or unlikely, but to the contrary, that the connection with an event is significant or that failure to obtain the information from the Register could prejudice an investigation into that event."

4.15 pm

Similarly, the authorisation to disclose information that does not fall within paragraph 9 of schedule 1 to a chief officer of police for the prevention and detection of crime under clause 19(4) is far too wide. I shall not bore hon. Members by talking about that in great detail except to underline that subsection (4) specifies

"in the interests of national security".

New clause 3 tries to redefine that by stating:

"The phrase 'in the interests of national security' shall be construed as meaning that failure to obtain the information from the Register would cause prejudice to the objective of safeguarding national security."

I am concerned that the police could conceivably have information routinely disclosed through the powers of the clause. I also view the disclosure of information that does not fall within paragraph 9 of schedule 1 to a prescribed Department

"for purposes connected with the carrying out of any prescribed functions of that department or of a Minister in charge of it"

in clause 19(5) as not tight enough. The provisions need to be much more clearly focused and new clause 3 achieves that.

I am worried about the powers of disclosure in clause 21(2), which would allow disclosure to a person who provides "inaccurate or incomplete information" of the discrepancies between it and the information recorded on the register. Regardless of whether the person who provides the information is an individual who represents himself or herself to an organisation for entitlement or an organisation that requests information to check against what an individual provides, disclosing the discrepancies would be most unwise.

The seventh data protection principle requires data controllers to take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss, destruction or damage to personal data. Given the importance of the national register and its security and the number of linking organisations, that will be tremendously difficult and technical. Above all, the managerial task, which includes staff vetting, and dealing with the rules and different cultures across the many organisations, will be difficult. To ensure that the principle is met, there should be clear information for users about how their data will be used, processed and transferred. We need unambiguous consent—that is essential—and I believe that new clause 3 would cover that.

I am concerned about the extended powers of disclosure without consent in clause 22. Previous clauses provide an extensive list of personnel, some of whom we have covered, who may get access to an individual's information. However, clause 22 provides the Home Secretary with an opportunity to add people and purposes by order. Again, it is far too slackly defined and bestows far too much power.

**Mr. Bercow:** Does my hon. Friend agree that it is important in highlighting to the public the scope and dangers of the Bill that we should underline what secondary legislation means? As my hon. Friend well knows, it means that, subsequently, the Government will set up delegated legislation Committees to sit upstairs and consider proposed extensions of power for an hour and a half at most. The Government are contemplating that, and they hope that the public will either not notice or understand and cannot therefore complain.

**Patrick Mercer:** As usual, my hon. Friend makes a clear and unambiguous point, which we are trying to achieve in new clause 3. We made that point consistently in Committee. I hope that the Government have listened, but I take my hon. Friend's point. If we try to tighten the clause and explain it in unambiguous language, we will get some way towards tackling my hon. Friend's point.

I shall speak briefly to amendments Nos. 30, 31 and 32, which deal with the rules for using information without an individual's consent. Amendment No. 30 would substitute the word "possible" for "reasonably practicable" in clause 23(1). Amendment No. 32 would delete clause 23(3)(c), and amendment No. 31 would add to the clause the sentence:

"The Secretary of State must not make any regulations under this section unless a draft of such regulations has been laid before Parliament and approved by a resolution of each House."

That addresses the point that my hon. Friend the Member for Buckingham (Mr. Bercow) has just made.

New clause 3 and our other amendments in this group would considerably clarify what is going on, and considerably narrow the scope of the provisions, making them much less likely to be abused.

**Mr. Allan:** I rise to speak to new clause 6 and amendments Nos. 46 and 47. I shall deal with the amendments briefly, because Government amendments Nos. 54 and 55 seem to deal with the issues involved, which came out of our considerations in Committee. Amendment No. 46 identifies a particular kind of data that Committee veterans will know as "schedule 1, paragraph 9 data". These are the audit data, the trial of information on every time the national identity database has been checked. Significant invasions of privacy could occur as a result of its use, because it could be shown that someone had accessed a public service in a particular place, or been abroad at a certain time, for example. The gathering of this kind of data is most intrusive, and I am pleased that amendment No. 54 seems to accept that it should not be available to be given out under the powers in clause 22.

Amendment No. 47 was important. I asked the Minister in Committee whether he could introduce an order under clause 22 to allow the FBI, Europol or any other external, foreign agency access to the entirety of our national identity database without our consent. He replied in his usual forthright manner that, yes, the existing wording would allow that. I hope that he will now confirm that amendment No. 55—which changes the word "person" to "public authority"—will achieve what we were trying to achieve, namely, that the authority in question would have to be a UK public authority. People are interested to know who will be using the national identity register database, and their legitimate concerns are motivated not by xenophobia but by an interest in whether the bodies that will have access to the data will be accountable under the British constitution and jurisdiction, or whether the provision will extend to external bodies. I hope that the Minister will be able to clarify what is meant by "public authority".

**Mr. Browne:** I can give the hon. Gentleman the reassurance that he seeks. If I have a chance later, I will expand on that, but I can give him that reassurance now.

**Mr. Allan:** I am grateful to the Minister.

New clause 6 merits a much longer debate, but I shall spend just a few minutes on it now. It springs from a question that arose in my mind as I was reading *Jane's Police Review*—my normal bedtime reading—which is a police product review that describes the products that

*[Mr. Allan]*

are available to the police. It talks about the use of biometric technology in combination with technology such as closed-circuit TV cameras. This country has more CCTV cameras per head of population than anywhere else. There are 4 million of them out there, and they have their uses. However, one use to which they had not been able to be put, because the technology was not there, was the real-time monitoring of people as they go round the streets. They are used for evidence gathering and deterrence, but if we were to move to such monitoring, it would be a significant change.

Tim Lott writes in the *Evening Standard* tonight:

"For most of us, liberty is a *feeling* rather than the difference between jail and freedom—but it is a feeling I value tremendously. The idea of being able to go about my private business without being stopped by a policeman, or observed by a secret camera, strikes me as something many of us so take for granted that we can't imagine what it would be like to lose it."

That is at the heart of this issue: the idea that we could be monitored everywhere we went changes the feeling that we have as we go about our business. We are trying to test that in our proposals, and to understand whether the protections that Parliament has rightly put in place—including the legal safeguards under the Regulation of Investigatory Powers Act 2000, which establish who authorises any surveillance, what suspicion has to be shown and what thresholds apply—will apply under the new regime if the Government have their way. Questioning that is justified. *Jane's Police Review* provides some lovely quotes—for example:

"The co-ordinated national use of intelligent tracking systems . . . which can piggyback onto the CCTV network is viewed within the service as something of a holy grail."

I accept that it may be a holy grail for law enforcement purposes, but it is not necessarily a holy grail for privacy. Throughout this debate, we have tried to argue that law enforcement measures are necessary, but they must always be necessary and proportionate in respect of the invasion of privacy that takes place. It is a delicate balance to strike, and we are trying to establish whether it has gone too far.

**Mr. Bill Tynan** (Hamilton, South) (Lab): If one of the hon. Gentleman's or my constituents were attacked by a group of youths, and were they to find themselves recorded on CCTV cameras, is he saying that we should not use that for identification, along with national identity cards?

**Mr. Allan:** The hon. Gentleman has described the kind of circumstances in which, under normal policing procedures, it would be acceptable. I am not seeking to rule out the use of the technology where appropriate; I am trying to establish the bounds of that technology. What would be inappropriate, for example, would be people outside the police service who monitor CCTV cameras having access to the database to monitor everybody going past. There would be temptations for people to seek to abuse that. What I am trying to do, and what the amendment specifically tries to do, is to ask: will the strict legal safeguards that would be in place were the police doing it be applied universally? If the hon. Gentleman is in favour of the cards, as I believe that he is, he needs to assure his constituents that they will be used for the purposes that he intends, and not abused.

**Mr. Frank Roy** (Motherwell and Wishaw) (Lab): O the question of priority, would the hon. Gentleman priority be the privacy of someone walking the streets the fact that CCTV cameras would enable them to wal the streets safely?

**Mr. Allan:** The hon. Gentleman has highlighted th balance that we must always strike. We want both, and th two are not necessarily mutually exclusive. A clea principle is established in the Human Rights Act 199 which he and his Government support, whereby breache of privacy can take place if they are necessary an proportionate to that which we are seeking achiev Throughout discussion of the Bill, we have tried t establish where that boundary is. It is possible to have complete surveillance state. It is possible for CCT cameras to scan everybody, with a record of wher everybody in the country is at any particular moment. Th technology will enable that. The decision for us is whethe the benefit of being able to catch additional crimina outweighs the potential loss of privacy and freedom. W are approaching that debate with an open mind, and w are seeking to establish those boundaries in the new claus

**Mr. Browne:** With an eye to the clock, I want to assur the hon. Gentleman that my view is that the prope interpretation of the Bill, should it become an Act, i relation to its specific purposes and the issue proportionality, would rule out the very use of CCT cameras and such images that he fears. They could no be used under the Act in the way that he fears, wherea they could be used in the way that my hon. Friend th Member for Hamilton, South (Mr. Tynan) suggests, a he agrees that they should be.

**Mr. Allan:** If nothing else, the debate has been helpfu for producing that intervention from the Minister.

**Mr. Gummer:** Does the hon. Gentleman agree tha that is precisely the kind of issue that we should hav discussed in full, so that we would understand th answers? Those of us who are in favour of identity card now find ourselves progressively wanting to vote agains the Bill, simply because we have not had the time t discuss these issues, and our constituents deserve a answer to those questions.

**Mr. Allan:** I encourage the right hon. Gentleman t continue progressing towards wanting to vote agains this Bill. He is right in saying that, as that is precisel what we have found. As we have explored these issue we have found more and more implications that hav not necessarily been considered. We are asking people t buy into this scheme with their own money—for family to take part in the scheme, they will have to pu their hands in their pockets and pay several hundre pounds. With all the promises made, we do not reall understand the full implications. That is what we hav been trying to tease out, and we still do not have all th answers. The Minister has given some kind of assurance

**Mr. Fisher:** I suspect that the hon. Gentleman wi agree that we welcome what the Minister has said, but i this a Pepper v. Hart situation? The Minister, wh commands considerable respect in all parts of th House, has said something helpful, but I am not sur that what he has said is in the Bill.

**Mr. Allan:** It would be useful to have a further 20 minutes to discuss this issue of fundamental importance, about which a number of us feel strongly. Instead, we have 20 seconds, which I will give to the Minister to allow him to do his best or worst.

**Mr. Browne:** I feel that I must speak to the Government amendments, which are responsive to issues raised in Committee. When clause 22 was debated, I undertook further to consider some of the issues and I have proposed three Government amendments, two of which would make amendment No. 47, tabled by the hon. Member for Sheffield, Hallam (Mr. Allan), redundant. Government amendments Nos. 53 and 55 restrict the bodies to whom information can be provided without consent to public authorities, as defined in section 6 of the Human Rights Act—

*It being half-past Four o'clock* MADAM DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [this day].*

*New clause 3 disagreed to.*

*It being after half-past Four o'clock,* MADAM DEPUTY SPEAKER *put the remaining Questions required to be put at that hour.*

## Clause 5

APPLICATIONS RELATING TO ENTRIES IN REGISTER

*Amendment proposed:* No. 44, in page 4, line 43, at end insert

'(d) state that the individual does not consent to be included in the Register on the basis of the application.'.

*Question put,* That the amendment be made:—

*The House proceeded to a Division.*

**Mr. Peter Lilley** (Hitchin and Harpenden) (Con): On a point of order, Madam Deputy Speaker.

**Madam Deputy Speaker:** May I ask the right hon. Gentleman whether his point of order relates to the Division?

**Mr. Lilley:** I would be grateful, Madam Deputy Speaker, if you could tell us what we are voting on. Amendment No. 44 does not appear on the list of amendments to be considered.

**Madam Deputy Speaker:** The sequence of voting is correct. The amendment was under discussion in a previous debate.

*The House having divided:* Ayes 54, Noes 227.

**Division No. 84]** **[4.30 pm**

### AYES

Allan, Richard
Baker, Norman
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bercow, John
Brake, Tom *(Carshalton)*
Bruce, Malcolm
Burnett, John
Burnside, David
Burstow, Paul
Cable, Dr. Vincent
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Corbyn, Jeremy
Ewing, Annabelle
Field, Mark *(Cities of London & Westminster)*
Foster, Don *(Bath)*
George, Andrew *(St. Ives)*
Gerrard, Neil
Gill, Parmjit Singh
Goodman, Paul
Gummer, rh John
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hogg, rh Douglas
Holmes, Paul
Hughes, Simon *(Southwark N)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kirkbride, Miss Julie
Leigh, Edward
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
McDonnell, John
Moore, Michael
Oaten, Mark *(Winchester)*
Opik, Lembit
Pugh, Dr. John
Rendel, David
Robertson, Angus *(Moray)*
Russell, Bob *(Colchester)*
Salmond, Alex
Shepherd, Richard
Short, rh Clare
Stunell, Andrew
Swire, Hugo *(E Devon)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Tyler, Paul *(N Cornwall)*
Tyne, Andrew
Willis, Phil

**Tellers for the Ayes:**
**Mr. Alan Reid and**
**Sir Robert Smith**

### NOES

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Cousins, Jim
Cranston, Ross
Crausby, David
Cryer, John *(Hornchurch)*
Cunningham, Jim *(Coventry S)*
Dalyell, Tam
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Field, rh Frank *(Birkenhead)*
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, rh Bruce *(Walsall S)*
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hood, Jimmy *(Clydesdale)*
Hopkins, Kelvin

Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Iddon, Dr. Brian
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Ms Oona *(Bethnal Green & Bow)*
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Lloyd, Tony *(Manchester C)*
Love, Andrew
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDougall, John
McFall, rh John
McIsaac, Shona
McKenna, Rosemary
McNamara, Kevin
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moran, Margaret
Morgan, Julie
Morley, Elliot
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robinson, Geoffrey *(Coventry NW)*
Roy, Frank *(Motherwell)*
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Timms, Stephen
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Wills, Michael
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Noes:**
**Mr. Tom Watson and James Purnell**

*Question accordingly negatived.*

**Clause 4**

DESIGNATION OF DOCUMENTS FOR PURPOSES OF REGISTRATION ETC.

*Amendment made:* No. 52, in page 4, line 29, at end insert—

'( ) The Secretary of State must not make an order containing (with or without other provision) any provision designating a description of documents for the purposes of this Act unless a draft of the order has been laid before Parliament and approved by a resolution of each House.'.—*[Mr. Browne.]*

**Clause 22**

POWER TO AUTHORISE OTHER USES OF INFORMATION

*Amendments made:* No. 53, in page 19, line 43, leave out 'person' and insert 'public authority'.

No. 54, in page 19, line 44, at end insert—

'( ) the information is not information falling within paragraph 9 of Schedule 1;'.

No. 55, in page 20, line 1, leave out 'person' and insert 'public authority'.—*[Mr. Browne]*

4.45 pm

**Mr. Salmond:** On a point of order, Madam Deputy Speaker. As you know, no Member is allowed to criticise the Chairman's choice of speaker or amendment, but is that not, in effect, what has just happened in terms of the Government's restriction of time motion? Nine amendments, duly selected by Mr. Speaker or the Chairman of Ways and Means, were down for debate, in order, yet as a result of the timetable motion we have not even been allowed to start that debate. The timetable motion is so restrictive that the Minister did not even have time to introduce them—*[Interruption.]*

**Madam Deputy Speaker:** Order. I cannot hear. The hon. Member will continue with his point of order.

**Mr. Salmond:** Those key amendments affect Scotland and Wales. The Minister, who represents Kilmarnock and Loudoun, has arranged for them not to be discussed. Is not that an abuse not just of the House and its procedures but of the Chair? Given that no hon. Member would be allowed to do that, why should the Government be allowed to do it?

**Madam Deputy Speaker:** The Chair is in no way responsible for the timetable and the programme motion. I am afraid, therefore, that we must follow the programme agreed by the House.

**Clause 28**

IDENTITY DOCUMENTS FOR THE PURPOSES OF S. 27

**Mr. Browne:** I beg to move amendment No. 57, in page 25, line 11, at end insert 'or'.

**Madam Deputy Speaker:** With this it will be convenient to discuss Government amendments Nos. 58 to 60 and 75 to 78.

**Mr. Browne:** During debate in Committee, I undertook to look again at the legal status of the counterpart driving licence, which forms part of the definition of a UK driving licence in clause 28. The clause lists the identity documents to which the clause 27 offences of possessing false identity documents apply. Doubts were raised at the time about whether the counterpart—that is, the paper part of a photographic card driving licence—should be considered an identity document.

On 3 February, I wrote to the Chair of the Committee with the results of my consideration, which I will briefly summarise. Both the photocard licence and the counterpart have to be produced to the police and courts in certain circumstances relating to road traffic offences. Many people of course still hold valid paper driving licences that incorporate the counterpart. However, the Road Safety Bill, currently before Parliament, will enable the Driver and Vehicle Licensing Agency to create an electronic driving record that will be available to the police. The legislation includes a provision to remove references to the counterpart in existing legislation. It is anticipated that the Bill, if enacted, would not come into force until about 2007 or 2008.

In view of the intention to abolish the counterpart licence, I have decided that we should simplify the definition of a UK driving licence by removing it from clause 28(3)(c) in respect of that offence. I therefore invite the House to agree to the amendment.

Government amendments Nos. 59 and 60 bring the commissioner and his staff within the remit of the clause 29 offence of unauthorised disclosure of information. Disclosures made as part of the commissioner's functions will not be caught by the offence, but clearly it would be unacceptable for the commissioner's staff to make unauthorised disclosures of information to which they had access as a result of their employment. I see no reason why such behaviour should not be criminalised. It is therefore right that the clause 29 offence should be extended in the way proposed in Government amendments Nos. 59 and 60, and I invite the House to accept them.

Government amendments Nos. 75, 76 and 78 restructure the offence in clause 31 of tampering with the register and Government amendment No. 77 is a technical amendment which replaces "is" with "may be". It is not intended to be a substantial change. The effect of amendments Nos. 75, 76 and 78 is to make it clearer that it is a defence to a charge under this clause to have an honest and reasonable, albeit mistaken, belief that the modification made to the register was authorised. The way in which a prosecution under clause 31 would work is as follows. The prosecution would have to prove beyond reasonable doubt that the defendant caused a modification of the register and that the modification was unauthorised. "Unauthorised" is a term defined in subsection (5); it is an objective concept.

It would be a defence for a defendant to show on the balance of probabilities that, notwithstanding the lack of objective authority, he held a reasonable subjective belief that the modification was authorised. I consider that the amendments structure the offence in a clearer way, and I urge hon. Members to support them.

I have nothing further to add on this group of amendments and I commend them to the House.

**Patrick Mercer:** I am grateful to the Minister. There were times in Committee when it seemed that we were making no progress and that nothing at all was being given by the Minister. Therefore, much of what he has just said meets with our approval, especially about amendment No. 57, which relates to clause 28 and the driving licence. It strikes me as a helpful and sensible way forward. I suggest that our amendment No. 41 would have been clearer, simpler and probably easier than Government amendments Nos. 59 and 60, which achieve the same end.

Everything that the Minister says about so-called whistleblowers and public interest disclosures makes a great deal of sense. We dwelt on that quite long enough in Committee to show how important it was. I broadly welcome what he has said.

**Mr. Allan:** I echo the hon. Gentleman's comments. This is an example of constructive Committee work. We had to go through the clauses to which these amendments relate fairly quickly. It would have been good to spend a little more time on them in Committee. The issues that we picked up are ones that the Government have accepted.

I raised the issue of the counterpart driving licence as much as anything so that I could highlight the ridiculous system for getting a replacement driving licence. If one loses the whole licence, it is considerably easier to get a replacement than if one loses one part of it. The Minister has told us today that there is a broader solution to that, which will filter its way through to the provisions in the Bill, and has tabled amendments for that purpose. That is entirely welcome.

The hon. Member for Newark (Patrick Mercer) raised the point about whistleblowing or public interest disclosure. We feel that it is an important one. People should be able to report abuses of the system. We felt we had good reason for that because there have been abuses of other systems such as the police national computer, and they have resulted in prosecutions. Fortunately, they are few and far between, but when they occur it is important that no one feels legally constrained in making allegations if they are justified.

Both sets of amendments are thoroughly welcome and non-contentious. I hazard to suggest that if we had longer in Committee we could have made even more helpful suggestions to improve a Bill that the Liberal Democrats do not want to see go through, but wish to do what they can to make it less bad.

**Mr. Browne:** I wish to take a few more minutes of the House's time to put on record how grateful I am to the hon. Members for Newark (Patrick Mercer) and for Sheffield, Hallam (Mr. Allan) for their constructive response. As this may be the last opportunity that I have to speak to the Bill in the House—it may not; we do not know—I wish to say that I appreciate the constructive way in which the Committee conducted most of its work. I greatly appreciated the atmosphere in which its work was done, even when I did not think that significant progress was being made—and that was a comparatively short period.

*[Mr. Browne]*

The Government amendments contain examples of the Government listening to constructive criticism and responding, and I hope that that response has improved the Bill. I am particularly proud of the Bill for the paucity of Government amendments that had to be introduced unprompted by the Committee. That is a credit to the officials and the draftsmanship of the Bill, as well as the pre-legislative scrutiny that it received.

**Mr. Malins:** I am grateful to the Minister for the way that he is speaking. He may remember that he offered a bet to each of us who served on the Committee that the Government would introduce fewer amendments than could be counted on the fingers of one hand. We thought that each of us would win a bottle of champagne if the number exceeded three or four. I wonder whether he can help us.

**Mr. Browne:** The hon. Gentleman has a selective memory. Part of what he remembers is correct, but we will need to check the *Official Report* to find out whether his memory is comprehensive. I think that I made a rash prediction that a smaller number than this very small number of Government amendments would be introduced. I should not have underestimated the persuasive powers of the hon. Gentleman and other members of the Committee.

**Mr. Bercow:** I hope that the Minister will accept in a positive spirit that the scale of what is required from his pocket should be roughly in proportion to the scale by which the Government have exceeded the number of amendments that he originally envisaged introducing. On my mathematics, the Government have introduced no fewer than 12 amendments. In other words, they have introduced four times as many as he had in mind. That seems to suggest that, ethically, he should buy at least four bottles of champagne for the members of the Opposition Front-Bench team.

**Mr. Browne:** Given the history of Government amendments under Governments of all colours and the fact that there are only 12 Government amendments to a Bill with 45 clauses and two schedules, perhaps I should suggest to the hon. Gentleman that the drinks should be on him.

*Amendment agreed to.*

*Amendment made:* No. 58, in page 25, line 13, leave out from '(S.I. 1981/154 (N.I. 1))' to end of line 15.—*[Mr. Browne.]*

**Clause 29**

UNAUTHORISED DISCLOSURE OF INFORMATION

*Amendments made:* No. 59, in page 25, line 31, leave out second 'or'.

No. 60, in page 25, line 32, at end insert

'; or

( ) the carrying out of the Commissioner's functions.'.—*[Mr. Browne.]*

**Clause 31**

TAMPERING WITH THE REGISTER ETC.

*Amendments made:* No. 75, in page 26, line 34, leave out 'and the requisite knowledge'.

No. 76, in page 26, line 38, leave out from 'modification' to end of line 41.

No. 77, in page 27, line 10, leave out 'is' and insert 'may be'.

No. 78, in page 27, line 12, at end insert—

'( ) In proceedings against a person for an offence under this section in respect of conduct causing a modification of information recorded in the Register it is to be a defence for that person to show that, at the time of the conduct, he believed, on reasonable grounds—

(a) that he was a person entitled to determine if that modification might be made; or

(b) that consent to the modification had been given by a person so entitled.'.—*[Mr Browne.]*

*Order for Third Reading read.—[Queen's Consent, on behalf of the Crown, signified.]*

4.58 pm

**The Secretary of State for the Home Department (Mr. Charles Clarke):** I beg to move, That the Bill be now read the Third time.

I begin, on behalf of the Government, by thanking all those who have worked hard to bring the Bill to this stage. I associate myself entirely with the comments made by my hon. Friend the Minister for Citizenship and Immigration in commending the work of the Joint Committee and hon. Members from all parties who contributed to that. I thank officials in the Home Office for the consistent and coherent work that they have done over a long time. I also thank the staff of the House for their work to bring the Bill to this stage.

The time has now come for the House to agree that we need the benefits and safeguards that an identity card system will provide both to individuals, who will be able to prove their identities securely and reliably, and in the wider public interest. Rather than seeing identity cards as a threat to civil liberties, most people now regard them as essential to safeguard our civil liberties.

**Lynne Jones:** My right hon. Friend says that an advantage of the scheme is that it will allow people to secure their identity. However, we do not know about the form or accuracy of the biometrics that the Government will demand, or how secure the database will be, so how can he have such confidence before the assessment work has been done?

**Mr. Clarke:** An assessment is under way on the different forms of biometrics that could be used, such as fingerprints, iris examinations and photographs. I am confident that, as in many countries throughout the world, the biometric regime that we establish will provide the security that people rightly look for.

The Bill has been given proper scrutiny. Indeed, in preparation for the legislation, we started a six-month public consultation exercise in 2002.

**Mr. Hogg:** Will the Secretary of State give way?

**Mr. Clarke:** I will not give way at the moment.

The Home Affairs Committee started an inquiry in 2003, and there was further consultation on a draft Bill in 2004. Changes have been made to the Bill, and I assure the House that I shall continue to listen to, and act on, constructive comments on plans for delivering the identity card scheme after this enabling Bill has completed its passage through Parliament. It is our intention that the first ID cards will be issued in 2008, and there will be further opportunities between now and then for the House to examine the detailed provisions to be set out in secondary legislation.

**Mr. Salmond:** How can the Home Secretary claim that the Bill has been given proper scrutiny when seven amendments, including all those specifically relating to Scotland and Wales, were not debated in Committee or on Report as a result of the Government's programme motion?

**Mr. Clarke:** I can claim that the Bill has been given proper scrutiny for exactly the reasons that I set out a moment ago. There has been a long-standing debate about the issues, and a range of discussions on the specific matters that have been taken forward has been held in the Chamber and in Committee.

The simple fact is that the possession of a clear, unequivocal and unique form of identity in the shape of a card that is linked to a database holding biometrics will offer clear benefits to us all. Such benefits include the prevention of terrorist activity, the proper control of immigration and illegal working, help for the more efficient and effective provision of public services, and specific measures to deal with crime. That is why recent surveys show that 80 per cent. of the public support the introduction of identity cards.

Biometrics are being developed around the world to improve the security and reliability of identity documents, including fingerprint biometrics on visas and our own biometric passports with a facial image biometric that will be introduced in about a year's time. The scheme will not create threats to privacy or change the way in which we live our lives. We have never proposed a scheme under which it would be compulsory to carry a card.

**Lembit Öpik:** I want to pin down the Secretary of State on the question of terrorism. Will he explain exactly how a voluntary identity card will protect us against terrorism? If identity cards are to become compulsory in 10 years, does he think that the war on terror will still be being fought in 2015?

**Mr. Clarke:** We dealt with that on Second Reading, but let me go back to the core points. There is no guarantee that any scheme—identity cards or anything else—will be able to deal with and eliminate the terrorist threat. There is no silver bullet to solve the problem. However, identity theft and fraud represent a significant modus operandi for those involved in terrorism, serious and organised crime, people trafficking and drug dealing. The fact that we will have an identity card scheme will give us the capacity to attack the problem that would not otherwise exist. It is true that a compulsory card would give us more power to attack the problem than a voluntary card, but it is also true that a voluntary card gives us more capacity to attack the problem than we have at present. I think most people acknowledge that that is true.

It is, moreover, the case that ID cards will help in tackling fraud and will save tens of millions of pounds of taxpayers' money. The Government have proceeded in a measured way by consulting on the principles and, most recently, on the draft legislation. The Bill sets out a clear legal framework for the scheme. It provides a means for everyone legally resident in the country to assert their right to be here and to help them gain access to the services to which they are entitled. It will help preserve national security and assist the work of law enforcement. It will enable the public to have the ID card system that they say they want.

Those are the reasons why people in all parties have supported the legislation. In an article in *The Daily Telegraph* on 20 December 2004, the right hon. and learned Member for Folkestone and Hythe (Mr. Howard), the Leader of the Opposition, said:

"I have listened to the police and security service chiefs. They have told me that ID cards can and will help their efforts to protect the lives of British citizens against terrorist acts. How can I disregard that? We must protect our citizen in every way, and in my judgment that includes ID cards."

In that same article of a couple of months ago or less, he went on to write:

"In my first speech as Leader of the Opposition, I would not oppose Government policy just for the sake of opposition. It is wrong to sacrifice the national interest for political expediency."

I applauded those remarks at the time and wish that they had been carried through. They reflected previous remarks also by the right hon. and learned Gentleman. On 23 September 2001, he wrote in the *News of the World*:

"Britain is the easiest country in western Europe in which criminals and terrorists can lose themselves. If we are serious about tackling this problem, there is one obvious remedy: identity cards."

Even earlier, in 1994, at the Conservative party conference, he said:

"In time, carrying your ID card would seem as natural as carrying a credit card is at the moment."

Perhaps that is why the 1997 Conservative party manifesto had a commitment to introduce ID cards.

I find it utterly extraordinary that the Opposition have decided to abstain on this vital issue, affecting the future of the nation.

**Mr. William Cash** (Stone) (Con): I can assure the Home Secretary that a number of Conservative Members have no intention of abstaining. We voted against the Bill on Second Reading and have every intention of doing so this evening, because his proposal is a serious invasion of the civil liberties of the people of this country.

**Mr. Clarke:** To be candid, the hon. Gentleman has more to say for his position than his Front-Bench colleagues. The fact is that some people—he is one of them, and some of my Labour colleagues agree with him—have issues of principle with ID cards and find it difficult to support them for the reason that he identified.

**David Winnick:** Will my right hon. Friend distinguish between the opportunist position of the Conservative

*[David Winnick]*

party and those of us who oppose ID cards in principle but would change our minds—certainly I would, without the slightest hesitation—if we thought that they would help in the fight against international terrorism? I hope he recognises that although my opposition is based on principle, it would change were I so persuaded.

**Mr. Clarke:** I accept that distinction, which I have sought to make, including in evidence to the Home Affairs Committee earlier this week. Some people, for reasons that I respect but with which I do not agree, think that ID cards pose such a threat to our civil liberties that it is necessary to oppose them. Those people exist on both sides of the House. They are entitled to take that position to a vote and to carry it through.

My point is different, however. The Government and, in my opinion, the Opposition have to assess, when considering national security, precisely the balance of issues, as described by my hon. Friend, that arise from ID cards. The Government have made that assessment and believe that the ID card is in the interest of the country. The Leader of the Opposition made that same assessment and came to the conclusions that I quoted, but he has now decided to abstain—not to vote against, not to vote in favour—on this key national issue, and abstention is not an honourable position. I believe there is a reason—

**Mr. Deputy Speaker (Sir Alan Haselhurst):** Order. The right hon. Gentleman must be very careful about impugning the honour of any other right hon. or hon. Member.

**Mr. Clarke:** I beg your pardon, Mr. Deputy Speaker, and that of the House. I was not intending to impugn the honour, in the parliamentary sense, of the Opposition or of anyone else. I withdraw that word at your request.

It is not defensible, however, for an Opposition party or a Government party to abstain on an issue of this sort. There is a clear reason for the abstention. It is that the right hon. Member for Haltemprice and Howden (David Davis), who I am delighted to see in his place—he has forgone his chance to be at the shadow Cabinet meeting in Manchester with the Leader of the Opposition, perhaps to undermine the right hon. and learned Gentleman's position even further—has been clear about his scepticism of ID cards in a variety of different ways. The truth is that he has rolled over his leader and reached an abstention position. That is the reality. I say that that is not defensible.

**Dr. Palmer:** I may be able to help my right hon. Friend. My Conservative opponent in my constituency was until recently the press spokesperson for the Leader of the Opposition. He says that his position is that he is opposed to ID cards in principle but that if they are required for international travel he might be persuaded otherwise. Does my right hon. Friend hope that we can yet persuade the Opposition to do a second U-turn?

**Mr. Clarke:** I shall be even more candid than I was earlier. I have that hope. I ask the Opposition to reconsider their position. The position of abstention is not defensible, in my view, for a serious political party. It has an implication that is of meaning. When the other place considers the proposed legislation, if there is not agreement from the official Opposition there are real issues about whether the Bill can be brought into effect in this Session, were a dissolution to be sought. The normal wash-up issues would arise, but a decision of the Conservative party to oppose the Bill in the other place would lead to a delay in carrying forward this important measure for the security of the country.

**Mr. Gummer:** Does the right hon. Gentleman remember that I voted for and spoke in favour of the Bill on Second Reading? I attended all the debates on the Bill to seek to continue that support. I have to tell him that the way in which he treated the House—the failure to enable me to ask a number of questions on key issues and the time given, which did not allow his junior Minister to respond to many of the debates—has led me to believe that indeed we should act differently, and I shall vote against the Bill.

**Mr. Clarke:** Those right hon. and hon. Members who come to the view that they must cast their vote against, either for the reasons just given by the right hon. Gentleman or by others, are taking a position that I can understand, although I do not agree with it. I cannot understand those who say, "We shall abstain on this key issue that is facing the country." I believe that it is a matter of internal politics within the main Opposition party and a betrayal of the interests of the country. If, in the final event, we are not able to carry through the proposed legislation in this Session, we will know clearly that that is because of the decision taken by the Opposition—their decision to put peace within their party ahead of the national interest.

I commend the Bill to the House.

5.13 pm

**David Davis** (Haltemprice and Howden) (Con): So much for the constructive and open debate on liberty and freedom and on security of the state that the Home Secretary was so keen to tell us we would have when we talked about identity cards and house arrest, an issue on which he is in even more trouble.I join him, at least in one respect, in thanking those right hon. and hon. Members who have taken part in consideration of the Bill in Committee and on Report. At the same time, I sympathise with them in what must have been the most frustrating process of their political lives.

The Bill attempts to strike a balance involving a number of extremely serious issues: individual privacy, the relationship of the citizen and the state versus security, prevention of fraud, control of immigration and a number of other serious issues. That is why I set some tests for the Bill on Second Reading. I did not just want to test individual practicalities but to establish the balance between those principles and the Bill's competence to achieve some of the things that the Home Secretary talked about. A competent Bill would do what he said and that would, as the hon. Member for Walsall, North (David Winnick) said, have a significant effect in improving security. It would make a minimum intrusion into the liberty and privacy of the individual, and there would be strong safeguards where such intrusions proved necessary. An incompetent Bill would have a

weak or non-existent impact on security, the prevention of fraud and the control of immigration. It would prove highly expensive and too intrusive into liberties, and would provide few effective safeguards for those liberties.

The point of those five tests is to establish, as I said, the balance or imbalance between those serious principles which matter, as the Home Secretary rightly said, and the competence or incompetence of the proposal. Having read all the *Hansard* reports of the Committee and listened to today's debate, which I attended when I could, I do not think that we have had a real or persuasive answer to any of the tests. It is not only our questions that remain unanswered. The Joint Committee on Human Rights said on page five of its report on the Bill:

"Explanatory notes to the Bill have been published. They do not, however, contain any explanation of the Government's reasons for believing the Bill to be compatible with the Convention rights."

The next part is important:

"We consider the absence of such an explanation to be deeply unsatisfactory in a Bill which is concerned throughout with issues of personal privacy, and with the delicate balances to be struck between individual rights to private life and the protection of the community."

That is not the stated view of the Conservative party but of the important and distinguished all-party Joint Committee on Human Rights. We are not the only ones to have reached the conclusion that we have had a dreadfully inadequate set of answers to an important set of questions as well as dreadfully inadequate time in which to debate those questions.

**Mr. Chris Mole** (Ipswich) (Lab): Will the right hon. Gentleman give way?

**David Davis:** The hon. Gentleman has not been here all day, so he is not qualified to comment on the Bill, as he lacks the information or attendance record to do so.

The first test in that important series of tests deals with clarity of purpose. That matters, because it has implications for every other aspect of the Bill. As I said at the outset I, like the hon. Member for Walsall, would be persuaded as a sceptic to support the measure if it had the aim of dealing with terrorism. We tried to include that aim in the Bill, but we failed because the Government refused to do so. We tried to make the priorities explicit, but Ministers refused. Foreign travellers, particularly from the European Union, can come here under EU rules without identification for three months, which means that the Bill is quite inadequate for use as an anti-terrorism measure, unless we have a way of dealing with that problem. The common travel area is another problem, as is the issue of Ireland, which I shall address in a moment. Those issues may be soluble, but there has not been a single attempt to answer our questions. If identity cards are an anti-terrorism measure, it should be made compulsory to carry them, otherwise they will not work. I do not want to have such a compulsory card in this country. As has been said, we do not want to hear our policemen saying, "Papers please, citizen". However, there has been not been any attempt to answer the problem.

The Bill could have been used to tackle illegal working but before we introduce a draconian measure we should try everything else first. For several years under this Government, under legislation that the Conservatives passed to make the employment of illegal immigrant workers a crime, there was one successful conviction a year. Only after the tragedy at Morecambe bay and the brave campaign of the hon. Member for Morecambe and Lunesdale (Geraldine Smith)—she is a Labour Member, but I am happy to give her credit—and, I am afraid, a campaign by my party on the failure of Government policy that led to the departure of a Minister, have we gone from one conviction a year to well over 600 operations a year against employers of illegal immigrant workers. That is what must be done first: instead of throwing away liberties, the Government should do their job.

On benefit fraud, we have again not been told all. The Home Secretary told us that the provisions will save us tens of millions of pounds; the cost of the scheme may be tens of billions of pounds. I hope that he is never Chancellor, because with that sort of return on capital, the Government will go bankrupt very quickly.

**Mr. Charles Clarke:** Black Wednesday.

**David Davis:** Those claims have been discounted recently, I notice, but I am happy to recognise the single success of the Government's freedom of information programme so far.

The primary problem is not concealment of identity, but concealment of circumstance, of which my right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley), the former Secretary of State for Social Security, was only too well aware during his review of the issue during the 1990s.

We have had no answers. On illegal immigration, which was raised on Report today, my hon. Friend the Member for Woking (Mr. Malins) made the very good point that nine tenths of the issue is dealt with by the asylum identity card—a registered card. So we have 90 per cent. of the solution for 1 per cent. of the grief.

My point to the Government is that those questions could have been answered in Committee, but no attempt was made to give an answer. Why? It is hard to understand why, unless the Government do not believe their own case or their supposed reasons for the ID card. That is very worrying, and it is more worrying in many ways than other points that I shall raise in a moment.

**Dr. Palmer:** The right hon. Gentleman says that his position is consistent: the Conservative party supports ID cards, but on condition that these questions are answered. He says that it would be possible to answer them, but he feels that the Government have not done so. Does that mean that a Conservative Government would answer their own questions and introduce ID cards?

**David Davis:** The hon. Gentleman should not put words in my mouth. If I wanted someone to rearticulate my views, I would not pick him.

What have we heard today? We have heard from the Home Secretary—I think that I am quoting him correctly—that this issue shows that the Tory party is "soft on crime, soft on immigration, soft on terror." We will let the public decide the plausibility of that proposal. In many ways, I would worry more about

*[David Davis]*

being called stupid on crime, stupid on immigration and stupid on terror, which is the risk if we do not get the matter right. That is the point: we must get it right. It is a question not of being pro or anti a particular matter, but of getting the issue right.

I have to say that this is a very poor start to the Home Secretary's serious debate on liberty and security, because this issue is one of the key components of that debate; indeed, perhaps it is the most important one. Let us go on to the second test, which concerns technology.

**Mr. Bercow:** Is there any chance of anyone else speaking in this debate?

**David Davis:** I beg my hon. Friend's pardon; I shall be as quick as I can.

The second test is important, and I shall quote the Home Affairs Committee, which said that it is

"essential that, before the system is given final approval, there should be exhaustive testing of the reliability and security of the biometrics chosen, and that the results of those tests should be made available to expert independent scrutiny, perhaps led by the Government's Chief Scientific Adviser."

Again, we put that point into an amendment, which the Government turned down. Not only the Home Affairs Committee, but Privacy International and the Association for Payment Clearing Services have raised concerns.

**Mr. Browne** *rose—*

**David Davis:** No, I will not give way because I am pressed for time.

The next issue is the high value of the database, which will be an extremely large target that will attract attack. Putting aside the weaknesses on biometrics, the Government have not even tried to answer how they will prevent those attacks, which will destroy the system.

Test three concerns cost, which has gone from £1.2 billion to £3.5 billion to £5.5 billion. Conventional wisdom puts the overall cost somewhere between £10 billion and £20 billion. Bart Vansevenant, the director of the organisation that runs Belgium's ID card system, has said that

"the amount of people you catch will not be worth the price of the infrastructure . . . If you look at this from a distance and look at the goal, I'm afraid a lot of money will be wasted and the real cost will be much higher than any of the figures currently suggested."

How will the Government control the cost? They do not have a good track record. Would that money be better spent on trying to stop illegal immigration, terrorism and benefit fraud?

The final issue concerns civil liberties and privacy. In the words of the hon. Member for Stoke-on-Trent, Central (Mr. Fisher), this is the "largest change in relationship between the individual and the state". Richard Thomas, the Information Commissioner, has said:

"There are huge questions about access to the national identity register: who has access to it, for what sorts of purposes, and how is that information to be used".

As the debate has progressed, it has become increasingly apparent that many organisations—more than we thought—will have access to the database, which means that the scope for unauthorised access will be unmanageable. There is even the possibility that the data must be shared with other countries such as Ireland, because of the common travel area.

**Mr. Shepherd:** The Home Secretary introduced a new concept in his winding-up speech, during which he would not take an intervention. He said that his card will enable us to "assert the right to be here". I do not know what that means. Is he telling my constituents and the people of Britain that they have no right to be here unless they assert it through his means of an ID card?

**David Davis:** My hon. Friend makes the same point as the hon. Member for Stoke-on-Trent, Central. ID cards involve a completely new view of citizenship. Being a subject of the Crown is a right, which it is not for the Government to give or take away.

The Bill deals with massively important issues, and we have adopted a constructive approach. The Government have denied us time for debate and answers to proper questions, and they have even delayed the response to the Joint Committee on Human Rights. This House has had no chance to consider the Bill, but the Home Secretary promised a serious and constructive debate on security and human rights.

**Mr. Browne** *rose—*

**David Davis:** I will not give way because I am about to finish. I heard what the Minister had to say earlier, and I thought it a weak response to the issue.

The Government have denied debate and treated this House with contempt. I will recommend that my hon. Friends in the other place commend the Bill to a Joint Committee to answer the unanswered questions. Until that point, I cannot recommend that my hon. Friends should vote for the Bill.

5.28 pm

**Mr. Richard Allan** (Sheffield, Hallam) (LD): It is a pleasure to follow the right hon. Member for Haltemprice and Howden (David Davis), who just made the speech that he wanted to make on Second Reading, but was not allowed to—his speech was better late than never and it was a pleasure to hear it tonight. He was Chairman of the Public Accounts Committee in the previous Parliament and he knows a lot about systems and what can go wrong with them, so the warning that he has issued again tonight is appropriate.

The Liberal Democrat position is based on both principle and practice. At various points, it has been put to us that those two ideas are contradictory and that one must oppose the Bill on the grounds of either principle or practice. However, some policies are so flawed and so offensive that one can oppose them on the grounds of both principle and practice, and tonight's debate is such an occasion.

The Minister has challenged us a number of times to discuss the issues of principle, and I thank him for those challenges, which were appropriate. I boil the matter down to the extent to which one values privacy. Article 8 of the European convention on human rights concerns privacy. It states that states have the right to breach the right to privacy, where such a breach is necessary and

proportional to the end that they are trying to achieve. That clearly shows that there is no absolute right to privacy and that it can be breached under certain circumstances. Nevertheless, a threshold needs to be set. The Liberal Democrat view is that the Minister's ID card proposals do not meet that threshold, and that the benefits he suggests—if they can be realised—are not sufficient to outweigh the disbenefits, in terms of the cost to the privacy of citizens of the United Kingdom.

**Mr. Browne:** Before the hon. Gentleman moves off this subject, can he tell the House which of the 21 out of 25 members of the European Union that are social democracies are also breaching that article of the European convention on human rights—some of them with compulsory ID card schemes that require people to carry them?

**Mr. Allan:** The Minister certificated the Bill as being compatible with the European convention on human rights. There are elements that may be compatible, but there is a variation in the threshold that one may apply. There is a political difference here between Liberal Democrat and Labour Members and, indeed, between Conservative Front Benchers, because we set the threshold at a different level. That is a political judgment; both a legal and a political judgment needs to be made in this respect.

**Lynne Jones:** The point made by my hon. Friend the Minister was covered by the report of the Joint Committee on Human Rights, which states that

"an identity card containing only a person's name, sex, date and place of birth, current address, and the name of their spouse, does not in itself raise issues of the right to private life under Article 8 . . . Neither does the obligation to hold or carry such a card engage Article 8."

Nevertheless, the Committee went on to make serious criticisms of the Government's proposals.

**Mr. Allan:** The hon. Lady is right to remind us that the scheme being put forward is not necessarily comparable to ID card systems in other countries and goes a lot further. The hon. Member for Aldridge-Brownhills (Mr. Shepherd) referred to the Home Secretary's unfortunate turn of phrase when he said that the cards will allow people to assert their right to be in the United Kingdom.

The Government are essentially proposing to put us all on a criminal intelligence database and to treat us all as potential suspects. That creates a fundamental change in the relationship between state and citizen. The scope of the database that the Government propose is far more comprehensive than any that has been suggested elsewhere. Indeed, the Minister has said at various points that the scheme that he is putting forward is bigger and more complex than anyone else's. He said that with a certain note of pride, and then with a slightly hysterical look of fear as we came to consider the implications of doing something more comprehensive than is to be found anywhere else.

**Simon Hughes** (Southwark, North and Bermondsey) (LD): Another paradox, and therefore a failure to justify the scheme, is that whereas British citizens—people who have never had to prove to the state their right to be here—will have to have the cards, people who come here with no right to be here will not. That seems to be one of those ridiculous examples that identifies the fundamental flaws.

**Mr. Allan:** My hon. Friend's intervention is helpful.

I should like to nail a red herring, if one can nail a herring, in relation to whether one has to carry the cards compulsorily. We debated that in Committee. Most of us carry our irises and fingers wherever we go. The point about being on the database is that people can be checked against it wherever they go—whether they have their ID card with them is immaterial. The fundamental question is the extent to which the benefits derived in terms of catching people involved with terrorism and crime—something with which we agree—are so great as to justify holding all that data, and presumably using it and checking it regularly. Are those benefits worth the disbenefits of a citizen having to pay, having to go through the inconvenience, and having the potential loss of privacy? We come to a different judgment from the Government, and have consistently done so throughout proceedings on the Bill.

**Mr. Alan Reid** (Argyll and Bute) (LD): My hon. Friend makes a powerful case against the Bill. He mentioned inconvenience. My constituents, many of whom live on islands, will be faced with great inconvenience if they are forced to go to Glasgow to get biometrics taken for their ID cards. The Secretary of State for Scotland has said that the Home Office is considering a mobile facility, but that will take ages and it will cost a huge amount to go round the highlands and islands. The Government have not answered those questions at all.

**Mr. Allan:** My hon. Friend helpfully moves me on to the significant practical considerations. The Government have tried to write off or trivialise the matter. They have talked down the costs and suggested that they will be less than they are, but whatever happens, they will be several billion pounds more than zero. They have talked down the costs and the inconvenience. It could cost several hundred pounds for a family of four adults in a remote area of Scotland who simply want to renew their passports to go on holiday by the time they have travelled to a centre, had the biometrics taken and paid for the documents. That is a significant change from the current position, and the Government have not made enough of it.

**Mr. Browne:** The hon. Gentleman's party now supports the policy of biometrics in passports.

**Mr. Allan:** The Minister knows that only facial biometrics, which can be taken from a photograph, are required for a passport. That is different from the proposals for irises and fingerprints.

I know that some hon. Members support identity cards but I urge all hon. Members, whatever their views on the cards, to vote against the Bill. The scheme that the Bill presents is simply not ready. If we proceeded with an identity card scheme, we should start by going ahead with some sort of passport biometric—we are told that we must do that for international reasons—but

*[Mr. Allan]*

at a much lower level than the Government suggest. We should test the technology for several years to ascertain how it works.

We should move on to getting our NHS medical records database right because that gives immediate benefits to the citizen and would allow us to establish whether we could securely give access to systems at multiple points of contact with our public services. We should then get our national insurance records system right and ensure that there is one number per person in the country so that we can establish whether we are genuinely competent to run such identification regimes. We need to take those steps first and demonstrate that we can fulfil all those tasks before we consider an identity card scheme.

If the Government approached us in four or five years, we could have a reasoned debate about the matter. Even the Government say that the card will be pointless. In a couple of years, they will tell people to pay money and go through all the hassle to get their passports for something that is functionally pointless because a passport is good enough; an identity card as well would be unnecessary. The system and the scheme may change in the intervening period. We are being asked to buy a pig in a poke.

Even if hon. Members support identity cards, they should seriously consider whether they want to support the Bill. It is clearly being introduced for political reasons. It is outrageous of the Home Secretary to say that, if the Conservatives vote against something that will not be effected for several years, it makes them the friends of the terrorists. That accusation is normally made against us. It is an absurd assertion.

**Simon Hughes:** Will my hon. Friend give way one more time?

**Mr. Allan:** No. If hon. Members believe that the Bill does not pass the tests of proportionality and necessity and that too much uncertainty remains about exactly what we are being asked to buy and how much it will cost; and if hon. Members believe that any additional money for which Parliament asks from citizens could be better spent on other measures to achieve the same objectives, I urge them to vote against the Bill.

**Dr. Palmer:** On a point of order, Mr. Deputy Speaker. Earlier, the Opposition spokesman criticised the Government.

**Mr. Deputy Speaker:** Order. I can already sense that it is not a point of order but a point of debate.

**Dr. Palmer** *rose*—

**Mr. Deputy Speaker:** I shall let the hon. Member try again, but I hope that he will not take up too much time.

**Dr. Palmer:** Will you confirm, Mr. Deputy Speaker, that new clause 2 was not selected by the Speaker and that that is the reason why it was not debated?

**Mr. Deputy Speaker:** The record will show that. This particular occupant of the Chair does not have such recall, but I am sure that the record will show whether that is correct.

5.38 pm

**Mr. Neil Gerrard** (Walthamstow) (Lab): I shall be brief because I know that other hon. Members want to speak. My position has always been clear. I voted against the Bill on Second Reading and the more I hear about it, the less I like it. I shall vote against it again this evening.

I agree with one point that the Home Secretary made. I do not agree with much that he said about the measure but he was right about the Tory Front-Bench position. It is pathetic not to be able to reach a decision about whether to vote for or against such an important measure on Third Reading. We have had a limited time for debate this afternoon, but what are the reasons for that? The usual Front-Bench channels made agreements to discuss the measure on a Thursday, when there is one less hour for debate, so those on the Tory Front Bench are shedding crocodile tears.

Listening to the debates on some of the amendments this afternoon, I felt as though I was listening to discussions about angels on pinheads, because, however we amend the Bill, we cannot make it acceptable. What it sets out to do is fundamentally objectionable. The Joint Committee on Human Rights raised a host of objections to it, and I have just had a brief chance to read through the Government's response to them. It does not really answer them.

On Second Reading, we debated issues such as whether the cards would become compulsory. I am absolutely sure that it will become compulsory to have this card, because the Home Secretary said on Second Reading that this was the first step towards compulsion. We also discussed disclosure to service providers, the police and people in the private sector, and the audit trail that will exist. The real problem with this measure will be the register, rather than having to carry a card.

The public's view on this will change. At the moment, we might find 80 per cent. of people saying that they support the measure, but once they realise that they are going to have to have these things, their view will change. Once the next, short step is taken, as I believe it undoubtedly will be, and carrying the card becomes compulsory, public opinion will certainly shift. We are going down a very dangerous road.

Everyone here knows which people will be the most likely to be asked to produce their card when it becomes compulsory to carry one. All the evidence from every European country that has cards—including those where they are voluntary—shows that the people who are most often asked to produce their card are from minority ethnic communities. To pretend, as the Government did in their race relations assessment, that this measure will actually improve race relations, strikes me as absurd.

I do not like enabling legislation of this kind. A mass of detail remains to be introduced in secondary legislation, which means that it will never be properly debated in this place. Of course, we cannot amend secondary legislation, so whatever form it takes, we shall just have to take it or leave it. I am also unconvinced that the Home Office can produce information technology infrastructure that will work, which could perhaps be the saving grace in all this. This concept is fundamentally flawed in principle, and we should not be going down this road.

5.42 pm

**Mr. Hogg:** I entirely agree with the speech that we have just heard from the hon. Member for Walthamstow (Mr. Gerrard). Indeed, he made his points with a great clarity that I could not surpass. I shall confine myself to speaking for just a few minutes.

It is not right to say that the Bill has been properly debated. The Home Secretary is wrong about that. Had he been present during the Report stage, he would have appreciated that fact. He has only to look at early-day motion 684, which has been signed by many of his hon. Friends, to see what was omitted in Committee.

I am perfectly willing to accept that there are some benefits to be gained from identification cards. The question is: how do they weigh in the balance with the disadvantages? I agree entirely that the money involved in this provision could be spent very much better in dealing with its stated objectives differently. I am extremely sceptical about the ability of the technology to deliver, and, if it fails, very serious injustice could result. I question whether the measures will address the questions of terrorism or serious fraud, because a high proportion of such cases rest on questions not of concealed identity but of concealed circumstances or concealed intentions.

On matters of principle, I shall confine myself to two points. First, I believe that this represents a huge extension of statism. We are changing the relationship between the individual and the state, and we should not do that without a really compelling reason.

Secondly, I entirely agree with the point made by the hon. Member for Walthamstow. Inevitably, what will happen down the track if this policy is to be made effective is that the citizen will have to carry and produce an identity card on demand. He is entirely right that that will bear down most oppressively on the ethnic minority communities.

I have been in the House long enough to remember the old sus laws and what rows they caused. I do not wish to create a situation in which the ordinary citizen can be arrested for not carrying a card. That is the inevitable consequence of that which we do today. It is wrong in principle. I hope that my party will change its mind and vote against this Bill.

5.45 pm

**Mr. Liam Byrne** (Birmingham, Hodge Hill) (Lab): I want to speak in favour of the Bill. It is supported overwhelmingly by more than 90 per cent. of my constituents in Hodge Hill. They will be surprised and disappointed to hear about the Liberal Democrat and Conservative position tonight. Not too long ago, Liberal Democrat Front-Bench Members voted in favour of a ten-minute Bill supporting the principle of ID cards. They will also remember that more than a decade ago, the Leader of the Opposition, as he is now, said to his party conference:

"In time, carrying an ID card would seem as natural as carrying a credit card."

My constituents will be particularly perplexed to hear the Liberal Democrat position that this money would be best spent on police, because this is not public money. This is money raised from individual contributions. No one in the House would seriously propose that one should finance the police by passing a hat around in the community and hiring as many police officers as one could afford from what is left in the pot. That is the implication, however, of the Liberal Democrat policy in this area.

**Mr. Allan:** Will the hon. Gentleman remind us what the Prime Minister said about ID cards at the same time?

**Mr. Byrne:** Can I remind the hon. Gentleman what his colleague the hon. Member for Somerton and Frome (Mr. Heath) said in the police revenue debate last week? He said that his answer was

"to relate the policing of an area directly to the amount that people pay to support that policing." [*Official Report*, 2 February 2005, Vol. 430, c. 885.]

He was unable to refute the charge that that would end up with rich communities hiring more police while the rest of us were left in the lurch.

People in Hodge Hill see three clear reasons why this Bill deserves their support: it is a fast track to a fairer deal in public services; it is the best means that we have for tackling illegal immigration; and it is another spoke in the wheel for tackling global terrorism.

Many Members will have read the report of the 9/11 commission and will have seen, like me, the conclusion:

"For terrorists, travel documents are as important as weapons. Terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack."

The report continued:

"We found that as many as 15 of the 19 hijackers were potentially vulnerable to interception by ... authorities."

That is exactly the kind of development that ID cards will allow, and that is why the proposal deserves commendation from both sides of the House.

5.48 pm

**Mr. Edward Leigh** (Gainsborough) (Con): I shall vote in principle against the Bill tonight. I shall do so because it fails to meet the four tests enunciated excellently by my right hon. Friend the shadow Home Secretary. It will not protect civil liberties, it will not work to curb terrorism, it will not be cost-effective and I have serious doubts as to whether the Home Office is in any event capable of implementing it within any kind of meaningful time frame.

I am proud that my predecessor as Member of Parliament for Gainsborough, Harry Crookshank, when Postmaster General, four months after the Conservatives won the 1951 election, abolished ID cards. He came to the House and said that the Conservative Government believe that

"it is no longer necessary to require the public to possess and produce an identity card, or to notify change of address for National Registration purposes." [*Official Report*, 21 February 1952, Vol. 496, c. 415.]

That was a popular policy. Our policy of getting a grip and asking questions about the identity card is also right.

*[Mr. Edward Leigh]*

That abolition of ID cards in 1951 came on the back of the case of Clarence Willcock *[Interruption.]* He was a Liberal; quite right. He was stopped in the street, his card was demanded by the police and he refused to produce it. Lord Chief Justice Goddard said that ID cards were an "annoyance" and

"tended to turn law-abiding subjects into law breakers"

We believed then, and I believe now, that ID cards are appropriate only in wartime.

I do not want to live in a "Your papers, please" society. One reason why ID cards were abolished in 1951 was that people remembered the cry in wartime Europe, "Ihre Papieren, bitte!" We do not want that sort of society here, and that is what will happen. As night follows day, the police will start to demand that people produce their ID cards. That is why I shall vote, in principle, against the Bill.

Mention has been made of my role as Chairman of the Public Accounts Committee. If this Bill becomes an Act and it actually happens—we know that the chance of ID cards actually happening is very remote—there will be numerous PAC reports, showing that it is way out of budget. The initial estimate was £1.3 billion, then £3.1 billion and now £5 billion. When is it going to stop? The card will not curb terrorism or stop illegal immigrants. What it will do is cost us a lot of money and fundamentally attack our civil liberties. I urge the House to reject it.

5.50 pm

**David Winnick:** It is normal practice for the Opposition to complain about the lack of parliamentary time. We did so when we were in opposition, but on this occasion, I agree that inadequate time has been allotted for such an important measure. It should not have been crowded in on a Thursday and there should have been far greater examination of the detail. If I may say so, I know that the Home Secretary is not responsible for the allocation of time, but we should have had at least two days. I genuinely regret that, irrespective of one's views, inadequate time has been allotted to examine the measure on Report.

I remain unpersuaded that ID cards are needed. My right hon. Friend the Home Secretary—if he is listening—referred to a number of countries, including fellow members of the European Union, that have identity cards, but those countries have exactly the same the problems that we have. They face the same problems of terrorism, as we have seen in Madrid, corruption, illegal working and so forth. No argument has yet been put forward to explain how identity cards, biometric or otherwise, will resolve the problems that we, in common with other European countries that have such cards, face.

Yes, identity cards may be popular at the moment, as has been said. For all I know, it may be that 80 per cent. of the population are in favour, but high expectation is the reason for that. People believe at this stage that the cards will help to resolve the problems of illegal working, illegal immigration and all the rest of it. I believe that when people realise, as they are bound to do, that the cards offer no panacea, their expectations will drop a great deal. Undoubtedly, one question that some people will ask is, as with child support legislation, "What examination was given to the Identity Cards Bill as it went through Parliament?" They will ask how much time was allotted to examine it in full detail.

**Dr. Palmer** *rose*

**David Winnick:** I shall continue, if my hon. Friend will forgive me.

As to costs, I agree—it has to be said, it is usually on very rare occasions—with the hon. Member for Gainsborough (Mr. Leigh). Whatever the estimated cost now, it will prove to be much more at the end of it all.

I know that other Members want to speak, so I shall finish by saying that I am going to vote against the Bill on Third Reading. I remain uneasy. I believe that the Bill will lead to an infringement of civil liberties. As I said in an intervention earlier, if I believed that it could be an effective tool against international terrorism—I am the last person to underestimate the terrorist threat—I would simply enter the Aye Lobby and vote accordingly. I am not so persuaded. I am uneasy because I feel that we are going down a wrong path. I may be proved wrong and the Government may be proved right, but at present, I remain uneasy about the unnecessary infringement of civil liberties. I believe that we can live without identity cards as we have done for more than half a century. For all those reasons, I simply cannot support the measure. The only option is to vote against it.

5.54 pm

**Mr. Bercow:** The Government say that identity cards are necessary. William Pitt, as long ago as 1783, said:

"Necessity is the plea for every infringement of human freedom. it is the argument of tyrants, it is the creed of slaves."

Moreover, the Labour party has not always enunciated this position:

"Instead of wasting hundreds of millions of pounds on compulsory identity cards, as the Tory right demands, let that money provide thousands more police officers on the beat in our local communities."

So said the current Prime Minister, when he was Leader of the Opposition, at the 1995 Labour party conference. If the hon. Member for Birmingham, Hodge Hill (Mr. Byrne) seriously thinks that he advances the calibre of the argument by quoting what was said by other people in the past, he will learn in this place that two can play at that game.

I am interested in a more serious debate. The Home Secretary and the Minister for Citizenship and Immigration know that I am very ready to pay tribute to the Government when I think that they are right. However, we should be unremitting in our criticism of them when they are wrong. Today, hon. Members from all the different political traditions have explained eloquently that the Government are wrong.

The Government's arguments have shown no sureness of touch. They have shifted their position constantly—one minute, it is a question of reducing the threat from terrorists, the next it is about reducing illegal immigration, and the next it is about reducing benefit fraud. The former Home Secretary, the right hon.

Member for Sheffield, Brightside (Mr. Blunkett), took the biscuit when he asserted 18 months ago that the merit of the introduction of identity cards—eventually to become compulsory—was that they would enable us to assert our "sense of belonging".

Many people in this country feel a sense of alienation, from the Government or their local community, or both. I have yet to meet a single constituent in Buckingham who has said to me, "John, I feel a terrible inability to assert my sense of belonging because I do not possess an identity card."

**Mr. Gummer:** Does my hon. Friend agree that even those of us who believe in identity cards and who have argued for them for years cannot support this Bill, as the Government have not even allowed Ministers enough time to explain their case and respond to any of our debates? That is why I feel that I must vote against the Bill. It has nothing to do with identity cards, but with the abuse of this House on an important constitutional matter.

**Mr. Bercow:** My right hon. Friend is right. In politics, as in life as a whole, self-knowledge is a valuable thing. The Home Secretary has gravely embarrassed himself by his behaviour. If he is not aware of that simple fact, he needs to go away for a bit of therapeutic reconditioning.

The arguments against the Bill are powerful. First, it involves a fundamental change in the relationship between the citizen and the state, to the disadvantage of the citizen. Secondly, as many hon. Members have explained, it is virtually certain that there will be a growth in function creep. If that were not the case, why do no fewer than 25 out of the Bill's 45 clauses provide for order-making powers? The Bill is littered with phrases such as "the Secretary of State may at any time decide", "the Secretary of State may by order", "the Secretary of State may as he thinks fit", or "regulations made by the Secretary of State may provide." That is not acceptable.

There is a real problem to do with discrimination, as the hon. Member for Walthamstow (Mr. Gerrard) powerfully explained. After the recent improvement in race relations, we risk taking a retrograde step. The House should take care to resist any idea of putting a match to gunpowder.

The argument to do with cost has been made, but I shall conclude with the argument about public opinion. The Government have propagated a very downmarket line of argument. We all quote polls when it suits us, but I remind the House that we are elected representatives. I am not a robot, a sheep or a button to be pressed. I have a responsibility to look at the issues, study the legislation, identify the arguments and make a judgment. It is risible to contend that we need simply say, "Oh, the opinion polls show 80 per cent. in favour." Everyone knows that there was mass support in Australia for the introduction of identity cards, but people there recognised the drawbacks when they saw the real implications. They knew the impracticalities, they appreciated the threats to their liberty and they turned against the proposal.

People in this country will turn against the proposal too, and against the Home Secretary and he will richly deserve the hostility of the public when that happens. He will not be laughing—he will need to take cover. I shall vote against Third Reading.

5.59 pm

**Mr. Mark Fisher** (Stoke-on-Trent, Central) (Lab): I was one of those who voted for the Bill with considerable reservations on Second Reading in the hope that the Committee stage and today's Third Reading would resolve them. However, the more I have heard today and the more I study the Bill, the more my reservations, far from being resolved, have been aggravated. I was looking for a tightly drawn Bill with plenty of checks and balances, the right for individuals to access information, the right to prompt redress from the commissioner, and a good, strong commissioner.

The Minister for Citizenship and Immigration attempted, nobly, to try to address some of those problems—

*It being Six o'clock,* MR. DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [this day].*

*Question put,* That the Bill be now read the Third time:—

*The House divided:* Ayes 224, Noes 64.

**Division No. 85]** **[6 pm**

**AYES**

Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Burnside, David
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, Tony *(Northampton S)*
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cousins, Jim
Cranston, Ross
Crausby, David
Cryer, John *(Hornchurch)*
Cunningham, Jim *(Coventry S)*
Curtis-Thomas, Mrs Claire
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*

George, rh Bruce *(Walsall S)*
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Havard, Dai *(MerthyrTydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hutton, rh John
Iddon, Dr. Brian
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Ms Oona *(Bethnal Green & Bow)*
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Lewis, Ivan *(Bury S)*
Linton, Martin
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
McFall, rh John
McIsaac, Shona
McNamara, Kevin
McNulty, Tony
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mullin, Chris
Munn, Ms Meg
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Organ, Diana
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Timms, Stephen
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Stephen *(Enfield)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Widdecombe, rh Miss Ann
Wills, Michael
Woodward, Shaun
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

**Tellers for the Ayes:**
**Mr. Nick Ainger and Vernon Coaker**

**NOES**

Allan, Richard
Baker, Norman
Beith, rh A. J.
Bennett, Andrew
Bercow, John
Brake, Tom *(Carsbalton)*
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burstow, Paul
Cable, Dr. Vincent
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Corbyn, Jeremy
Dalyell, Tam
Dunwoody, Mrs Gwyneth
Ewing, Annabelle
Fallon, Michael
Fisher, Mark
Foster, Don *(Bath)*
Galloway, George
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gill, Parmjit Singh
Green, Damian *(Ashford)*
Gummer, rh John
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jackson, Glenda *(Hampstead & Highgate)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Leigh, Edward
Lilley, rh Peter
McDonnell, John
Mitchell, Austin *(Gt Grimsby)*
Moore, Michael
Oaten, Mark *(Winchester)*
Öpik, Lembit
Pugh, Dr. John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robertson, Angus *(Moray)*
Salmond, Alex
Sedgemore, Brian
Shepherd, Richard
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Stunell, Andrew
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Tyler, Paul *(N Cornwall)*
Wareing, Robert N.
Willis, Phil
Winnick, David
Wood, Mike *(Batley)*

**Teller's for the Noes:**
**Sir Robert Smith and Bob Russell**

*Question accordingly agreed to.*

*Bill read the Third time, and passed.*

## DELEGATED LEGISLATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation).*

### EXTRADITION

That the draft Extradition Act 2003 (Amendment to Designations) Order 2005, which was laid before this House on 13th January, be approved.—*[Mr. McAvoy.]*

*Question agreed to.*

### IMMIGRATION

*Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation).*

That the draft Asylum (Designated States) Order 2005, which was laid before this House on 18th January, be approved.—*[Mr. McAvoy.]*

*Question agreed to.*

## EUROPEAN COMMUNITY DOCUMENTS

*Motion made, and Question put forthwith, pursuant to Standing Order No. 119(9) (European Standing Committees).*

### European Defence Market Equipment

That this House takes note of European Union Document No. 13177/04, on the European Commission Green Paper on Defence Procurement; endorses the Government's support for the Green Paper's aim to open up a debate on the competitiveness of the European defence industry; and supports the Government's wider objective to create an effective and competitive European defence equipment market.—*[Mr. McAvoy.]*

*Question agreed to.*

## BUSINESS OF THE HOUSE

*Ordered,*

That, at the sitting on Tuesday 22nd February, notwithstanding the provisions of Standing Order No. 16 (Proceedings under an Act or on European Union documents), the Speaker shall put the Questions necessary to dispose of proceedings on the Motions in the name of Mr Secretary Johnson relating to Social Security and Pensions not later than three hours after the commencement of proceedings on the first Motion; proceedings may continue after the moment of interruption; and Standing Order No. 41A (Deferred divisions) shall not apply.—*[Mr. McAvoy.]*

## ELECTORAL REGISTRATION (NORTHERN IRELAND) BILL *[LORDS]*

*Ordered,*

That, in respect of the Electoral Registration (Northern Ireland) Bill [*Lords*], notices of Amendments, new Clauses and new Schedules to be moved in Committee may be accepted by the Clerks at the Table before the Bill has been read a Second time.—*[Mr. McAvoy.]*

## Hospital Services (Paddington)

*Motion made, and Question proposed,* That this House do now adjourn.—*[Mr. Mc.Avoy.]*

6.13 pm

**Ms Karen Buck** (Regent's Park and Kensington, North) (Lab): I apologise to my hon. Friend the Minister for his drawing the short straw of replying to the Thursday Adjournment debate.

Before I begin, I want to declare the ultimate non-pecuniary interest. My feelings about St. Mary's hospital are motivated in no small part by the fact that over the past 25 years it has seen me through serious illness, major surgery, a cancer scare and the birth of my child. I am committed totally to the hospital and its place in what, if we get it right, will be one of the most exciting hospital developments that has ever been attempted in this country.

The time is drawing near for a decision on the future of St. Mary's hospital in the context of the Paddington health campus. The fact that this has been a difficult decision to take—it has been seven years in planning and development—is not surprising, given the fast-changing backdrop of the development of health policy and the complexity of the specific scheme in the very heart of London. It is understandable—indeed, it is right and proper—that such a project should be rigorously scrutinised and meet the demands of the future, as defined in 2005, as much as it would have done when it was first conceived not far off a decade ago.

I have no argument about the fact that the scheme has been subject to rigorous scrutiny in the Department of Health and elsewhere, but my worry and the reason why I requested this debate is that some of the negative publicity that has accrued to the scheme over the years, and even the old ennui factor that is inevitably attendant on a scheme that has been so long in gestation, may have obscured some very important central facts and prevented us from the viewing the scheme and the new offers that are being made to facilitate it at this late stage clearly on their merits.

I do not intend to dwell on some of that negative publicity, although it is important that its existence is not denied because it provides a proper context for the debate. I merely wish to point out that the whole concept of the Paddington campus has had its opponents from the beginning, and they have been largely motivated by opposition to the closure of Harefield hospital. That is in many ways understandable from their perspective, but I very much regret that the local concern that has been expressed has muddied the waters a great deal around the campus itself.

The key fact is that the Paddington health campus continues to offer us an extraordinary, once-in-a-generation opportunity to renew and improve health care in north-west London. The most recent business case presented to the Department just before Christmas has the backing of all three local primary care trusts, the strategic health authority, clinicians from all three of the participant hospitals and the medical school, patients and the patients organisations, Conservative-controlled Westminster city council, the Mayor of London and the Commission for Architecture and the Built Environment. Indeed, in response to a question that I

*[Ms Karen Buck]*

asked a few weeks ago, the Prime Minister described it as "extraordinary", "imaginative" and "state of the art". I could describe a political—with a small "p"—coalition of that kind as implausible. In fact, I have never known that breadth and depth of support across agencies in 25 years in public life.

It is worth recapping for a moment the importance of the scheme and what it has to offer. Combining heart and lung services with acute general specialist services will dramatically improve patient care for the seriously ill, children and those with complex health problems. All the renowned expertise of the Royal Brompton and Harefield hospitals, Imperial college postgraduate research and teaching centres and St. Mary's hospital will be available to patients on a single site. The two hospital trusts and Imperial college have a tradition of research into improving health care, linking science to medicine. Harefield has the largest European heart and lung transplantation programme. The national heart and lung institute at the Brompton hospital is an internationally recognised five-star research centre, and St. Mary's is a leading research centre into infection in its own right. Bringing together all that research with Imperial college's world-renowned expertise will enable a major centre for research to be created, which will strengthen London's standing internationally, as well as directly benefiting patient care. However, a few myths need to be demolished for the record.

Myth No. 1 is that this is some kind of bloated super-hospital, a dinosaur from a bygone age and a over-ambitious amalgamation that is in danger of looking old-fashioned before it has even started. In fact, it is two hospitals on one site, with parallel academic development. It is not a single hospital, but a way to reduce costs by relocating three existing hospitals on to one site that is strategically located, with superb communications available to it that are not available anywhere else in north-west London. It is adjacent to Paddington station and, I hope, to a new Crossrail site, with easy access to Heathrow—a location advantage that cannot be replicated on any other site in inner, north or west London.

Myth No. 2 is that the campus will lock London into a surplus capacity of NHS beds. In fact, the Paddington health campus assumes that the requirement for 15 per cent. of routine surgery will be supplied by the private sector, and most routine elective surgery will be carried out in other hospitals in north-west London in any event. The campus has been designed to deal with complex tertiary work at St. Mary's and the new Brompton and Harefield, with St. Mary's also providing emergency services with appropriate backup for the local population, as at present.

Myth No. 3 is perhaps the most important of the myths doing the rounds: there is a quicker, cheaper and easier alternative. Relocating the Brompton and Harefield and rebuilding St. Mary's on this inner London site is complex and challenging, but the value-for-money case is strong. The other options—there must be other options because doing nothing is neither clinically nor financially viable—remain tentative in financial and planning terms. Significant cost benefits could be enjoyed by pooling central services, such as administration, payroll, catering and a range of others. It is estimated that revenue savings of £20 million a year could be made, but they would not materialise under other options that involved upgrading the hospitals separately or using any other configuration.

If we did not proceed with the campus, it would not reduce the need to move specialist heart and lung services away from Harefield hospital, or modernise the Brompton and St. Mary's facilities. If detailed capital and revenue cost plans for alternative options exist to demonstrate that they would represent better value for money, and all their details on the cost of such things as land assembly and planning permission have been scrutinised to the extent of those for the Paddington health campus, I am not aware of it.

All the arguments in favour of the Paddington health campus have been strengthened even more in recent days by the latest offer from Westminster city council to reduce the cost to the NHS of the land deal required for the campus. The council has offered to broker land deals in a manner that would cut both the cost and complexity of the scheme. That would represent better value than all previous options and would save the NHS in excess of £60 million more than the existing scheme. The capital surplus would be increased, the steady state operating position would be substantially improved and contingent liabilities would be greatly reduced.

Westminster city council can explain its own motives for the latest offer. However, it would be true to say not only that it is committed to maintaining a local hospital with international teaching excellence, but that it sees the scheme as a further step in the wider regeneration of the Paddington area. The retention and improvement of hospital facilities is thought of as not only being of direct benefit to people, but allowing further redevelopment throughout the Paddington basin. The campus is one piece of a jigsaw that has already included the introduction of the Heathrow Express, the refurbishment of Paddington station, the £62 million Paddington bridge project, the establishment of 97,000 sq ft of office space and 922 residential units, and substantial changes to education provision. There is more to come, including Crossrail—the hybrid Bill will hopefully be introduced in the near future—a potential business improvement district, the re-provisioning of the City of Westminster college, and a major new affordable housing development.

Additional benefits have already included 7,000 permanent jobs, thousands of construction jobs and huge investment in the local economy. That was much needed when we remember that despite the mythology of Westminster's uniform prosperity and the fact that it includes some of the most prosperous parts of the country, the four wards immediately surrounding Paddington are among the 10 per cent. most deprived wards in the country. Other wards in the surrounding district are among the 30 per cent. most deprived in the country.

When critics say, as they sometimes do, that the campus development has been seven years in the making and has yet to reach fruition, it would be true to say, "So has Paddington." The Paddington that we knew seven years ago when the health campus began to evolve is not the Paddington that we see now, because at that stage there were no academy schools or plans for the redevelopment of the secondary sector, no business improvement districts, and no immediate prospect of

the blight on the Crossrail development being lifted. The project has been fluid and constantly changing, so inevitably land assembly deals have had to be done. Additionally, the hospital has been subject to constant re-evaluation because as health needs change, capacity needs change. It would be unfair to make harsh judgments about the Paddington campus without appreciating the momentum of the whole regeneration scheme.

If the final decision is taken to rebuild St. Mary's hospital alone, I am confident that a fine teaching hospital will continue to be available for my constituents. St. Mary's is not a hospital that is any longer fit for purpose because many of its buildings are inappropriate for a 21st century hospital. It is absolutely essential to redevelop the hospital, ideally within the campus site. If it is not situated on the campus site, however, it will continue to provide first-class services. The quality of services within St. Mary's was recognised when it won the Dr. Foster's hospital of the year award three years ago, when it received its star ratings and when, only a few weeks ago, it was included in the latest wave of possible foundation status hospitals.

I am more worried about the long-term viability of institutions that will not benefit from the scale and concentration of resources. Without the campus, health facilities in north-west London will continue to suffer from fragmentation and dispersal, with services for children in particular increasingly at risk. The failure to consolidate heart, lung and paediatric specialties would deny patients the opportunity to improve the quality of care for complex medical conditions in particular.

The case for the campus clinically, in terms of overall value of money and regeneration, is compelling. The chance, once lost, will not come again. Given the new financial impetus that has been afforded by Westminster city council's latest offer on land assembly, I urge the Minister to take back the message that the scheme must proceed. I look forward to hearing his comments and hope that we get the clearest possible indication that, after all these years, those who looked forward to having the most prestigious hospital teaching and research developments in Europe will, at last, be satisfied.

6.25 pm

**Mr. Mark Field** (Cities of London and Westminster) (Con): I am grateful for this brief opportunity to add my comments in support of the remarks made by my constituency neighbour, the hon. Member for Regent's Park and Kensington, North (Ms Buck).

As has been said, the Paddington health campus is a large undertaking, but it is also a project whose time has come. It will offer all the people of London and, indeed, the country more generally, world-class facilities across a range of medical disciplines. It is an essential component of Westminster's regeneration plans for a highly visible part of our capital, the significance of which goes way beyond the local level. I endorse the hon. Lady's comments. She rightly said that Paddington is a much changed area, and that change continues. It is a little unfair to compare the plans with those of even six or seven years ago.

The Minister is aware that a vast amount of preparatory work and expenditure have been invested to get to where we are today, and I urge him to recognise how much has been achieved. That there have been difficulties and disagreements along the way is not surprising. The crucial point to note is that there is now a strong, influential and robust coalition of support for the scheme, both medically and politically. Any project that unites the Conservative leader of Westminster city council and the Mayor of London—never mind hon. Members from opposing parties who have a direct constituency interest—is surely also worthy of the Government's support.

This has been described as a once-in-a-lifetime opportunity, and few would demur from that description. Indeed, only occasionally can we say that all the planets are aligned in favour of such an important project being given the go-ahead, but that is now the case. There is nothing to be gained from delaying a decision until after the election. Political uncertainty is perhaps the project's greatest threat.

I understand that the rector of Imperial college, Sir Richard Sykes, has only this afternoon been in touch with No. 10 Downing street to express that wonderful global institution's support for the scheme and, I have no doubt, to muse on the significant boost it would give to Britain's ability to continue playing a leading role in international medical and scientific research.

Westminster city council is, as we speak, engaged in discussions to reduce still further the public sector's exposure and to strike a more beneficial accommodation for the taxpayer with the private sector partners, whose positive contribution and needs in unlocking the project must also be recognised.

I do not wish to rehearse the formidable points that the hon. Lady made, but here today and, I suspect, on many other occasions, the will for the project to succeed and bring its undoubted benefits to London and the country is very much apparent among the trusts and politicians involved locally. I urge the Minister and his Government to demonstrate their political will and support the Paddington health campus.

6.28 pm

**The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman):** I congratulate my hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) on securing the debate. I also congratulate the hon. Member for Cities of London and Westminster (Mr. Field) on his interest in the matter. I know that the subject is of real concern to my hon. Friend and other hon. Members. She has raised it before with Ministers and, as she said, with the Prime Minister. I have no doubt that the matter is also of great concern to her constituents and to many national health service patients in west London and throughout the United Kingdom. It will have significance to them.

In October 2001, the Department of Health announced that it intended to develop a new health campus at Paddington. I emphasise at the outset, as did my hon. Friend, that this is not a proposal to build a single super-hospital but a development that would bring together three major hospitals and a medical faculty on a single new campus.

The proposed Paddington health campus scheme embodies a bold and exciting vision for the wholesale redevelopment and renewal of services and facilities that are currently dispersed across north-west London and

*[Dr. Stephen Ladyman]*

exist, in many instances, in outmoded and unsuitable accommodation. It plans to combine this on the new site, bringing together the renowned expertise of the Royal Brompton hospital and Harefield hospital, along with St. Mary's hospital, a busy secondary and tertiary centre with a strong focus on serving the needs of Paddington. Imperial College postgraduate research and teaching centres will share the campus, which will embrace the use of technology to improve levels of patient care. The environment for patients and staff will include state-of-the-art facilities and diagnostics in both new and fully refurbished buildings, replacing run-down, old and unsuitable accommodation.

This is a vision that the Government fully support. We see it as an excellent proposal not only for local health services but for the specialist services that will be provided to the wider NHS on the site. There is substantial support within the local NHS for the Paddington health campus, as the hon. Member for Cities of London and Westminster said. I understand and appreciate this. We are working with the local NHS to find a sensible way forward for the campus.

Any new proposal—my hon. Friend alluded to this—must offer the very best value for money and be affordable by the health economy. Before the Government can finally turn their support for the vision into a final commitment to proceed, we need to work through the business proposals to ascertain whether the numbers add up. Until now, the key challenge facing the campus project team has been to demonstrate value for money with acquisition of the land needed. That is not to criticise it—any project board would have the same challenge. A scheme of this size or complexity has never been undertaken by the NHS, and transparently demonstrating its viability takes time, hence the apparent delays.

In 2001, the original outline business case estimated the cost of this redevelopment at £325 million. However, in 2003 it was recognised that the price of the project had escalated way beyond its original OBC approval figure to £800 million. Given this rise in the cost, a review of the OBC and the management of the project was necessary, and this was undertaken in late 2003.

The review team was led by officials from the Department of Health and included officials from the Treasury and the National Audit Office. I believe that it was right to conduct the review. In October 2004 the review concluded that a revised OBC should be submitted by the project team to the Department. It was agreed that, when approved by Department officials, the OBC would be submitted to the Chief Secretary to the Treasury for consideration and approval.

The revised OBC was approved by North West London strategic health authority and submitted by the project team to the Department in December 2004, and it is currently being reviewed by Department officials. One key issue from the revised OBC is that the NHS needed to acquire land from Westminster city council and Paddington Development Corporation Ltd., a privately owned consortium. It is this complex land transaction, linked to a large PFI hospital contract, that has until now made this such a difficult project to progress.

However, the campus project team is right now considering an exciting new proposal whereby Westminster city council would enable the land deal for significantly better value for money than the proposal described in the current OBC. For Westminster city council, the campus project would be the final piece in the regeneration of Paddington. It would provide key benefits to the local economy, including 7,000 permanent jobs, thousands of construction jobs, millions of pounds of investment in the local economy and significant amounts of key worker housing in an area adjacent to some of the most deprived wards in London. The four wards surrounding the site are among the 10 per cent. most deprived neighbourhoods in the UK.

Full details of the proposal and its possible impact on the project should shortly be with the Department. They will be worked through as quickly as possible, and I am sure that my hon. Friend the Member for Regent's Park and Kensington, North and the hon. Member for Cities of London and Westminster will accept that we cannot progress the work in detail until we have the final proposal in our hands. Work will, however, take place as quickly as possible, and I assure my hon. Friend that the Department and Ministers will do everything that we can, working with the local NHS, to expedite progress, to evaluate the proposal and develop it into an addendum to the original business case. Like her, I await those details with great interest.

Of course, not everyone shares my hon. Friend's enthusiasm for the project, as she openly admitted. The Paddington health campus plans have generated considerable controversy, not only in constituencies in the area but in others. However, the quality of building stock at Paddington, Chelsea and Harefield needs to be improved. Two thirds of the Royal Brompton and the vast majority of both Harefield and St. Mary's are long overdue for replacement. Those issues cannot be ducked and must be dealt with in the very near future, health campus or not.

In addition, Harefield hospital will, in the not-too-distant future, become unsustainable as a viable specialist heart hospital. It is crucial for the success of single-speciality hospitals that they have access to a wide range of related sub-specialities. Harefield, which is several miles from local general hospitals, is not in a position to draw on the support of the wider range of specialties that are found at such hospitals. The high-quality work and legacy of Harefield hospital will be sustained at Paddington health campus through proximity with St. Mary's. Even if that were not the case, Harefield is on a greenbelt site, and therefore constrained by planning regulations. It is difficult for people who do not live in the local area to access it by public transport, and a major redevelopment at Harefield would have a knock-on effect on the surrounding hospitals.

It must be remembered that a large proportion of Harefield's patients will receive routine care and treatment at their local hospitals. Only patients

requiring specialist care would go to Paddington health campus. I am sure that the House will agree that that we should all be prepared to accept that hospital and community services must, from time to time, change if we are to continue to fulfil patients' needs and improve services. Services should not remain static for ever, but must reflect advances in technology and clinical practice. Of course, all the planning and analysis is bound to create uncertainty. Throughout the transitional phase, staff involved in the scheme and those who have continued to provide health care to Paddington patients have worked tirelessly, despite their concerns. I pay tribute to all the staff who contribute to the excellent work of those hospitals.

I can assure my hon. Friend—and I hope that this is the promise that she was seeking from tonight's debate—that Department officials are working closely with North West London strategic health authority, commissioners and providers of health care in Paddington and west London to arrive at the best solution quickly and expeditiously for the local health economy. Like her, I remain excited by the project and its potential. The Government and I want decisions to be made as quickly as is safe.

*Question put and agreed to.*

*Adjourned accordingly at twenty-two minutes to Seven o'clock.*

# Westminster Hall

*Tuesday 25 January 2005*

[MR. JOHN MCWILLIAM *in the Chair*]

## Alcohol Abuse and Public Order

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[Mr. Jim Murphy.]*

9.30 am

**David Winnick** (Walsall, North) (Lab): I am pleased to have been given the opportunity to initiate this debate, which is not likely to last the full time. I originally put in for a debate on the implementation of the Licensing Act 2003. That would, by and large, have been appropriate, except that the main Opposition party decided to choose it as the subject of its first debate of the afternoon, as it had every right to. Whether my debate on alcohol abuse and public order is something of an anti-climax because of the debate in the Chamber later I do not know. However, there are genuine and deep-seated problems concerning alcohol abuse and I welcome the opportunity to say a few words about it.

The controversy about extending drinking hours has helped to focus attention on alcohol abuse—the cost to the national health service, the disorderly and sometimes criminal behaviour that takes place on a regular basis and, we should not forget, the harm done to the individual by excessive drinking. There is, however, a difference, which most of us would accept, between warnings about drug taking and smoking and warnings about alcohol. The first two activities should not be taken up at all. Every effort should be made to encourage people not to take up smoking and drugs. That is not true of alcohol. I would be the last person to suggest that one should not drink. Drinking is part of the pleasure of life and long may it be so. Perhaps, Mr. Deputy Speaker, we could have a drink to that sentiment, but, of course, in moderation.

**Mr. Deputy Speaker (Mr. John McWilliam):** Order. I would be happy to oblige the hon. Gentleman, but not until the sitting is over.

**David Winnick:** Point taken. It is chronic or binge drinking that is a danger to health and public order. It is not by any means a minor problem, as the Government recognise. The change to what could be 24-hour licensing, or, more likely, 16 to 18-hour opening times for pubs, which is longer than at present, will increase the problems. It is difficult to imagine that there will be less excessive drinking if opening hours increase. To their credit, in March 2004, the Government brought out a paper called "Alcohol Harm Reduction Strategy for England". I welcome the fact that the Government recognised the problems so well that, before the present controversy, they brought out that paper.

The paper gives some alarming facts and figures. Those figures include the fact that £95 million is spent on specialist alcohol treatment every year. There are more than 30,000 hospital admissions annually for alcohol dependence syndrome. There are up to 22,000 premature deaths as a result of excessive drinking per annum. At weekends, particularly on Friday and Saturday nights, up to 70 per cent. of admissions to hospital accident and emergency departments arise from alcohol-related incidents.

The Royal College of Physicians of London and the chief medical officer report a rising trend in deaths from liver disease caused by alcohol. The incidence of alcohol-related liver disease has increased tenfold since the 1970s. The figure that the Government give as the cost to the national health service caused by alcohol misuse is £1.7 billion. That is apart from domestic violence, a third of which is estimated to be due to alcohol. These are very serious issues and very serious figures. It is understandable that, against that background, there is controversy about whether it would be right and appropriate for pubs and clubs to be open later than they are now. However, the same Government document gives a figure of up to £7.3 billion as the annual cost of alcohol-related crime. Therefore, alcohol abuse is a major contributor to ill health, premature deaths, serious accidents, road crashes, disorder, antisocial behaviour and crime itself.

We know, not just from our television screens, the difficulties that the police regularly face. They have to deal with ugly scenes in town centres and spend a great deal of time trying to deal with the disorder caused by people drinking excessively. Fortunately, at many pubs with regulars there is little disorder; people know one another and know how much they should drink and when to stop. However, at other, anonymous places in town and city centres, a significant minority of people gather and drink without any concern for their situation afterwards or the likely effect on others and on neighbourhoods.

The drink industry seems to be rather complacent. I know that it set up the Portman Group, which might almost be said to be a public relations exercise to demonstrate that the drink industry is really worried about the problems, but I do not believe that it is concerned, as it should be, about excessive drinking. As long as the profits roll in, responsibility for what occurs should be left to others: that seems to be the alcohol industry's message. If the Government are to get tougher with the polluter, that is a welcome step, and one that should perhaps have been taken some time ago.

The chief constable of Nottinghamshire is one of the many senior police officers who have made the point that the industry has maximised its profits with a disregard for the outcome. That sums up to a large extent the feelings not only of his fellow senior police officers but of politicians, many in the religious community and those who are deeply concerned about alcohol abuse. Representatives of the drink industry recently gave evidence to the Home Affairs Committee, which is holding an inquiry into antisocial behaviour. When confronted with the question whether it should pay along the lines suggested, the representative said, "We already pay. We pay in taxes, we pay in rates." However, I do not believe, and I hope that this is the Government's view, that that is sufficient. The industry must recognise that some of its schemes, such as happy hours and half-price drinks to start with—although not for long—to encourage people to start drinking as much as possible, are irresponsible.

*[David Winnick]*

As I began by saying, I am not one of those who considers drink to be a curse. I drink, the majority drink, but we drink in moderation. The problem is not drinking itself but excessive binge drinking and the irresponsibility of those who indulge in it and those who seem to encourage it through various schemes. The problems that I mentioned are clearly recognised by the Government, so I find it very surprising that they feel it appropriate to extend drinking hours.

Let me be clear: I welcome the fact that local councils will be the licensing authority. I understand—no doubt the Minister will refer to this—that local authorities will have a number of criteria on which to base decisions about applications, but to what extent they will act tough in view of representations made by local residents and the police remains to be seen. Local authorities may have the power, which is fine, but will not large-scale owners of pubs and clubs use all forms of legal machinery to lodge appeals in the courts and so on, thus warning other local authorities not to be too tough? I do not believe that it is simply a question of local authorities acting in a responsible manner, which I hope they will.

If we are faced with the problem that I described, which is recognised, with all the resulting costs, what sense is there in making it easier to drink? I know the argument that spreading the opening hours will mean that there will not be such disorderly conduct—that people will be able to drink at leisure and will not have to drink up to ensure that they have what they want by closing time. Surely there is another argument: that those who drink excessively will go on to another pub that is open once the first is closed. Why not? If we are dealing with the sort of people about whom I am concerned, that would be a logical outcome. Instead of going home once the pub is closed, they will find one that is open—if, indeed, the 2003 Act is implemented.

I hope that the Minister, my good and honourable Friend, will deal with another issue. If a number of pubs in a given area decide to stay open and others do not, will the latter not come to the conclusion that they are losing business? As a result of the competition, they will decide, as business people, that it is wise to open their pubs for longer so that they will not be undermined by the competition from those who have already done so. Those issues need to be taken on board.

There is some controversy about Scotland, but let us leave that to one side at the moment and deal with Ireland. Ireland decided four years ago to extend opening hours, not to 24 hours, but from 11.30 pm to 2 am. The result was what some of us predict will happen here: there was much more drinking and disorderly and criminal behaviour. What was the result? The Irish Government decided that the decision taken in the year 2000 was wrong, and last year they wisely decided to revert to earlier closing times. Why should we have to go through that experience of extending hours to find, as the Irish have done, that it is a mistake? Now is surely the time to consider what happened in that country and other places, and reconsider the issue.

On Third Reading of the Gambling Bill, the Tory spokesperson criticised the Government for conceding this and that. I intervened and asked what was wrong. The Government listened to people like me, who were concerned about super-casinos. They responded to that. I am glad that they did and I was able to support the measure last night on Third Reading, when previously I had abstained. I ask the Government to listen carefully now.

I have not been particularly party political, but I think that this afternoon the Conservative party will be climbing, not for the first time, on the bandwagon—if that is the right expression. The Conservatives have a perfect, legitimate right as the Opposition to take up issues that are in the public mind. I spent 18 years in opposition. I understand all that. I am not going to criticise the Conservative party because it feels that it has found a popular issue and wants to exploit it—that is the role of the Opposition. However, I say to the Government that we would be acting wisely if we understood that the concerns that have been expressed go far beyond the Conservative party, which, after all, supported—except on Third Reading—the Licensing Act. Very late in the day, the Conservatives have decided that there are votes, or potential votes, in doing what they are doing today.

I say to the Minister, just as we listened—rightly—over the Gambling Bill, let us listen now. Do not let us be dogmatic. I know that she is not in a position to decide whether the implementation of the 2003 Act should be postponed. She will not mind if I say that the decision goes a little higher than that and will be made at a more senior level. I hope that the senior members of the Cabinet will consider the position as quickly as possible. If the Government are determined to go ahead with the measure, why not at least set up a pilot scheme in one or two places to see what the position is? I have explained my concerns and reservations and I hope that it will be possible for the Government to reconsider the position, postpone the implementation of the 2003 Act and then see over a period of time whether it would be wise to extend opening hours along the lines that they have in mind.

9.47 am

**Simon Hughes** (Southwark, North and Bermondsey) (LD): I am glad of the opportunity to take part in this debate, although as the hon. Member for Walsall, North (David Winnick) rightly said, we have been slightly overtaken by the fact that there is a show on the main stage later. Happily, that is on the same day, so we can all contribute.

I had better declare an interest. My dad and my granddad were brewers and my mother's pension is dependent on Whitbread continuing to make a profit. As children and youngsters, we were brought up to understand that alcohol in moderation was good for people—and indeed good for our family's financial survival. Happily, none of the family has ever suffered as a result or become addicted. That has not been a problem.

Like every colleague in the Chamber this morning and like everybody else, I have parts of my community where there is a concentration of heavier drinking or more frequent drinking establishments. I was told when I was elected that my constituency had the largest number of pubs of any in London. I never counted them, but there was certainly a huge number. There are fewer now.

Many pubs have closed, although in recent years, many banks and offices have been turned into bars, as is the case all over the country. Very unlikely buildings that one would never have imagined would be turned into licensed premises have become licensed premises.

There are two bits of my patch where there is now significant late-night drinking. One is the Old Kent road, the only bit of the Monopoly board south of the river, and the other is Borough high street, going down from London Bridge station. I have to say that there is not a phenomenal problem. There is late-night drinking. At the moment, the pubs and bars generally have extensions to 1 or 2 o'clock. That is generally the throw-out time on Thursday, Friday and Saturday nights, rather than 11 o'clock. However, they have not become no-go areas. They are not normally places where people cannot go.

We must be careful not to exaggerate, to take those pictures that we sometimes see of the centre of Newcastle or the centre of other places and to presume that every urban centre—every place where there are lots of pubs and bars—becomes a no-go area from 10 pm until 2 am or 3 am. That is not to say that there are not areas where problems blow up—we all know that, if people drink heavily, problems are much more likely to arise.

I remember being in Hull late on a weekend night, watching the increasingly aggressive behaviour at the minicab office where people were waiting for taxis to take them home. If people are gathering around kebab shops, takeaways and minicab offices, with more people pouring out and none leaving the area, a cross word becomes a row, a row becomes a fight and sooner or later someone has attacked somebody else. Then the ambulance and the police are called and the whole situation can get out of control. We understand the position. The issue has clearly become, rightly, a major concern of our colleagues in local government, who will see responsibilities coming down to them later this year. It has also clearly become an increasing concern for the police.

Let me declare that my starting position as a Liberal is that licensed premises should be able to stay open, if they want to be, 24 hours a day. I think that a modern society should be able to have licensed premises that can stay open 24 hours. In cities such as London, the current regime is extremely frustrating and inconvenient. Some people work late, some work a 2 to 10 pm shift. Some work—as we do on a Monday evening for example—until 11 pm. Some people arrive in the city in the evening to meet friends. It is quite a bizarre society where it is not possible to go out after a meal for a quiet drink, or where there is only 10 minutes or half an hour in which to enjoy the drink. All logic suggests that we ought to have the more continental timetable. That is the correct starting point and it is the reason that we support a move in that direction. It ought to be the choice of adults as to when they drink and how much. We all have to take responsibility for that.

However, we have clearly run into a difficulty in moving in that direction, which is that the enforcement agencies—the police and the local authorities that are going to pick up the responsibility—are saying, "Hang on, we are not ready." We have a clearer message now than we did two to four years ago from people such as the outgoing Metropolitan Police Commissioner, Sir John Stevens, and others. We have to pay heed to that. As the Minister will know, that is why I, my hon. Friends the Members for Winchester (Mr. Oaten) and for Bath (Mr. Foster), who take responsibility for home affairs and culture matters, and other colleagues have decided that we, too, now believe that the evidence is there for slowing down the transition to 24-hour opening. When we have the debate in the main Chamber later on, we will be saying that, as will the Conservative Party, because we believe that the case has been made.

We, like the Conservatives, voted against Third Reading of the Licensing Bill when it was going through Parliament because we had reservations, so we are not making a complete U-turn. We still want to move to a 24-hour position but we think that there is now a strong case for saying, "Hang on, let us wait and get it right." There are two other logical reasons as to why we should do that. The first is that, unless we are living in cloud cuckoo land, we look as if we are about to have a general election in May. The Minister feigns ignorance of that fact but there is not a single sign that suggests otherwise.

**The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint):** I am just lowly.

**Simon Hughes:** She has booked her holiday—I do not believe her.

That is one argument for saying, "Let us just wait until the other side of the election and see what the composition of Parliament is. Let us see who the Government are, who has responsibility for the Departments of State with responsibilities for these issues." Secondly, we really cannot rush into another set of legislative changes such as that which the Government announced the other day. This is legislation on the hoof.

The Government came to power in 1997 wanting, rightly, to reform licensing legislation, as it had been on the statute book pretty well unchanged for nearly 100 years. We then had long deliberations on the issue, including the famous commitment at the last election via text messages to young voters that licensing hours would be changed. It took all of six years from the Government coming to office to see an alcohol strategy, which, of course, as the hon. Member for Walsall, North rightly states, is a linked issue.

There have been changes to the legislation on how we deal with pubs and bars that break the law. There are powers on the statute book to close places for 24 hours and longer. Last week, as a sticking-plaster job, the Government announced a raft of further ideas, including alcohol control zones. They may be reasonable ideas, but it seems that the Government are running to catch up. Everybody would benefit from a pause to look at three related areas: the way in which the industry will be able to regulate the new regime; the evidence of where the health and medical problems are; and the evidence for what may work from the point of view of the police when managing problems.

I will make some brief points about each of those areas. But first, with regard to what is on offer, we must all be careful to correct the misunderstanding about what the new law proposes. There is an uninformed presumption that the change in the law will mean that all places currently open until 10.30 pm or 11 pm will open

*[Simon Hughes]*

all night. It is an option; it is not compulsory. My information from the British Beer and Pub Association is that not a single licensee expects to do that. Over the new year, when there could have been 36-hour opening, no one opened for 36 hours. There will be no great and sudden move.

Secondly, there will be no free-for-all, because decisions will be made by elected local councils. Like the hon. Gentleman, I support that; it is the right move. People who are elected by and accountable to their communities will make the decision about what opens and where. Some of my colleagues rightly say that we are circumscribing the power of local authorities, that they ought to have more powers and that the guidelines prevent them from having a common policy for a whole area. That is wrong. If a local authority thinks that a particular area has a problem, it ought to be able declare that there will be no late licensing in that area.

Thirdly, most pubs and licensed premises are not on the high street, causing grief. They are in small towns and villages where people get on perfectly reasonably and no one complains about them.

Fourthly, and again this is why we should not rush into this process, the Government announcement suggests, if I understand the new proposals correctly, that suddenly, having consulted for months and months over what the licence fee should be, there will be a much higher fee. It is a bit unfair on the industry to consult on one set of charges and suddenly consult over another. The licensed trade pays £22 billion a year to the Government in taxes, which is more than twice the entire police budget for England and Wales. On the other hand, the relative cost of drink is much cheaper than it was 20 or 30 years ago, so there is an issue over how we collect the revenue, how much we collect, how much people in the licensed industry have to pay for the privilege of having those premises and how much we need.

I have a suggestion. It is not party policy but, because drinking is a problem for a minority, which creates huge costs for the NHS, it might be helpful if there were some link between that part of the revenue and the money that goes to the NHS, which has to pick up the tab. That would be quite popular and appealing.

Lastly, the reality is that most people do not binge drink. We are briefed on what binge drinking is; there is a communal definition. Given that everybody uses the phrase, and so that people do not think that we are picking up the cliché and running with it, I ought to put on record that I am told that the accepted definition is

"eight or more units for men and six or more units for women on at least one day in the week."

I will not challenge colleagues over whether they fall into that category, but well under one in 10 members of the public do. Again, we are talking not about most of the public, but about a small minority who drink to excess.

I want to flag up the fact that we have a right to be concerned and to express that concern. I have been given different estimates of the number of alcohol-related deaths in this country. Some of those that I have seen suggest that there are between 22,000 and 40,000 alcohol-related deaths every year, I am told, although I have a much clearer figure in my head, that about 120,000 people every year die from tobacco-related diseases. We do not spend nearly as much on preventing people from becoming alcohol dependent or on treating those who are alcohol dependent as we do on picking up the tab when they end up in the A and E department on a Saturday night, having been involved in a fight, a car smash or a domestic incident.

If we are to get to grips with the fundamental problem, we need to deal with the growing problem of young people who start drinking early. The other day, I saw a horrific press cutting from the *Aberdeen Press and Journal*, which discussed the number of young people who are brought into hospitals in Aberdeen, suffering from alcoholism. The article said:

"At least two children under the age of 15 get emergency treatment for acute alcohol poisoning in Grampian hospitals every week."

Grampian's director of public health said:

"It is amazing the number of young people who are being carried in unconscious to our hospitals . . . It is obviously a great source of concern that two-thirds of these are children under 13."

It is true that half of all alcohol is bought from places such as supermarkets, takeaways and carry-outs, so the problem is not the responsibility only of those who run licensed bars and other premises. It is clearly a wider issue, with many more people drinking at home. In fact, the proportion of alcohol bought outside pubs and bars has gone up, while the proportion bought in them has gone down.

The Government have clearly decided that they are going to introduce a new policy, under which those who run these premises will have to pay more towards policing costs. There is a real debate about that approach and a real policy issue behind it, and it may be the appropriate answer. In recent years, football clubs have been asked to contribute more. My local football club does so. That has become common practice. However, there needs to be a proper debate, and the local authorities need to be involved. If we are going to accede, as I think that we shall, to the hon. Member for Walsall, North's suggestion, which some of his hon. Friends have been making for a while, that we pause, put back implementation of the 2003 Act and take stock, we also need to have a rational debate across the parties about how to obtain the funding to pay for policing, so that local authorities are properly funded.

I make one last suggestion, which, again, shows that there may be a growing consensus. We may have occasion to pause, not only in the light of the relatively recent Scottish experience and of the Irish experience to which the hon. Gentleman referred, but to see whether we could pilot a scheme for 24-hour opening in certain areas. In London, for example, there would be no reason why a local authority could not say that it wanted to pilot a scheme for a year. I have no idea whether my colleagues who run Southwark, Lambeth and Islington councils would want to do that, or whether Labour-controlled councils such as Lewisham or Brent and Tory-controlled councils such as Wandsworth or Westminster would want to do so, but let us give them the choice.

I end with a request. This is one of those issues where it would be frustrating if the public debate became over-partisan. To be honest, when people are standing on the Old Kent road on a Friday and somebody is injured,

those people will not be bothered about the party politics; they will be bothered about getting the policy right.

We shall never have a perfect society. People will always get drunk or addicted to alcohol. That is inevitable in a free society and it is the case the world over. We should not become too reactive about that, but Liberal Democrat Members believe that there is sufficient evidence to say, "Let's wait. Let's postpone implementation of the Act." I hope that the Government will heed that and understand that it would be better to proceed by consensus, rather than implement something that gave great concern to the police and increasing concern to local authorities and our health services. I hope that there is ground for an agreed approach before the general election.

10.5 am

**Mrs. Cheryl Gillan** (Chesham and Amersham) (Con): I congratulate the hon. Member for Walsall, North (David Winnick)—who is moving closer to me, because we probably agree on many things—on obtaining the debate. He has made much of the fact that it is on the same subject as one of the Opposition day debates called by the Conservative party this afternoon. That goes to show that there is universal concern about this matter in all parts of the House. I hope that he will take part in the debate this afternoon, and make a similar contribution to the one that he has so valuably made in this Chamber.

I also welcome the contribution of the hon. Member for Southwark, North and Bermondsey (Simon Hughes). He is moving closer and closer to Conservative policy on many fronts, and this is just another one. We can look forward to the day when he can cross over to our party, because he agrees so entirely with our policy. In many ways the hon. Gentleman is right. It would be nice to think that there would be some consensus across the House on such a major problem, but I am sorry to say that I expect the Minister will not respond positively to his suggestions or those of my party.

Sadly, over the past few years, this country has developed a disgraceful reputation at home and abroad for drinking to excess to such an extent that life and limb are threatened. The costs to the country have escalated to such a degree that some commentators estimate that alcohol-related crime and disorder alone cost us some £7.3 billion a year in policing and processing offenders through the criminal justice system. We have seen this evidenced in so many television programmes and reports; in the horrendous holiday destinations where we see youngsters literally out of their minds, clubbing in places like Spain; and in the all-too-familiar sight on Friday and Saturday nights in some of our inner cities, and even some of our towns, of young people who drink themselves almost senseless, and all the consequential problems in our town centres and communities up and down the country, referred to by both previous speakers.

A third of people are drunk when they are arrested. A recent study revealed that 63 per cent. of men and 39 per cent. of women serving prison sentences had been hazardous or harmful drinkers in the year prior to their incarceration. A report by the Revolving Doors Agency that I think the Minister is familiar with showed that people dependent on alcohol are more likely to be homeless on release from prison than those who are not. Therefore, they are likely to be among those most likely to reoffend.

Our increasing alcohol consumption in hazardous quantities does not just cost our criminal justice system dear. About 17 million working days are lost each year because of alcohol abuse. It costs our business and industry in excess of £6.4 billion. Alcohol-related diseases, as the hon. Member for Walsall, North said, cost the health service some £1.7 billion and rising.

If those telephone numbers do not alarm people, perhaps some of the underlying facts will dispel the romantic notion that we can turn the UK into a café society overnight, which is the vision of continental-style drinking on pavement cafés that has been laid out. The *British Medical Journal*—this is a statistic to add to that repeated by the hon. Member for Southwark, North and Bermondsey about the children in Scotland—estimates that more than 2,000 drunk children are admitted to hospital annually, and a third of all teenagers aged 15 say that they have been drunk at least once, compared with a tenth in Italy and France—the so-called café societies.

Despite the rising levels of alcohol-related crime, police powers to tackle binge drinking and alcohol-related crime are not being used fully. In 1996, some 40 per cent. of violent crimes were linked to alcohol and last year around 1.2 million violent crimes—about half the total—were linked to alcohol. However, 90 per cent. fewer people under 18 are dealt with by the police for buying alcohol. Those figures are down from 276 in 1997 to just 33 in 2002. Some 50 per cent. fewer people are dealt with by the police for selling alcohol to those under 18. Those figures have declined from 296 in 1997 to just 162 in 2002. If we are looking for further evidence, we can find it in the fact that even the number of people cautioned for or found guilty of drunkenness has fallen by 20 per cent. since the Government came to power. Under-age drinking has been virtually decriminalised. The laws that exist to reduce the problem are not being used to any great effect under the Government.

In addition, 360,000 incidents of domestic violence, which is about a third of the total—the Minister is familiar with the statistics—were linked to alcohol misuse. The fear in the general population has also increased. Some 61 per cent. of the population perceive that alcohol-related violence is worsening.

Against that background, the Government chose to send a text message to young people asking whether they gave a XXXX for last orders and saying that for extra time they should vote Labour. Was the Minister proud of that? Does she think that it was the action of a responsible party?

There is no doubt that the Government have made some attempts to tackle the problem. On 15 March 2004 they published the "Alcohol Harm Reduction Strategy for England" and set out a strategy for tackling the harms and costs of alcohol misuse. I understand that the aim of the strategy was to prevent any further increase in alcohol-related harm in England. Unfortunately, however, the whole truth did not come out at the time. Papers uncovered by the BBC's "Panorama" programme showed that a draft version of the Government's strategy included evidence from other countries of the damaging effects of longer opening

*[Mrs. Cheryl Gillan]*

hours. However, those concerns were removed from the final report in March 2004. Why was that decision taken?

The Downing street strategy unit consulted 17 experts when drawing up the interim report that was the basis for the strategy. That report concluded that extending licensing hours would have a severe negative impact and stated:

"Restriction on availability reduces consumption and general levels of harm. Relaxing availability increases general harm whether through more outlets (Finland), denser outlets (California) or longer hours (Western Australia)."

In the final version of the strategy, there was no reference to opening hours. A source cited by *The Times* as being close to the strategy stated that civil servants

"drafted what they thought was a pretty decent strategy only to see it get decimated as it got passed around government departments."

Could the Minister confirm that report by *The Times*? It would be interesting to see whether Ministers went against the advice that was put forward by the very civil servants who were expert on the subject.

The previous two speakers acknowledged that we voted against the legislation at Third Reading because we had concerns. However, since that debate on the Licensing Bill—now Act—it has emerged that the police have considerable concerns about the likelihood of 24-hour drinking and the increases in hours. That is reflected in today's debate. Chris Allison of the Association of Chief Police Officers has said:

"While ACPO acknowledges the positive elements of the new Licensing Act . . . it does have . . . concerns about . . . the move towards 24 hour opening."

John Stevens, the Metropolitan Police Commissioner, who has been quoted in this debate, said:

"The move towards 24-hour drinking needs to be slowed down. The fact that large groups of people will be coming out at 3 am or 4 am will mean we have to man the streets to ensure they behave."

More recent police comment has shown a consensus among many police chiefs that the burden on the police from alcohol-related crime is already too much to bear. Andrew Trotter, deputy chief constable of the British Transport police, says that rather than dissipate the apparent problem of unified closing times, 24-hour drinking will simply mean that police resources will be diverted to alcohol-related incidents more of the time. He went on:

"I think that all staggered opening hours does is spread the troubles right through the night."

Mike Fuller, the chief constable in Kent, fears that noise and other disturbance will result from 24-hour licensing. He says:

"A lot of the disorder, noise and rowdiness caused by people drinking finishes in the early hours. If this were to continue throughout the night there will be more disruption. This will significantly impact on people and likewise stretch police resources."

The assistant chief constable in Dorset, Adrian Whiting, is also concerned about police resources. He says:

"There are no further resources being provided to the police, nor indeed the health services and other agencies who will inevitably become involved in the potential outcomes."

I could go on: there are many other quotes from many other organisations and agencies that deal with law and order and health in our communities and have expressed concern. We have a problem in this country, which at a conservative estimate costs around £20 billion a year. That is more than £450 for every adult in the country. However, we do not spend a great deal on preventing the harms that come from excessive alcohol ingestion.

According to Alcohol Concern, the Government spend about £1.5 billion a year on drug-related activity but only £95 million on alcohol. That is disproportionate, because there are about 1,500 deaths a year from drugs and 30,000 a year from alcohol. That means that we spend £1 million on every drug-related death, and only £3,166 on each alcohol-related death; we spend more than 300 times as much on a drug-related death. Does the Minister think that the response from Government is proportionate, particularly in the light of the fact that she is the Minister responsible for our policy on drugs?

Now we have a Licensing Act that will liberalise the hours for drinking and a hastily cobbled together package of measures to try to minimise the harm that that may do to our communities. Even the local autonomy claimed in the package of measures put forward by the Government at the eleventh hour, which it is claimed will hand powers to our local communities, is not as accurate as one would at first believe. Even parish councils will not be able to object to licences in their own backyard.

I want to leave the Minister full time to respond. We do not agree with the Government—we believe that the proposals will cause increased drinking, damage, street violence and physical harm to even younger people. More important, there are not enough police to deal with that. The hon. Member for Walsall, North asked the Government to listen. We are certainly asking them to listen, because we think that there is a problem that is reflected in all the commentary about the Government's proposals.

We ask the Government to delay the provisions. If they do not, there will be a clear choice at the next election. It will be a choice between a Labour Government who are encouraging 24-hour drinking and a Conservative party who would delay the provisions until more work on the problem had been carried out, recruit 40,000 extra police officers to enforce the existing laws, and ensure that there were sufficient resources for them to do so. We would cut away the paperwork and political correctness that stop the police fighting crime and disorder today.

The Minister has an easy task: she just has to say yes. However, although she means well, I suspect that, as the hon. Member for Walsall, North said, she is not in a position to give us what we want. I hope that she has the ear of the Home Secretary, and that the Government will admit this afternoon that we are right and back down from their proposals, which would cause great damage throughout society.

10.20 am

**The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint):** I congratulate my hon. Friend the Member for Walsall, North (David Winnick) on securing this debate. One of the problems

with discussions regarding licensees—each speaker has contributed to that problem again today—is the impression being given that there will be a free-for-all, with people applying willy-nilly for 24-hour licences. In fact, Government research shows that 1 to 2 per cent. might be interested in having such a licence, compared with around 65 per cent. who merely want to vary their hours. Twenty-four-hour opening will not be the norm; there will simply be flexibility within the system.

The measures brought in under the Licensing Act 2003 will, for the first time, give greater local democratic accountability to local authorities, not only to oversee the applications for licences, but to review them. For the first time local authorities will hold both carrot and stick when trying to contain the excesses we have all read about in our newspapers, and may have seen in our constituencies as well.

My hon. Friend said that he was concerned about whether local authorities would be robust enough to deal with containment. That is an issue for those authorities, but one of the big differences under the new arrangements is that, unlike at present, there is local accountability. No offence to magistrates, but they are not elected, while local councillors are. If councils' decisions have an undesirable impact, such as more disorder and problems in our communities and hospitals as a result of their not being robust in the handling of licences and their review of those licences, they will get a strong message from the electorate.

I draw my hon. Friend's attention to the partnership arrangements in the part of the country around the constituency of my hon. Friend the Member for Stockton, South (Ms Taylor). Cleveland police and the licensees of pubs, clubs and takeaways have created a positive relationship whereby, for a small fee, the licensees receive an extra service—telephone contact with specific police who respond instantly. The partnership has been up and running for two months and, with those four additional police, crimes of violence associated with alcohol have been reduced by some 21 per cent. That is a good example—not the only one in the country—of partnership between all the local agencies involved in tackling abuse of those licences or disorder as a result of people drinking to excess. The issue is not just about licences, but about how people are held to account.

**Mrs. Gillan:** A local authority can refuse a licence only if a responsible authority, such as the police or environmental health officers, objects; the police already have enough to do. However, Westminster council says that it will not be able to reduce problems in its stress area, because the Government have put a "must grant" provision into the Licensing Act. Lastly, local councillors will now be unable to give evidence to hearings despite their local knowledge. Currently—prior to the legislation—councillors could object to applications in their own ward; under the legislation, they cannot.

**Caroline Flint:** I cannot speak specifically about the problems of Westminster council, but I know that a number of local authorities across the country have they give welcomed these changes. They feel they give them a greater say over both the issuing and reviewing of licenses. One reason why there is a greater say in terms of reviewing licences is that we have brought in powers to close down premises; also, if people are not abiding by their licence, we can take quick and effective action. It is a step change from what we had before; the new culture in which local authorities can have more influence than in the past is one area that I am afraid is not being talked about.

**David Winnick:** But what about the appeal machinery? As I mentioned in my speech, in a number of cases, very large organisations that are not satisfied with the local authority are challenging any of its decisions not to give an application the all-clear. Clearly one should take into account that the courts may well be involved, and local authorities may be somewhat reluctant to say no.

**Caroline Flint:** As I have said, I cannot necessarily predict what every local authority will do, but they will be held to account for their actions. The other issue to remember is that we have had a huge amount of publicity about the problems associated with excessive alcohol consumption. If someone wanted to appeal—of course people have the right to appeal; that is a just and fair process—they must justify the grounds on which they are appealing. In the same way, the local authority would have to put its case as well. But I hope we are all agreed that the change from what we have had to a system of local authority involvement is to be welcomed. Overall, individual local authorities and bodies that represent them, such as the Local Government Association, welcome that change. They have probably also welcomed the clarity as a result of Friday's announcement on issues relating to fee structures.

**Simon Hughes:** The Minister knows that I said in my speech that we welcome the move to local authority decisions. There was some nervousness among councillors, but that must be the right move. But I put it to her that there is widespread concern in local government. Its three concerns are that, first, local authorities cannot adequately take cumulative impact into account; secondly, they cannot apparently decide whether there will be a specific end point for licensing opening hours; and thirdly, they will be under-resourced for dealing with applications, appeals and the like. I hope that the Minister will, with her colleagues, talk again to the LGA and to the party groups, where I am sure that she will hear those concerns.

**Caroline Flint:** As I said, the announcement of the fee structures has given greater clarity as to what local authorities might expect. Councillor Dame Sally Powell, giving her views on behalf of the LGA, certainly welcomed that greater sense of certainty. As with anything, these issues of course can and will be looked at, but we do have a raft of measures giving greater powers in relation to refusal. Under the new Licensing Act, objections can be made at any time by any of the police, environmental health—from within the local authority, on health and safety grounds—residents or local businesses. Of course there are intermediate actions that can be taken, such as the closing down of premises for 24 hours. Let us not forget also the issue of fixed penalty notices, for example on bar staff serving to people who are drunk or under age. The raft of measures actually complements a better licensing system than we have had before.

*[Caroline Flint]*

Regarding other countries' extension of licensing hours, we are talking about flexible licensing hours, rather than the perception that everyone will have premises open 24 hours a day. I understand from some of the evidence that an acknowledged problem in Ireland was that licensing hours were extended without some of the wrap-around arrangements for tackling disorder that we have made part of the package of the change to flexibility. That was one of the primary reasons for their pulling back.

The picture presented by the extension of licensing hours is a mixed one. In some instances it has not led to greater consumption. In 1988, when opening hours were extended in the United Kingdom, consumption did not increase per head of population. When Scottish licensing hours were reviewed in the 1970s, men's consumption went down and women's went up. That is not necessarily to do with the hours; it may be more to do with cultural changes, and changes in women's attitude to themselves and to drinking.

Complex issues need to be tackled with regard to consumption. I do not put the responsibility at the Conservative Government's door, but since the time of the Conservative Government, there has been a huge increase in the number of outlets selling alcohol. Today it is commonplace to be able to buy drink in different outlets, whereas the traditional pub with an off-licence at the side has practically disappeared, because alcohol is available in so many other places. I should have declared an interest: I am the granddaughter of publicans and have served in a few bars.

The issue to be considered is not 24-hour drinking, but the way in which people drink and their understanding of the dangers, and not just the immediate health dangers. I met a group of 16 to 25-year-olds last week and we talked about, among other things, personal safety. We need to educate young people not just about the physical or medical effect of too much alcohol, but about the fact that a person who is out of control because of alcohol is vulnerable and susceptible to attack or other dangers. That is true for women and men. Things can get out of control when they get into a fight or a stand-off in the street.

Our messages must deal with health and personal safety. My brief encompasses the national drug strategy and we increasingly encourage our drug action teams to be drug and alcohol action teams. We have a long-term Blueprint project dealing with drug education in schools. The project is running in 23 schools where research is being done on the impact. It focuses on years 7 and 8, at the beginning of secondary school.

The project deals not just with illegal drugs, but with cigarettes, alcohol and, for that matter, prescription drugs—paracetamol and the rest—to which many young people have access in the home. The point of the programme is to make young people aware of different types of drugs and their possible effect and to enable them to make informed decisions. We do not treat alcohol as separate from our other work on drug education.

**Simon Hughes:** I support that, and we must go further down that route. Although it is not for the Minister's Department to take the lead on this, I want to point out that all the cafeterias in the House are this week providing booklets about the five portions of fruit and vegetables a day for healthy eating. People need the same visible and regular information, from a young age, about acceptable levels of drinking. Bottles of drink should bear a statement of the exact unit level and the associated risk. Good advertising and good labelling would mean that the education battle was half won.

**Caroline Flint:** As the hon. Gentleman probably knows, the Department of Health is examining the issue of what people understand by the alcoholic content of a drink, alcohol units and people's perceptions. A glass of wine has gone from a standard measure of 125 ml to something like 175 ml. Alcohol volume can vary from one beer to another. Some of the messages have become outdated over time, and the Department of Health is actively considering the issue.

**Mrs. Gillan:** Then why do the Minister and her colleague Ministers not consider delaying the implementation of the 2003 Act until 2006, when the impact of some of the excellent programmes that she is outlining will have begun to come into the Department? After all, some provisions in the Drugs Bill, which is before the House, have been delayed to April 2006. What is the problem about revisiting the 2003 Act and delaying implementation? If the Minister has such faith in the Act and in these programmes, she should be willing to wait for the results before further liberalising the licensing laws.

**Caroline Flint:** I believe that it would do the public a huge disservice to delay the licensing arrangements that we are introducing, which will move licensing from magistrates to local authorities. As I have tried to explain, we sometimes lose sight of the much firmer ground on which local authorities will be able not only to refuse licences, but to review and contain them.

Let us not forget the other measures that we have introduced, such as a new range of fixed penalty notices, which can be issued against individual bar staff who sell to under-18s. We have also increased the level of certain fixed penalty notices from £40 to £80 and we will be raising the others to that level. Fixed penalty notices are part of a package and do not stand on their own, but they have two important benefits. First, they reduce the time that the police spend on bureaucracy, which gives the police an incentive to use them. That may partly answer the hon. Lady's question about arrest. Secondly, they have an instant impact by containing individuals who, in different ways, create an unhelpful environment in which people end up fearing drink, instead of enjoying it.

In addition, we intend to introduce fixed penalty notices for under-18s who attempt to buy alcohol and for the sale of alcohol to someone who is already drunk. Those offences can already be prosecuted through the courts, but the FPNs would provide an immediate sanction and a wake-up call to some organisations and groups. I shall keep the list under review and add others as appropriate.

The police and other enforcement agencies need to use the full range of existing powers to clamp down on irresponsible behaviour by the industry and individuals.

Among some retailers and licensees and in some parts of industry the practice has been less good than we want; in others it has been better. There is a good example in the constituency of my hon. Friend the Member for Stockton, South, and another in Manchester, where people are saying, "There are some problems here. How do we collectively deal with them? What do we need the Government to give us, what do we need the local authority to do and how do we work together better? What do we expect from the industry and licensees?"

The alcohol disorder zones, one of the proposals in last Friday's announcement, are not a knee-jerk reaction. Since the launch of the "Alcohol Harm Reduction Strategy for England" my hon. Friend the Minister for Crime Reduction, Policing and Community Safety has made it clear that we were continuing to discuss compulsory payments where disorder got out of hand. We must talk to the industry about those issues. On the one hand, the hon. Member for Southwark, North and Bermondsey (Simon Hughes) seemed to want a delay, but on the other hand he seemed to be making a strong case for being tough on the industry, so I was a little confused.

We have discussed this issue with the industry. We have seen some individual elements in the industry decide to take corporate decisions of their own, and move forward; I think Yates's Wine Lodge is one example, and there are others. Only yesterday, I saw that another group had decided that they were going to introduce a smoking ban in their outlets, so there have been voluntary improvements along the way. However, we always said that we would come back to this issue of whether we needed to have a pricing scheme linked to persistent disorder. That is exactly what the consultation paper is consulting on. It is not an alternative to some of the good practice that is currently taking place, whereby licensees and others are working with the local authority on a voluntary basis to get the sort of services that they want from police and others. That is taking place in the constituency of my hon. Friend the Member for Stockton, South.

**David Winnick:** My hon. Friend has been very generous in giving way, and I understand her responsibility as the appropriate Minister. We know that majorities are not always right. Does my hon. Friend agree, however, that all the indications—opinion polling and the rest—demonstrate that the large majority in this country at this moment in time do not want drinking hours to be extended? Perhaps that should be taken into account by the Government at the most senior levels.

**Caroline Flint:** Probably some polls say that, and others suggest that people are in favour of flexible licensing hours. Some of the arguments for that are as appropriate today as they were when this issue was first discussed. One of the issues in Ireland is, I understand, that while it extended its hours, it was a fixed point extension, which meant that it did not solve the problem of everybody turning out at the same time. I think I am correct about that; if I am not, I am sure that somebody will tell me later.

I return to my point: is the issue one of flexible hours, or of how they are organised? Obviously, if we say that everybody will be open until 3 am, we will not solve the current problem, which occurs when most outlets empty at 11 pm or midnight. It does not solve the problem that the police were talking about. Yes, there are police officers who have voiced different views on this. However, Chris Fox, the president of the Association of Chief Police Officers, made it very clear on Friday that he welcomed the new information that the Government were providing on how the flexible licensing would be wrapped around with these other protective measures. These are valid issues.

My hon. Friend made a point in his speech about people moving from one establishment to another. Well, that already happens in the sense that it is possible to go to a pub in Doncaster until 11 pm and then go to a nightclub until 2 am. That situation exists, so the response to blaming the entire concept of 24-hour opening—as I have said, the indications are that very few outlets will want to open 24 hours a day—must be to say that we already must deal with some of these issues.

Why is it a problem? It is a problem because of lack of responsibility, sometimes by the licensees and by those who work in establishments who continue to serve individuals who should not be served. There is also a lack of co-operation between the police and the local authority on the ability to tackle these issues. Of course, underlying all this is the fact that drinking in the United Kingdom—the amount we drink, the way in which we drink—is not something new and has existed for a very long time. We have to tackle the underlying culture of drink. That, in itself, is not threatened by the new licensing arrangements. It is a bigger issue, which the Government must attend to on a number of different fronts.

**Mrs. Gillan:** I would like to know where the idea came from for this flexible, 24-hour licensing. The Minister has mentioned, although not by name, J.D. Wetherspoon, which has bravely made its decision to go for smoke-free zones. The chairman of Wetherspoon, however, said—I will not read the first part of the quote because it is not very complimentary to the Home Office—that certain people

"in the Home Office thought it would be sexy to go for 24-hour licensing. It was never an idea that emerged from pubs. To me, this all seems like last-minute chaos."

If there was no demand from the industry, from where did the demand come that has resulted in this legislation, which even a leading member of the alcohol industry describes as "last-minute chaos"?

**Caroline Flint:** I have not read that quote. He is entitled to his opinion. The measures that we are taking are part of an ongoing discussion about how to tackle the excessive use of alcohol. We see that as an ongoing responsibility.

When we launched the "Alcohol Harm Reduction Strategy for England" we said that we would come back on a number of points, particularly on what should be paid by those who contribute to disorder as a result of alcohol. Those issues were part of a review of licensing arrangements—in exactly the same way, I presume, as when a previous Government reviewed the opening hours in 1988—to examine how our communities are affected and how licensing is arranged.

*[Caroline Flint]*

Fundamentally, the issue is not about a carte blanche for 24-hour opening, but about variable licensing hours. What suits one community may not suit another. Alongside that will be more rigour, so that local authorities can have more of a say, and, importantly, powers for the police to deal effectively and quickly with the excessive use of alcohol.

My hon. Friend the Member for Walsall, North also mentioned promotions. That is another aspect on which we have said that we will continue to consult. It is clear that some promotions in certain quarters are irresponsible. I met a group of young people the other week and we talked about promotions such as the one that allows a woman to drink for free if a man brings her, and speed drinking, where people drink as much as they can in an hour or two for half the price.

We feel that such promotions are irresponsible and must be dealt with. That is not to say that we are trying to limit price—there is an issue of price competition—but there is a world of difference between that and some of the irresponsible promotions of recent years. Such promotions—where people drink as quickly as they can in a short space, often very alcoholic drinks indeed—add to the problem. We support the British Beer and Pub Association and others in the development of guidance to owners and operators that we hope will do away with such irresponsible drinks promotions.

Let us not forget that our measures are not confined to the pubs, clubs and restaurants that sell drink. We are also talking about tougher measures for other outlets that sell drink, whether they be supermarkets or corner shops. They, too, should have responsibilities in relation to under-age drinking and selling drink to people who have had too much. We must consider the wider community and how drink impacts on different areas.

**Simon Hughes:** The Minister knows—I have said it more than once—that it would be right for us to move as a country, as Scotland has done, to more flexible licensing hours, which is the phrase that people need to understand. However, because the Government have taken from 1997 to this year to honour the commitment to do that, there is every merit in considering the whole debate in the round. Rather than—as was done last week—announcing measures to deal with abuses that cannot possibly be law and implemented before November, let alone February, when licensing authorities will start the process, we should put everything on hold. That way we can bring together the payment regime, further proposals for controlling people who abuse the system—both after consultation—and then the implementation. That must now be the logic of the Government's position.

**Caroline Flint:** I have to differ with the hon. Gentleman. It is vital that we get under way the measures that will come into force on local authorities and on licensing . Local authorities throughout the country have been gearing up for the changes. It would be a retrograde step to say, "Well, sorry, but we're going to put that on ice, pending other issues." Of course those other issues are important, but they should not necessarily prohibit us from moving forward on the licensing arrangements, bearing in mind that, aside from what was announced on Friday, we have tougher licensing arrangements—

**Simon Hughes:** But they will not be in force.

**Caroline Flint:** Hang on a second. Tougher licensing arrangements will come into force in the near future and there will be fixed penalty notices; they already exist for a number of offences. We have the support of the police forces throughout the country to work in partnership with local authorities and others to tackle the problem, and finally, we have good examples from the industry of what it is prepared to do to put its house in order.

We are looking at further measures, and by announcing those, we are warning the industry and others about the changes. There is an opportunity for them to see the writing on the wall and to do more than they are doing to tackle the problems that exist in communities. There are some positive examples of that, but some are not so positive and need to be addressed.

With regard to the balance sheet, there are a range of policies and areas in which we can tackle the problem. At the heart of that are the new licensing arrangements, which create democratic accountability for the first time in the issuing of those licences, giving the community a say that it clearly did not have before. We must continue to build up the resources available for treatment for those who have binge-drinking problems—there is a difference between that and chronic alcoholism—and we are doing that as well.

**Mrs. Gillan:** The Minister is giving way generously. Did I hear her correctly? Is she saying that this is not the end of the story and that the Home Office, or the Department for Culture, Media and Sport, have further proposals on their desk, which they are about to spring on the unsuspecting public, local councils or industry? If so, when can we expect to see them? Or is she threatening the industry by saying, "There is definitely going to be a levy, but we are acting step by step and quietly because we are moving towards an election"?

**Caroline Flint:** No, the hon. Lady is twisting my words. It is quite clear that the existing powers are there to be used, and can be used in a better way throughout the country. The new licensing arrangements are coming in and the consultation document on Friday made the Government's policy clear.

I said that it is not the end of the story because Members have raised several issues about how we tackle the culture of drinking in this country. Consideration must be given to projects such as Blueprint, which I mentioned earlier, and to looking at the information we give to young people, whether that is clinical information relating to ill health or information about personal safety. We are having ongoing discussions on those matters with regard to public health and people's responsibility for their actions.

On the question of domestic violence, I would say that alcohol is often a factor, but I strongly believe that one of the reasons why more cases of domestic violence have been brought to the courts is that the Government have, for the first time, tried to remove the obstacles

preventing those cases from coming to court. A rise in the number of arrests for domestic violence in itself is not a bad thing.

**Simon Hughes:** Why?

**Caroline Flint:** Because we are finding ways in which those matters can be brought to court.

As in all areas of public policy, we are mindful of what is happening. We have to deal with an underlying cultural issue, but the issue of flexible hours will not necessarily make that situation worse.

**David Winnick:** It will not make it better.

**Caroline Flint:** I think it will make it better in a number of cases, but it has to be supported by good local working partnerships. At the end of the day, we can pass laws here, but they are implemented on the ground. That is why we see very good practice in some parts of the country, and we should expect all parts of the country to aspire to that.

**Mr. Deputy Speaker:** Order. I do not wish to enter into the debate, but it being the anniversary of Robert Burns' birth, I have to observe that he wrote a prayer to the Scotch Members of this House, objecting to the proposal to increase duty on whisky.

10.53 am

*Sitting suspended.*

## Robert Burns Heritage Projects

10.57 am

**Sandra Osborne** (Ayr) (Lab): I very much welcome the opportunity to raise the vital issues of the legacy of Scotland's national bard, Robert Burns, and the urgent need for funding from the Heritage Lottery Fund. I know that they are also close to your heart, Mr. Deputy Speaker, and I look forward to hearing your "Immortal Memory" later in the week. I am sure that you will be very interested in my reply to the "Toast to the Lassies", and I had to be careful not to bring one of those speeches with me this morning. It might have been a wee bit more amusing than what I am about to say, but it would not have addressed the serious issues that, unfortunately, I have to raise.

**Mr. Deputy Speaker (Mr. John McWilliam):** Order. If the hon. Lady had done that, I might have been responding to the debate, rather than the Minister.

**Sandra Osborne:** Thank you.

Today, as I speak, Burns clubs all over the world are celebrating the birth of this great poet and song collector. No doubt all kinds of over-the-top sentimentality will be on display, but kailyard parochialism has little or nothing to do with the real Burns, who is a far more substantial figure than that. His place in the Scottish consciousness is unique; he has been described as Caledonia's bard, natural man, a many-sided genius, the heaven-taught ploughman, the noble savage, a man of the resistance, a national hero and even a national myth. His name has become synonymous with Scotland.

Life levels all men, but death reveals the eminent. Burns captured the soul of Scotland, and his name is entitled to the respect of posterity. He may have died a poor man, but he has immeasurably enriched the world. On this day, we do not remember a departed memory, but honour a living, life-enhancing presence. When Scotland forgets Burns, history will forget Scotland. It would be to our eternal shame if we ever allowed that to happen.

Among his faults and virtues, Burns had a common touch, warm humour, vigour, humanity, a universal message and profound common sense. I want to quote some famous words by him, although I hesitate to do so, because when the Deputy Prime Minister visited Burns cottage—we were very pleased to see him—and he was asked to read a poem by Robert Burns, he refrained from doing so because he said that it takes him all his time to master the English language, let alone lowland Scots. I do not know whether the Minister will treat us to a Burns poem later, but in the meantime, as I said, Burns's profound common sense is encapsulated in these famous words:

"O wad some Pow'r the giftie gie us
To see oursels as others see us!
It wad frae mony a blunder free us,
And foolish notion",

and in these:

"The best laid schemes o' mice an' men
Gang aft a-gley."

*[Sandra Osborne]*

Mr. Deputy Speaker, I am sure that you will agree that those words are of great benefit to every Member of this House, both individually and collectively.

There could not have been a better time to secure this important debate because, as we meet in our convivial gatherings at this time of year to celebrate Burns's life and works and to toast his immortal memory, there are pressing matters that we should consider if we are properly to secure his physical legacy in the west of Scotland, specifically in the place of his birth—Alloway, just outside Ayr. Alloway is in the constituency of my right hon. Friend the Member for Carrick, Cumnock and Doon Valley (Mr. Foulkes), who is disappointed that he is unable to attend today's debate. Hon. Members may be aware that his wife is ill. My right hon. Friend is a member of the Burns Trust. In my role as Member of Parliament for Ayr, I also declare an interest in the trust as a trustee.

The debate is timely, not only because it is taking place on Burns day but because his legacy has recently seemed to be under threat. I want to provide the House with some background to the issue before seeking some reassurances from the Minister on lottery funding. The problem is a long-term one that should have been sorted out decades ago, not just in the last couple of months, as some who have spied an opportunity to jump on a political bandwagon are making out. Some of those people have not taken one iota of interest in Burns, apart from attending the occasional supper. The local councillor for Alloway, Robin Reid, who has suddenly become vocal in complaining, is, like me, a trustee. However, to my recollection he has not attended any of the regular trustees' meetings since I joined in 1997. Burns would, I am sure, have looked with irony at much of the present hypocritical posturing. No doubt he would have written a poem about it.

I note that my predecessor, Phil Gallie, has acknowledged that efforts have been made during the years to preserve and develop the Burns national heritage park as a tourist attraction. I join him in paying tribute to people such as Douglas Hemming and our lord lieutenant, Major Richard Henderson, as well as to the local councils in Ayrshire. All have strived to preserve and develop the park but they have done so against the odds.

My opinion is that, instead of building the Tam O'Shanter experience, which is really just a café and gift shop, the money should have been invested directly in the historic buildings and artefacts and in preserving the physical heritage of Burns. Only a small proportion of the people who go to the café and visitor centre visit Burns cottage, so although it gains some income it is not succeeding in attracting tourists to Burns, nor is the income anything like enough to meet the needs of such an important national treasure.

However, hindsight is a wonderful thing. My point is that we should have had a properly funded and supported national strategy to preserve the legacy of one of our most important historical figures many years ago.

**Angus Robertson** (Moray) (SNP): I agree entirely with the hon. Lady and with her sentiments about the importance of the legacy of Burns, not just to Scotland but around the world. She is right to talk about a national strategy, but why, with a Labour-run council, Labour-run Scottish Executive and Labour-run UK Government, do we not have one?

**Sandra Osborne:** As I shall explain later, successive councils, both Tory and Labour, have tried hard with limited resources to support the legacy of Robert Burns. Also, the Scottish Executive have supported the funding for the last three years. I do not accept that they have not been proactive in the situation, and they are about to be much more proactive. Where I do agree with the hon. Gentleman is that Westminster has failed the legacy of Burns for many decades. As I suggested, it is a long-term problem. It did not just spring up last week. It should not fall to individual local authorities, trusts or Burns organisations to work in isolation to preserve the heritage, but that is the somewhat casual approach that has characterised the situation for far too long.

I am no nationalist, as the House will be aware, but without, I hope, sounding too paranoid, I do not think that anyone in the House could foresee a situation in which Shakespeare's birthplace and places associated with his legacy would be neglected or would fail to be recognised as of national importance. To be even more parochial, if I am honest I think that if Burns had been born in Edinburgh instead of Ayrshire, it would also have been a totally different story.

In many ways, it gives me great pleasure to say that it is with the Scottish Executive that we are seeing not only a quick response to the current problems, but a long-term commitment to evolving a coherent strategy for the future, which has been sorely needed for so long. My task today is to ensure that the Heritage Lottery Fund is recognised as a potential source of funding and that it operates in a way that can proactively protect our heritage, along with Historic Scotland and other Government bodies.

The Burns national heritage park is made up of the cottage where he was born, the museum, the monument and gardens, the manuscripts and memorabilia, the Tam O'Shanter experience, which once exhibited a recreation of that famous poem, Alloway kirkyard and the Brig O'Doon. It is all contained in a beautiful setting in the village of Alloway. It is vital that that setting is preserved.

The heritage park is managed by a joint board on which three partners—South Ayrshire council, the Burns monument trustees, of whom I am one, and Scottish Enterprise Ayrshire—are represented. Based on previous consultancy reports, the original commercial aim was that the heritage park would be financially self-sufficient after its first few years of operation. That never happened.

I think that it would be of benefit if I outlined briefly where we are at the moment and how our problems came about. The Tam O'Shanter experience is owned by the council and for some time it has been its intention to lease it to a commercial operator. In so doing, it was responding to a request from the joint board. It was thought that that could provide an opportunity for capital investment and for an ongoing revenue stream. The council planned to reinvest the income from the lease in the upkeep of the park as part of a service-level agreement. That is not new and has been in the public domain for at least the past couple of years, if not longer.

In so doing, the council was treating the trust in the same manner as it does every other voluntary organisation. The purpose of such agreements, as hon. Members will know, is to determine the level of service delivered in return for financial support from the taxpayer, and to ensure that outcomes can be measured and acceptable standards maintained. That will be familiar to hon. Members as part of the best value regime and is all within the thrust of Government policy to follow the public pound. Councils are measured in terms of how they spend public money and the quality of services that they deliver. Service-level agreements are an extension of that, in that councils are charged with the responsibility of following the public pound to ensure that external organisations give value for public money and are measured as stringently as councils themselves. That is as important for preserving our heritage as it is for providing services to people.

However, that is a tall order for many organisations and the problem is that the trust is a very different entity from most other voluntary organisations. Its constitution is a complicated and aged document, drawn up at a time when it was seen as appropriate to set up bodies that were basically made up of the local gentry—the great and the good, such as the lord lieutenant, the sheriff principal and elected representatives—whether or not they had the time, expertise or interest required. In recent years the trust managed to recruit some more appropriate volunteers, but the constitution meant that the trustees would be held jointly and severally liable for financial problems. That became a major problem when a multi-million pound project was involved, so advice was sought about dissolving the trust and setting up a new management structure.

It is my understanding that at that time the National Trust for Scotland was not interested in taking over, although it was clear that a national body was required. At the same time, there was an increasing problem with preserving precious artefacts. A report produced last April by the national Burns collections project showed that 35 per cent. of the existing Burns collection is stored in the Burns cottage museum in an uncontrolled environment. I am sorry to inform the Chamber that the original manuscript of "Auld Lang Syne" is currently held in Edinburgh for that reason. I am sure that the Chamber will realise not only the financial importance of the document, but its importance as Burns's legacy.

Artefacts have been held in an uncontrolled environment for many years. That cannot be allowed to continue. Little or no support was provided over the years by any national body until the Executive stepped in three years ago with short-term funding. That cannot be allowed to continue either.

I am going into some detail about how we got to where we are now partly because there have been deliberate misrepresentations, particularly about South Ayrshire council, but also because I believe that there are important lessons to be learned. Local bodies cannot in isolation take responsibility for sites and collections of such national significance as the heritage of Robert Burns. I might add that his birthplace is by no means the only important Burns legacy in south-west Scotland. A proper strategy is required for them all.

As I have said, work has already been done to establish a new Burns museum at Alloway that would preserve the Burns collection to modern standards and greatly enhance tourist potential. One application has been made for lottery funding, which was rejected, and a second was withdrawn with a view to resubmission when a new management structure was established.

Given the scenario, I would contend that it was perfectly clear to all that that structure was needed if the project was to succeed. It could not possibly have escaped the notice of our national heritage bodies, but they did not see it as their role at either a civil service or quango level to intervene in a proactive manner that could address the problem. I do not suggest that anything other than good professional advice was given about the merits of the designs or the business plans, but only latterly were there discussions about the structure of the management, which appeared to be caused by the council not being prepared to underwrite the costs. That was never a feasible proposition. Councils today are simply not in a position to take on multi-million pound projects in such a way. In any case, as I have tried to make clear, there should be a national input.

The Minister may be about to tell me that it is not the role of the lottery heritage board to intervene and suggest that the project is of national significance and should be run on a national basis. The Heritage Lottery Fund, not local councils, largely funds our national historic assets today and, along with bodies such as Historic Scotland, is charged with the responsibility of preserving our heritage. I suggest that a more proactive approach, with powers if necessary, is required at some level. I should be grateful if the Minister would comment on that.

I pay tribute to the Scottish Minister for Tourism, Culture and Sport, Patricia Ferguson, not only because she was instrumental in organising the campaign that got me elected in 1997, but because she has provided the political will—lacking for so long at a national level—to give Robert Burns the recognition that he deserves. She has backed that up by speedy action. When I met her before Christmas, along with my colleague Cathy Jamieson, the MSP who represents Alloway, Patricia Ferguson immediately informed us of her determination that the homecoming of the Scottish diaspora, planned for the 250th anniversary of Burns's birth in 2009, will centre around the Burns national heritage park in Ayrshire. That has not always been the case; in the past, it would have been far more likely to be centred in Edinburgh. I was delighted to hear it, and I hope that hon. Members who are Scottish but represent seats elsewhere—such as yourself, Mr. Deputy Speaker—will join us in the celebrations.

Plans are already under way and have pointed up the need for a national strategy. The Executive will fund the work needed, but it is clear that a firm central direction is needed. Patricia Ferguson has made £50,000 available in the short term; yesterday I met her, South Ayrshire council and Scottish Enterprise to begin planning the future, which includes the possibility that the whole park will be taken over by the National Trust for Scotland. It is a solution favoured by most, and South Ayrshire council yesterday indicated its willingness to go along with that solution. It is likely to include a submission to the lottery fund for a museum to be ready in plenty of time for 2009.

*[Sandra Osborne]*

At last we are moving in the right direction to secure the Burns legacy, which is so richly deserved. On Burns day, in celebration of his immortal memory, I ask that we all—not just in Scotland, but in the UK and throughout the world—pay tribute to Scotland's national bard, not just with words but with action.

11.17 am

**The Minister for the Arts (Estelle Morris):** May I congratulate my hon. Friend the Member for Ayr (Sandra Osborne) more than usual on securing the debate on the most appropriate day for it? As one of the few non-Scots in the Chamber, I also wish everyone a happy Burns day and pay tribute to Robert Burns. My hon. Friend naturally talked about his Scottish heritage and contribution to Scottish culture and history. I want to recognise that his work went way beyond the country boundaries. Although the Scots own him in the best sense of the word, his contribution has been felt throughout all continents. As we approach the celebration of 250 years of his birth in 2009, I think that above all things he has certainly stood the test of time.

Indeed Burns's words of wisdom, particularly about poverty and disadvantage—and the emotions which he had the ability to portray in anger at those things—have not lost their relevance, although I suppose the geography of where those feelings are more apt changes with time. So, although we talk of celebrating his history, of a memorial and of paying tribute to the past, one main reason for needing to do all that is the wisdom of his words in the present—wisdom which I am sure will continue into the future.

This is a difficult debate for me in some ways. There are areas over which I have responsibility, and areas over which I do not. Of course I want to acknowledge that the Heritage Lottery Fund has a role to play. That will be the main comment I want to make. Before that, however, I welcome the contribution that the Scottish Executive have now made; only last week, they announced a grant of £50,000, which my hon. Friend rightly said was short-term funding. From what I have read, it will not survive in that form; it will be covering the ongoing year-on-year costs. It is not a real investment to keep the park steady and there must, I suspect, be a joining together of financial forces to bring into reality the dream to which she referred.

I shall therefore talk briefly about the Heritage Lottery Fund, because hon. Members will know that it is a national UK body. Although our Department has no responsibility for culture in Scotland—nor should it—we do have an overseeing purpose regarding the HLF. To make matters even more complicated, the HLF is itself independent of Government—so in some ways I feel twice removed from the issue about which we are talking. None the less, I accept a responsibility to keep a careful eye on what is going on.

The HLF has had a relationship with the Burns national heritage park over the years. I reviewed it for the debate and it was clear that it had been an up-and-down relationship. There have been seven applications for HLF funding since February 1997, and the pattern is that small ones were granted and large ones were turned down. It is good news that in 1996 just over £65,000 was granted for repairs; in 2000 just over £98,000 was granted for a curator to help with preparation of a bid; and in 2003 just over £49,000 was granted for project planning for the redevelopment of the cottage museum.

However, the applications that were turned down were of far greater monetary value. There were applications for £1 million in June 1998, for £1.25 million in December 2002, and for more than £5 million in December 2004, although that was withdrawn. Those big bids tended to be withdrawn rather than turned down. That told me, as I looked through the HLF applications, that the HLF was not unwilling to engage with the Scottish authorities and the trustees. It looked to me as if when the big bids came in, something was not right with the applications. I suspect—although I can only guess at this—that they have fallen on advice from the HLF about the likelihood of securing approval and a suggestion that the applicant should get its house in order before proceeding further.

**Sandra Osborne:** The Minister makes a very good point. I believe that we are pushing at an open door with the Heritage Lottery Fund. There have been several applications, and there has been no mechanism to enable anyone to ask, "What is the problem? We cannot allow the drift to continue." Do the relevant agencies have a role to play in being a bit more proactive?

**Estelle Morris:** My hon. Friend makes the point exactly about the way forward. An organisation is needed to do as she describes. It cannot be the HLF; it cannot say, "Let's get our act in order. We will take on leadership, co-ordinate the funders and the trustees and see whether we can arrange things." However, the HLF will equally not conduct the equivalent of an Ofsted inspection, sitting quiet until the bid is made and then passing it or failing it. It does not have that sort of relationship with an applicant, but something in between.

A bid as large as the one that we are discussing should never get to the point of being submitted without a fair understanding on the part of the applicants of the likelihood of success. To proceed otherwise is a waste of time and resources. I see it as the duty of the HLF—it is an obligation that it accepts and fulfils for many major projects—to work with the applicant, advise on where there are shortfalls and help with putting the bid in good order.

All that that will mean is that when the bid is made, it will be in good order and eligible, and can compete with others for what are inevitably limited funds. The relationship with the HLF cannot guarantee the funding, because one cannot know how many bids, or of what value, will be made. However, the Burns heritage park needs someone other than the HLF to play the leadership role, and be the point of contact.

The light on the horizon, which my hon. Friend mentioned, is that the National Trust for Scotland has expressed an interest in that role. I do not suggest that it should put in more money than anyone else; that is not for me to do, but the equivalent of a lead body is needed. My hon. Friend alluded to the history, and we all know about such things from our constituency experiences—I can almost imagine what has gone on, without needing to be a Scottish Member. There have been many interested parties and people willing to help, but no one with an agreed lead role.

As an outsider, my reading of the situation is that we could be most optimistic if the trustees and other parties would unite around a lead partner. Choosing the National Trust for Scotland for that role would give the HLF a better chance of doing the negotiation before the bid was put in. The reasons given for the project being turned down in the past were things like value for money, long-term sustainability and management—we are talking about a multi-million pound project. The HLF will advise on each of those things, but cannot do them for the bidder and cannot take an ongoing lead role. Perhaps there is a time for all of these things.

For Scottish Members of Parliament, and for Scottish Members representing English seats as well—certainly with the pressure of 2009 upon us all—I agree with my hon. Friend that nobody would want the Scots from throughout the world returning to see that the memory of Robert Burns, the greatest of all the national poets, has not been honoured in a way in which they would expect. If 2009 gives us incentive to ensure that that has happened by then, that is good. If the National Trust for Scotland can provide that lead role, all the better. All I can do today is to say to my hon. Friend that the HLF is a source of income to which an application would be in order, but no promises can be given, as it will need to be considered alongside other applications. The HLF is willing to talk and make sure that as the bid is being developed it stands the best possible chance of being ruled in order and being competitive. Maybe those issues are beginning to come together—perhaps for the first time in a while.

I know that with the leadership that my hon. Friend has shown in her constituency all those concerned will not let this opportunity slip away. I congratulate her on having a most historic constituency and on having the foresight to allow us all at Westminster to celebrate Burns day today. Celebrating it in Westminster is apt—although I suspect that they are having greater celebrations north of the border—and I wish her every success in the project that she has taken on.

**Mr. Deputy Speaker:** I thank the hon. Member for Ayr (Sandra Osborne) for her kind invitation in 2009. Since I shall not be a Member of this House, I will be able to accept it.

11.27 am

*Sitting suspended until Two o'clock.*

## Obesity (Young People)

2 pm

**Mr. Nigel Evans** (Ribble Valley) (Con): I am delighted to have the opportunity to raise a subject that is of interest to people inside and outside the House.

The problem of obesity is spiralling out of control in the United Kingdom, although it is not unique to this country and affects others too, notably the United States of America. Already, 8.5 per cent. of six-year-olds and 15 per cent. of 15-year-olds are classed as obese. It is estimated that the cost to the economy of obesity is around £7.5 billion and that obesity reduces life expectancy by nine years. The BBC has reported that more than 30,000 deaths a year in England alone are caused by obesity. We know too that obesity leads to other health-related problems, including arthritis, heart disease and diabetes. In addition, there is the risk that certain cancers, such as prostate cancer, are more difficult to diagnose in those with obesity.

It is in young people, however, that the problems have increased at an alarming rate. Since 1982, the number of obese children has doubled. If present trends continue, half of all children in the United Kingdom could be termed obese by 2020. We need to take action now, before it is too late for our children. There is an acknowledged problem, so action is needed now. When I talk about obesity, I am not referring to a genetic condition termed Prader-Willi syndrome, which I believe was the subject of a BBC 2 documentary last night.

What is being done to help young people not to become obese? The "Choosing Health" White Paper is a welcome step in the right direction. The Prime Minister notes in the foreword:

> "Government cannot—and should not—pretend it can 'make' the population healthy. But it can—and should—support people in making better choices for their health and the health of their families. It is for people to make the healthy choice if they wish to."

That is okay as far as it goes, but the Government should ensure that young people receive the information that they need to make the correct choices. If people are not doing enough exercise and are not maintaining their health with the information that the Government provide—the figures that I have quoted prove that people are not—much more must be done to give information to young people. I mentioned the cost of £7.5 billion, which is a huge drain on the economy, never mind the fact that the quality of life for young people with obesity will be dramatically altered.

Obesity is on everyone's radar screen. I welcome the Health Committee's report on obesity from last year and I am delighted that hon. Members who serve on that Committee are here this afternoon. On 9 February, between 8.15 am and 10 o'clock, the hon. Member for Dartford (Dr. Stoate), who is also here, will hold a mini conference to discuss the White Paper.

I read with interest the *Hansard* report on the hon. Gentleman's debate on the same subject in January 2003, which I am sure he remembers well. The then Under-Secretary of State for Health, the hon. Member for Tottenham (Mr. Lammy), said:

> "Much more needs to be done to ensure that both children and adults have all the information that they need to choose a healthy lifestyle."

*[Mr. Nigel Evans]*

He continued:

"A low level of physical activity among children also contributes to a rising level of obesity."—[*Official Report*, 22 January 2003; Vol. 398, cc. 132–33WH.]

Two years on from that debate, why has so little been done on obesity? Talk is clearly cheap, but we now need action to ensure that the problem is properly tackled.

Physically active people have a 20 to 30 per cent. reduced risk of premature death and a reduced risk of contracting major chronic diseases such as coronary heart disease, stroke, diabetes and cancer of up to 50 per cent. It is estimated that more than one in 200 people in the UK are diabetic and that the figure is dramatically increasing. It is clear how important it is not to be obese or overweight and to take physical exercise.

Some 30 per cent. of boys and 40 per cent. of girls are not meeting the recommended one hour a day of physical activity for children. It is in school that that should become second nature, as part of their way of life. The number of obese children has tripled in the past 20 years. Physical education is a compulsory part of the national curriculum up to key stage 4—or 16 to the rest of us. In 2001, the Labour party manifesto stated:

"We pledge a sports entitlement for all children, giving them access to at least two hours a week of sport in or after school."

We now know that that target has been missed. According to the Department for Culture, Media and Sport, sport and physical activity among five to 16-year-olds has actually declined since 1999. According to teachers, children are lucky to get two 45-minute sessions a week. Given the time that it takes to get to the gym, change and have a shower afterwards, we are talking about nothing like 45 minutes, and children would be lucky to get two sessions of half an hour, which adds up to one hour a week.

Recently, I spoke to Heinrich Ungerer, a PE instructor from County Hall gym. He said that young people should exercise at least three times a week, spacing their exercise sessions out within the week so that their bodies had time to repair. He believes that many young people rely on their metabolic rate to hide the fact that they simply do not do enough exercise. It is my view, therefore, that physical activity provision in schools should be increased so that youngsters get exercise at least three times a week—Monday, Wednesday and Friday—and for at least an hour each time, not including the time that it takes for them to change and shower.

I am of the considered belief that, in the past, physical activity, or PE, was always seen as an add-on—it was something that we had to do, but if we could not do it, we would not be too bothered. Furthermore, some of the equipment in schools, certainly in my day, was not up to the job. Physical education in schools should, however, be as important as maths, reading and writing, and I hope that the Minister will confirm that she, too, believes that it is as important as some of the other subjects in the curriculum.

We also need to make it exciting for young people to go to the gym. I referred to the facilities in schools in my day, but we know that state-of-the-art equipment is now available in the best gyms in the country. I do not see why our youngsters should suffer, and I hope that the Minister can give us some good news about ensuring that all schools can now start to re-equip their gyms with state-of-the-art equipment so that youngsters will be encouraged to use them.

Clearly, a one-hour session will not be enough for students to stay fit, and there are initiatives to help children who are being failed by the education system. I can point to things that are being done in my constituency, and I suspect that all hon. Members could do the same in theirs. For instance, I am president of the Clitheroe Wolves football club, which is led by George Hibbert, and I pay great tribute to him. Every Saturday, he has up to 400 boys and girls of all ages out training in Clitheroe. They play football regularly, and they play in teams too. That is superb. Clearly, with 400 youngsters, he does not do that all on his own; he has a number of other dedicated volunteers to help him, and I pay tribute to them. I saw them working last summer in Clitheroe, and it was fantastic to see so many youngsters out enjoying themselves. Clearly, the scheme is outside the education system.

I have also been in touch with Farouk Hussain; he, too, is a volunteer, and he works with other volunteers to run the Clitheroe cricket club for youngsters. He says that, on Thursdays, well over 100 youngsters regularly take part in exercising through cricket. He also has 35 youngsters who coach themselves and other youngsters; that is not only helping them to keep fit, but teaching them leadership. I congratulate him and his volunteers.

In Wales, people over 60 are entitled to free swimming, and some youngsters are also eligible. A constituent asked why that provision could not be extended throughout the country, and the Minister responded that it was not possible for the Government to provide such schemes. However, swimming is one of the healthiest forms of exercise that we can do, and I hope that the Government will look again at the issue. I hope that they will look at what is happening in Wales and at why we cannot extend that throughout the country.

I also congratulate those involved in sporting events such as the London mini marathon, which has been going on since 1986. Teams can enter from all the London boroughs, and there are also 10 county teams and home county teams from Scotland, Wales and Northern Ireland. Many of us will be familiar with other mini marathons that take place throughout the country, encouraging youngsters to get fit, undergo training and participate in and enjoy running in the marathon.

Professional football clubs must also be congratulated on the work that they do with youngsters. Blackburn Rovers is just outside my constituency. The club runs a number of programmes designed to tackle obesity and promote healthy eating. The students study what a player eats in a day, comparing a player's diet with what they eat, and consider questions such as, "why should you eat healthily?" The club also gets the children to monitor their physical fitness by running up to 100 m and then monitoring their heartbeat. Programmes are designed specifically to meet the different needs, ages and academic abilities of the pupils. They also consider other important health issues such as the dangers of alcohol. A number of other professional football clubs participate in such schemes, and we should encourage the spread of such schemes throughout the country to all football clubs.

It is also important that there is provision for physical activity in the workplace. I asked BAE Systems, which is based in Samlesbury in my constituency, what sort of facilities were provided and found that there was a sports and social association—a gym at the factory with up to 500 members, about 20 per cent of the work force. But the company also encourages youngsters into its grounds to participate in sport in the summer. More such initiatives should be encouraged.

In the workplace, there is a tax of 20 per cent on "free" memberships of gyms at work as a benefit in kind. I know that the Prime Minister is looking at taxation as a way of incentivising people to take out gym membership. Indeed, we should be looking at ways of ensuring that we at least do not penalise companies when they offer free gym membership to their workers. So I hope that when the Chancellor of the Exchequer speaks in just over a couple of months' time he will be able to give some good news in this regard.

I have discussed physical activity. Now I shall speak about food education. Education in what we eat could go some way to stem the problems of obesity. Food education is loosely mentioned in some of the subjects covered at school, such as science subjects. When young children are taught about keeping their teeth clean, they are told which foods can be harmful to their teeth. I have learned of schools that have personal, social and health education that includes some teaching on healthy eating, but there is little direction and there are few examples of firm education on how to lead a healthy lifestyle. Including that in the national curriculum would benefit youngsters and the whole country. Most adults and children do not meet the dietary recommendations of five pieces of fruit and vegetables a day.

I welcome an initiative mentioned in one of today's newspapers, led by the hon. Member for Croydon, Central (Geraint Davies), who is campaigning and trying to enforce nutritional standards for school meals. Under his private Member's Bill, nutritional information would be displayed on school menus and vending machines on school premises would be regulated. Any increase in the amount of information that we can give to young people about what they eat must be welcomed.

I have been contacted several times about the food that is provided in vending machines in schools. I welcome initiatives by the Dairy Council and the Food Standards Agency, such as the healthy drinks vending study in 12 secondary schools across England and Wales. The pilot, managed by the Health Education Trust, examined the likely demand for healthy alternatives to carbonated drinks. For 24 weeks vending machines containing healthy drinks such as milk, water and fruit juice operated alongside more traditional machines. I read that the scheme was a great success. It gave youngsters choice and around 70,000 drinks were purchased from the machines, the most popular being semi-skimmed milk, milkshakes, mineral water and pure juices. With schemes like this, we can make a direct impact on young people's lives. Although this was a pilot and a leaflet was produced and distributed to 9,000 schools, it is no promise that things will change in schools without direction. We need clear commitments from the Government to ensure that drinks like these get into school vending machines.

Fast food is always the butt of everyone's criticisms when it comes to talking about obesity. The Health Committee had meetings with McDonald's, among others, concerning obesity. A recent article in the *Financial Times* highlights these anti-fast food sentiments and I believe that Brussels has given the food industry a year to stop advertising its fast food in the way that it does and to improve product labelling or face legislation from a European level.

I went to McDonald's when it had one of its open days at the top of Victoria street. I was pleased to see that it is beginning to recognise that there is a problem, and that it wants to give its customers a varied choice. It has introduced items like fruit segments, which it never had before. Super-size meals have been junked out of the window, and salads have now started to feature on the menu. It also makes skimmed milk available to customers. I welcome its initiatives, such as partnerships with the four home-nation football governing bodies, which will create 10,000 community coaches across the United Kingdom between 2002 and 2006. McDonald's calculates that those partnerships have led to children aged seven to 16 across the country receiving an extra 800,000 hours of coaching. McDonald's seems to recognise its social responsibility: it provides food, giving more choice to youngsters, but it is also doing something about exercise, which is absolutely right.

There has been a similar movement to promote a healthier lifestyle by Coca-Cola, another company berated from time to time for its products. The company has a four-point strategy for supporting healthier diets and active lifestyles, including initiatives such as offering greater product choice, more low-sugar and diet drinks, greater promotion of Diet Coke, the expansion of responsible sales and marketing practices, such as commercial-free zones in schools, and the encouragement of communities to take part in a range of grass-roots sports, including the schools football cup, which a number of youngsters participate in. As hon. Members will know, I have my own retail convenience store, and what I hear about the sale of Diet Coke now being greater than the sale of ordinary Coca-Cola is certainly reflected in my business. I welcome the company's decision not to brand its vending machines, which will offer a full choice, especially of the lower-sugar and diet products. I understand that it has just introduced a smaller size of Diet Coke can as well.

I hope that the Minister can give us some good news following today's debate—one of many that we have held in the House on this subject. Will she look carefully at ensuring that the level of activity for children in schools will be increased, that activity will be treated as seriously as other subjects on the school curriculum, and that sports facilities generally will be improved and made more available to children, particularly in summer? I cannot stand the fact that when the schools close in summer, the sports facilities alongside them close as well. We have mentioned that time and again in the House over the past few years. The excuse, or maybe a legitimate reason, is that they are afraid to open up, let us say, the soccer fields or the tennis courts because they cannot get insurance. The facilities would have to be insured, and people would have to be paid to monitor the youngsters. I hope that the Minister will look at making facilities within schools available during school holidays, and in the evenings. I know that a lot is done

*[Mr. Nigel Evans]*

with community school sports facilities—we have one in Longbridge, in my constituency—and we must ensure that they are also fully supported.

On the nutritional side, more information must be given to youngsters, both in the classroom and in the dining room, regarding the nutritional value of what they are eating and the long-term effects if they do not correct their diet and balance their lifestyle with healthy exercise. That is vital. Fruit, for instance, is a cheap and economical food these days, and in many supermarkets is cheaper than some of the other foods that youngsters buy. Fruit is filling and hugely good for them. We need to give that information to youngsters so that they can make intelligent choices. Unless we do so, we are storing up much greater problems for ourselves in the future.

2.19 pm

**Dr. Howard Stoate** (Dartford) (Lab): I am pleased to be called in a debate of enormous importance not just to the House but to everyone in the country. I am pleased, too, that the hon. Member for Ribble Valley (Mr. Evans) has secured an opportunity for the House to look in hard detail at an extremely worrying and important issue.

I am particularly pleased to take part as I understand I am the only practising GP left in the House. I chair a number of Back-Bench all-party groups—the all-party group on obesity, the all-party group on primary care and public health, the all-party group on pharmacy and the all-party group on men's health—all of which have taken an active interest in the problem of obesity. I co-authored, with my research assistant Bryan Jones, a report published just over a year ago by the Fabian Society called "All's Well That Starts Well". That came up with some controversial views that were well received and debated by people outside—in the media and across the country—and again contributed to the debate.

I am pleased to be president of Team Darenth, a cycling club in my constituency. The club is one of the largest and most successful in south-east England. It teaches young people how to ride their bikes safely and how to use cycling as a sport and hobby—indeed, as a learning experience for life. Many young people are benefiting from that club and the person running it, Michael Humphries, has put great efforts into making it a success.

Along with other hon. Members, I have on many occasions referred to a time bomb of obesity. I must be slightly out of date as my friend and colleague Dr. David Haslam, chair of the National Obesity Forum, says that the time bomb of obesity has already gone off and what we are now waiting for is the time bomb of diabetes and heart disease that will follow it. That is what we are facing. The hon. Member for Ribble Valley has already alluded to obesity leading to significant increases in diabetes and heart disease. What he did not mention is that someone with a body mass index of 30 and above faces anything up to 30 times the risk of getting diabetes at some time during their life.

When I was a medical student, type 2 diabetes was considered to be a disease of middle and old age—indeed, it was called maturity onset diabetes. It is now called type 2 diabetes partly because we are seeing it happening in much younger people. It is wrong to call it a disease of maturity and middle age, as it can now happen in the teenage years, or even before.

It should be a worrying pointer for us all to be seeing significant numbers of children coming through diabetic and endocrine clinics in our hospitals, suffering from diabetes. Those children face a hugely increased risk of heart disease, early death, blindness, loss or amputation of limbs. The complications of diabetes are pretty unpleasant and the longer one has it, the more complications arise. Therefore, a person who gets diabetes in their teens has an extremely high chance of complications as they get older. That wrecks not only their own lives, but the lives of their families. As the hon. Gentleman has mentioned, it causes a huge drain on resources for the entire health service and the wider community.

I do not need to rehearse the statistics that the hon. Gentleman mentioned, but he is right that the number of obese children has trebled in the past 20 years. That should give us all pause for thought. Another worrying statistic is that, in a typical week, one in five children eat no fruit at all, according to the national diet and nutrition survey in 2000. Nine out of 10 children taking packed lunches to school have lunches that contain far too much fat, salt and sugar. Therefore, we face a massive problem.

It is not right to say that the Government have not taken the matter seriously. As the hon. Gentleman said, I secured a debate about this important issue a couple of years ago. I am extremely gratified by the huge amount of work that the Government have done, particularly the Minister who is on the Front Bench today. In publishing the recent White Paper on public health, she has made an enormous contribution to this topic. It would be wrong to score party political points by saying the Government have not taken it seriously, when clearly they have.

I know that the Minister will go through the arrangements the Government have put in place in more detail, but I want to recap a few of them to give hon. Members an idea of the range of topics that the Government are addressing. For example, we are trying to ensure that children have equal access to healthy living, a main area of action outlined in the White Paper. Meanwhile, the Sure Start programme, which is already helping children with healthy living, will develop new child development projects, including volunteers visiting families who are under stress and who need extra support.

That is very helpful, as is some of the action that is targeted at schools such as the national healthy schools programme, which is encouraging schools to foster better health. The provision of free fruit and vegetables to all children aged four to six has been enormously popular in my constituency. When I visit schools in my area, particularly primary schools, many children are extremely pleased to get their free fruit every morning in school. I find that extremely helpful. They are teaching their own parents to buy and eat fruit. That has also been important.

The Government are working hard on revising school meals to improve their nutritional content. There is more support for cycling to school and for promoting sport in schools. At least 400 sports specialist schools are

to be established over the next few years and the food in schools programme, a joint venture between the Department of Health and the Department for Education and Skills, will help to ensure that children have access to healthy choices of food in schools. The programme will develop a range of nutrition-related activities and projects in schools to add value to some of the other things that they are doing.

Another cornerstone of the White Paper is the promotion of joint action by local authorities and business voluntary groups to tackle local health inequalities and other issues. People are to be encouraged to become more active through cycling and walking initiatives and will have easier access to sports facilities. By 2006, local authorities are forecast to have built more than 7,000 miles of new cycle tracks and cycle lanes.

Consumers are to be helped to choose healthier meals by a colour-coded system of food labelling and will have more guidance on portion sizes, while the Government, working with the food industry, aim to reduce levels of salt, added sugars and fat.

**Mr. Simon Burns** (West Chelmsford) (Con): In what is known as the traffic light system of labelling—the hon. Gentleman has a medical background, which may help—what colour would the label be for an avocado pear? On the one hand it is a fruit that we are encouraged to eat; on the other hand, if eaten regularly, it could cause one to become quite fat.

**Dr. Stoate:** There are several responses to that question, but most of the deprived children in my community are not worrying too much about avocado pears. We need to concentrate more on the staple foods and diets that they will be eating.

**Mr. Burns:** Answer the question.

**Dr. Stoate:** The answer is that there will always be difficult areas at the margins, and we must make a sensible and grown-up decision about certain foodstuffs that do not easily fall into a category. The hon. Gentleman is right. There will be some foods at the margins that will be difficult to classify, but that does not undermine the point of the scheme, which is to give people simpler, more straightforward and more helpful advice, particularly those who have to feed large families on relatively fixed incomes.

**Mr. Burns:** May I try again? If the aim is to have better, simpler, comprehensive labelling, so that consumers know what they are buying, is not it unhelpful that three different supermarket chains are working on their own labelling systems, which are all at variance with one another and will simply cause more confusion?

**Dr. Stoate:** I entirely agree with the hon. Gentleman. It is nonsense for different companies to work on completely contradictory schemes. I hope that the Minister will be able to explain how the Government will work with the different food retailers to make sure that they produce a harmonised scheme that is simple and easy to understand. I agree with the hon. Gentleman that it is easy to pick holes in such initiatives, but their point is to make life much simpler and more straightforward for those who are struggling.

Seventy per cent. of young families admit that they do not have enough information to ensure that their children are fed healthily. That is a worrying statistic, and I am pleased that the Government are looking at it and are trying to improve it. Although there will be difficulties and problems in achieving that improvement, we must help the 70 per cent. of families who are struggling to feed their children because of a lack of appropriate knowledge.

**Mr. Evans:** The hon. Gentleman is a doctor, and it is good to have a doctor in the House on these occasions, but surely the whole point of giving youngsters and parents information is so that, when they are deciding what to eat, they can choose a balanced diet. Eating the same foods is not a balanced diet. Sometimes they can have chocolate or chips, but not at every meal, not three times a day.

**Dr. Stoate:** That is entirely the point; it is exactly what we must concentrate on. No one is saying, "Chocolate is always bad. Coca-Cola is always bad". Of course they are not. What is bad is the proportion of the diet that those foods make up. People should be free to eat what they want, but if they have the information to make choices that balance their diet and can choose from a wide range of available foods, which I am pleased to say most shops now stock, that will improve nutrition. Therefore, it is a question not of banning foods or making them difficult to get, but of making sure that people have the right information to make balanced choices for themselves.

I want to scotch the idea that we are producing a nanny state—that is precisely what we are not doing. The Government are ensuring that people are properly educated in order to make choices for themselves. At the moment, when anyone raises the issue of obesity in the House, the newspapers jump on it and make it look as though the Government are telling people how to live their lives, which is exactly what we are not doing. I am pleased to be able to make that point.

As I have said, there is an awful lot going on. In 2007, the Government will launch a new health initiative, health direct, which will be an online service and phone helpline that will allow people access to all sorts of information to improve their health. The Government have done a lot, but I am not complacent and we are not yet reversing the trend. Although they are on the right track, it is not working yet because we are still seeing an increase in obesity in children. The problem is getting worse, not better, so much more must be done.

The extraordinary thing about nutrition is that children are not born with a particular taste in food. They are not born wanting burgers, chips and cola; that is learned behaviour. We must tackle the problem at the point where children learn that behaviour. The situation is a bit like that of smoking. Once someone has become a smoker, they are a smoker. If we can prevent them from taking up smoking, it will have a great effect on their health chances.

The same thing applies to young children. Something happens at a very young age to many children that turns them on to a diet that is far too high in saturated fat,

*[Dr. Stoate]*

sugar and salt. If we can get a handle on that early formation of their dietary preferences, we can make an effective difference. Hopefully, they will then grow up with a taste for less unhealthy foods, healthier options, more fruit and vegetables and less saturated fat.

We need to concentrate far more on food education, which has become increasingly marginalised in schools during the past 20 years. I understand that there is increasing pressure on the curriculum for all sorts of core subjects, which must be tackled. Often, however, schools lack specialist equipment, kitchen space and appropriately trained teachers, which is one of the biggest problems. That has led to the statistic I cited earlier: 70 per cent. of parents do not know how to feed their children effectively. They did not learn how to do that at school, so it is hardly surprising that they are unable to pass the relevant information on to their children.

We should make food education a compulsory part of primary and secondary education. Unless children are brought up with a good understanding of what constitutes a healthy diet and how to make such choices, there is little chance of them getting it right. As we know, there is a statutory obligation for primary schools to offer food technology lessons, but that does not apply to secondary schools. The Government recommend that schools offer students the opportunity to study food technology. However, 10 per cent. of schools offer nothing at all and many give students only a limited introduction to the subject.

At the moment, the food technology syllabus comes under the heading of design and technology, which means that students are far more likely to spend time designing the biscuit packaging than understanding what the biscuit contains and whether it is good for them. Obviously, altering the curriculum will have significant cost implications. For a start, schools will need extra grants to invest in kitchens and equipment. Teachers will need help to get the necessary training. There would be a cost implication, but we have a duty to consider that to see where Government, local authorities and local education authorities can help to put things right.

**Mr. Evans:** One of the statistics that I used showed that obesity costs the NHS about £7.5 billion. We are talking about shifting the money from when the problem exists to before it exists. I suspect that a percentage of the money used to tackle the problems of obesity after it has happened could be used to prevent it, which would mean that we saved more money than we spent.

**Dr. Stoate:** I happen to agree with that constructive comment. We could do that if we recognised the opportunity cost of transferring some resources into prevention. The hon. Gentleman is right. Such initiatives can be brought to bear to improve the position.

There is an initiative in my constituency called "Don't Sit, Get Fit", which is an excellent example of what can be achieved in schools and the community. It has given scores of children in Dartford and Gravesham the opportunity for the first time to take part in regular out-of-school exercise and to learn about healthy eating. Its latest initiative, a healthy living calendar, involved 12 primary schools in Dartford and Gravesham each contributing a healthy recipe. That is a valuable resource. Last week, I met children who were involved. They were extremely energised and enthused by it and were learning a lot from it.

The other area of the school curriculum that is vital is physical education. The Government's White Paper, "Schools—achieving success", gave a commitment that all children will be entitled to two hours of physical education a week. I accept the point that the hon. Gentleman made. Two hours does not always necessarily translate into two hours of actual activity, as there are issues at each end of the lesson. However, at least it goes a long way towards putting that right.

To back up that commitment, the Government have already spent more than £1 billion on the development of school sport. It is hoped that, by 2006, 75 per cent. of all pupils will be participating in physical activity and sport each week. That is encouraging.

The Government are also encouraging schools to develop stronger links with the community and sports clubs to encourage kids to continue their interests outside school. One in five year 2 to 11 students in sports partnership schools now participate in clubs with links to their schools. Again, that is spreading out into the wider community, which is the sort of thing that we need to do.

If we focus on schools as the main driver, the benefits can spill out into the wider community. The cycle club that I mentioned is based in school premises, which the school has made available to the club to use at weekends. To answer the point that the hon. Gentleman made about school facilities not being open outside school hours, they often are. Team Darenth is able to use the school at weekends and has free access to the school grounds, the playing fields and all the things that are needed to ensure that the kids have access to off-road safe cycling and facilities. It can be done. It is just a question of the initiative needed to get it going and the will to drive it along.

I would like trained specialist coaches, particularly from some of our prestigious sports clubs, to go into schools. I know that some already do that, and I think that that could be widened. I would like school sports facilities to be made more accessible to other members of the community, so that the benefits from the school spill out into the community and the community comes into the school to use its sports facilities and other equipment. That can foster closer links and hopefully forge greater partnerships.

Another area that we need to consider is transport to school. Currently, only one in 11 primary school children travel to school unaccompanied, compared with one in five a decade ago. The number of children being driven to school has increased enormously over the past 20 years. We need to do something to reduce the dependence on car transport and to encourage more kids to walk and cycle to school regularly. That is essential to get them into the habit of taking daily exercise. It is not only exercise at school that is important, but the exercise that they get while going to school and the other things that that will achieve. The

Government have made £50 million available to help schools and local authorities to draw up measures to reduce car dependency. Again, that is a successful start. It obviously needs to go further, but it is an important beginning.

Another problem is access to fresh food. In the UK today, we buy 80 per cent. of our food in the main national supermarket chains. Those supermarkets are designed and located to cater for the affluent car-owning majority. If one does not have a car—one in five of us does not—access to supermarkets, which are often in edge-of-town locations, is severely reduced. The Government are now revising planning guidance to prevent any edge-of-town spread. However, in my constituency, many of the supermarkets are based on the edge of communities and are quite difficult to get to if one does not have access to private transport.

A young mother with two children in a pushchair, trying to carry home the weekly shop on a bus, would know what I mean. It is extremely difficult. Many of them have to resort to taxis, which they can ill afford, or else they have to shop in more expensive shops that offer a narrower range of foodstuffs. That issue needs to be tackled if we are to reverse the trend.

**Mr. Burns:** How?

**Dr. Stoate:** Quite often, the shops in the middle of towns not only offer a more restricted range of food but are more expensive. They do not offer the choice that supermarkets do.

I will give the hon. Member for West Chelmsford (Mr. Burns) an example. A basket of healthier food is significantly more expensive than a basket of unhealthy food. A survey was carried out a while ago in a London suburb that showed that a basket of healthy food is 41 per cent. more expensive than the equivalent basket of less healthy food. That obviously puts a huge strain on the budget of families with limited incomes. It means that they are much more likely to choose foods that are less healthy for their children purely on the ground of economics. We need to look hard at that to ensure that healthy, fresh produce is priced in a way that makes it accessible to members of society with less disposable income.

Quite a lot of work has been done on street markets. Many street markets, which often offer a wide range of affordable food, are being squeezed by some of the large out-of-town developments that tend to have a negative impact on many market towns. The number of market stalls reduces as supermarkets gain a greater market share. That puts more pressure on costs and can drive them up beyond what many people can afford.

**Mr. Paul Burstow** (Sutton and Cheam) (LD): I take the hon. Gentleman's point about the changes in Government planning guidance that will move supermarkets increasingly from the edges to the centres of towns. How, precisely, will that change help those markets?

**Dr. Stoate:** One of points that I wanted to make was that we need incentive schemes. There are still many difficult estates that are, effectively, food deserts. Often, there are no shops in those inner-city areas, or the shops that are available offer narrow choice and foodstuffs that are not necessarily appealing to people, or do not have a sufficient range.

I should like the Government to look hard at the idea of a fresh food audit for some of our difficult towns and cities, which would discover what fresh foods were available there. If areas fell below a Government standard for the fresh food that should be available, serious consideration should be given to tax breaks or subsidies to ensure that those foodstuffs were available to people who could not get access to out of town shopping centres.

I know that my suggestion is a bit controversial and I do not expect the Government to promise such a bold step at once. However, I want them to take a hard look at ways of improving the availability of foods in areas where people have low incomes and poor access to transport, and find it extremely difficult to get healthy food for their families. If we could get that right, it would make a huge difference to nutrition and to the massive burden of obesity that we all face. It will affect the whole country sooner or later. If we do not tackle the problem now, we shall all face the consequences in years to come.

2.41 pm

**Mr. David Amess** (Southend, West) (Con): I congratulate my hon. Friend the Member for Ribble Valley (Mr. Evans) on securing the debate. Seldom have I heard him speak with such passion and enthusiasm. He was entirely right to choose the subject of obesity in young people. I was initially concerned when he seemed to concentrate most of his remarks on physical activity, but he more than redressed the balance in the latter part of his speech. I think that the emphasis, in dealing with this problem, should come from the fact that we would not die if we did not engage in physical activity but would die if we did not eat and drink.

Four hon. Members are present for the debate, and all are or have been members of the Health Committee. I consider our report on obesity to be the most profound of any that we have produced since I became a member of the Committee. I do not want to pre-empt remarks that I hope to make on 10 February when the Minister will respond to our report. I simply want to say that the Health Committee report has led the way on the subject of tackling obesity.

After the Obesity Awareness and Solutions Trust came to see me at my surgery and shared with me a significant number of problems that rather large ladies face, I attended a meeting of the Committee in which we considered our future programme. In complete naivety I suggested the subject of obesity and all members of the Committee agreed. Now our report is of national and international importance.

When I asked the producer of the BBC's "Fat Nation" programme, "You do know, don't you, all about the Health Committee report and the fact that we started this?", I was reassured when she said that she will run the programme for two years and that she is not into gesture politics. I am sure that all hon. Members have been sent videos in connection with ITV's Britain on the move campaign. I am told that those running it are not into gesture politics either. They will continue with the campaign for a considerable time.

*[Mr. David Amess]*

No politician or Government should be engaging in gesture politics on this subject. It cannot be cured by photo opportunities of politicians on bikes, or taking part in marathons, or with young people. If the country is serious about dealing with obesity—and it is not yet—doing so will take at least two decades. That is why it is so important that the Government listen to the Obesity Awareness and Solutions Trust strategy for dealing with obesity. I am sure that the House of Commons is sick to death of listening to all the statistics about how many people are obese and how many ailments one can contract as a result of obesity. The House does not need any more proof that obesity is a serious subject. We need some action and leadership; we do not need gesture politics. That is why I look forward to the Government's response on 10 February to our Select Committee report.

Southend does not intend to wait for the Government to act; we intend to lead the way with initiatives. The Minister of State has been in correspondence with me about a frontier-leading production by Sally Lawrence. I can sense that a general election is on the way, as everybody is mentioning local initiatives so I am not going to step away from that. My constituent Sally Lawrence, from Outloud Productions recently came to see me at a surgery with a great idea to promote healthy eating among young people. Her production, "An Unhealthy Invasion", is an innovative approach to promoting healthy eating. The Minister's letter arrived today with her views on the initiative. In the production, the characters, Healthy Kid, Vitamin Girl, High Energy and Protein Dog join forces to rid the world of Gargoyle the Greedy and end his oppressive reign of obesity. The production's use of comic book-style characters is an excellent way to tap into the mindset of young children and teach them about the problems of obesity.

My hon. Friend the Member for Ribble Valley has concentrated on young people. Those of us who have children observe daily how young people live their lives. I have five young children. We have a black labrador dog, which requires a great deal of exercise. If I were to ask my children, "Would one of you kindly take the dog for a walk?", one or two expletives would be let out, and eventually one of them would go to the front door, open it and let the dog out of the house. The idea that young people are overwhelmingly and regularly into physical exercise in the sense that my hon. Friend has mentioned, is absolutely ridiculous. I can say that with all the experience of my children, who are attending school.

Young people live in a completely different style to that of hon. Members present. I walk a lot; young people do not. Those of us with children often run a taxi service. If they want to be dropped off at a party or see their friends, they do not walk half a mile, they say to mum and dad, "Can you give me a lift?" Mobile phones, the internet: all that technology has meant that young people, as they go about their daily lives, do not participate in as much physical activity as they used to.

I hope that in 2012 we will have the Olympic games in London. I totally support that. If we are successful, it will provide a big boost for physical activity among young people. However, we cannot wait until 2012; we cannot wait until the announcement this year; we have to do something now. My hon. Friend the Member for West Chelmsford (Mr. Burns) referred to the traffic light system. During the Health Committee's inquiry into obesity, we visited America and had talks with McDonald's and Coca-Cola. We were all appalled at what we witnessed. We found those companies in a state of denial. They did not want to talk about the amount of sugar, salt and fat in their products. They were much keener to talk about the emphasis that they wanted to place on physical exercise. I feel strongly that our battle is with the food manufacturers.

In the last parliamentary Session, I raised with the then Under-Secretary of State, the hon. Member for Enfield, Southgate (Mr. Twigg), the issue of healthy eating in schools. In America, we saw healthy schools and unhealthy schools. We saw some schools where one could get snacks at any time. At other schools, there was a ban on access to those snacks. The Government cannot step away from the issue. If schools in the United Kingdom say, "We cannot do away with vending machines because it would adversely affect our income", the Government must address the matter.

**Mr. Burns:** Am I right in thinking that my hon. Friend was a strong supporter of Baroness Thatcher when she introduced the local management of schools, which gave to governing bodies and head teachers the powers to run our schools? As my hon. Friend is nodding, I assume that he did support it. Surely it is up to governors and head teachers to take decisions on vending machines and not for the Government to interfere and lay down the law.

**Mr. Amess:** My hon. Friend has guessed the next point that I was going to make. It is entirely a matter for the governing bodies of those schools to determine priorities and to ensure that healthy eating and tackling obesity are at the top of the agenda. As far as the Government are concerned, guidance is advisable. I cannot see any reason why the Government should not let it be known that they hope that the governing bodies of our schools take the initiative on the issue. I am delighted to say that some schools in my constituency, for example St. Christopher's school, have taken the initiative on vending machines. At Belfairs high school, which I visited last Friday, healthy eating options are available immediately for young people.

Recommendation 19 of paragraph 222 of the Government's response to the Health Committee's report says:

> "We recommend that, rather than targeting sugar and fat separately, Government should focus on reducing overall energy density of food, and should work with the Food Standards Agency to develop stringent targets for reformulation of foods to reduce energy density within a short time frame."

I could not care less what the recommendation is. I want something to happen. I hate the expression "a traffic light system", but I hope that, in the next two decades, the food manufacturers will let it be easily recognisable where the healthy foods are in a supermarket. It is not the case that those of us who do supermarket shopping get hold of each product, look at its contents and say, "Well, this has got so much salt and so much fat." If we did that, we would never get our shopping done. However, it is possible to have a range of products in a supermarket that are either healthy or not so healthy,

whether we call them red, green or tangerine. A number of famous supermarkets are bringing out healthy lines of products, but I think that a colour system is desirable.

**Mr. Burns:** Can my hon. Friend tell me how he would categorise an avocado pear?

**Mr. Amess:** My hon. Friend already gave notice of that question. I will write to him on the issue after I have discussed it with the people who supply avocados.

I am delighted to say that Southend-on-Sea borough council has a successful walking buses initiative. I hope that other local authorities will copy that. In Southend, in March, there will be a launch—I hope that it will attract some national interest—involving opinion formers and celebrities addressing the issue of obesity. It will not just be a photo opportunity for the great and the good to turn up, mouth a few words and then forget about it because they have done their bit. We need to be obsessive about this issue. Giving people the information—that is Government-speak: this is not the nanny state—will not be easy. If the Health Committee report, which I know all members of the Committee are proud of, is to deliver what we want eventually to see, we must create a climate in which it becomes second nature to eat and drink healthy products—with just as nice a taste as non-diet products—and in which people undertake as much physical activity as possible. This is the most serious and the biggest of all challenges that our health service faces today. I congratulate my hon. Friend the Member for Ribble Valley on giving us the opportunity to debate it.

2.56 pm

**Mr. Paul Burstow** (Sutton and Cheam) (LD): I congratulate the hon. Member for Ribble Valley (Mr. Evans) on securing the debate. It is a useful opportunity to review progress and to pose some questions to the Government. The hon. Member for Southend, West (Mr. Amess) talked about the need to be obsessive. I concur that he is obsessive about this issue—and rightly so. A litany of statistics has been set out during the debate. Like him, I do not propose to trot out many more, but they are compelling evidence of the need to take the issue seriously and for this to be a matter of consistent and clear focus for public policy. They also make a compelling case for us as individuals to take stock of our own lives and the lives of those for whom we have caring responsibilities.

I take the point that was made by the hon. Member for Dartford (Dr. Stoate) that perhaps the obesity time bomb went off and we almost did not notice it. We are now feeling the aftershock and that in turn will lead to some huge health consequences. The Health Committee paid a visit to the United States as part of its inquiry into obesity. One of the points that was made when we visited the parks department in New York—the point was made time and again and it has been echoed in today's debate—was that children as young as four or five were now being diagnosed with type 2 diabetes. Cases among children of that age have been diagnosed in this country. The consequences for those young people's lives—lives that will be brought to an end far sooner than they should be, and that will be blighted by disability, blindness and many other things—mean that it behoves us all to make this an issue that involves not just debate, but action.

I was particularly struck by research that my hon. Friend the Member for Harrogate and Knaresborough (Mr. Willis) undertook. He considered the views of heads of PE departments. Activity is undoubtedly part of the equation. The issue is about how we readjust the energy-in, energy-out equation so that we get ourselves into a virtuous circle rather the vicious weight-gain spiral that we are in now. In the survey, he considered what was going on in schools and found that just one in 10 heads of PE believe the average pupil in secondary school to be in good health and to have good fitness levels. Some 65 per cent. of those same heads of PE said that they felt that the health of those in their charge, in their schools, had deteriorated during the past five years.

That statistic bears out many of the findings of Sport England and other organisations, and of the chief medical officer, who found that levels of activity had gone down over the past decade or so. It is therefore not surprising that when the National Audit Office considered obesity, it came up with the shocking cost figures that the Health Committee has, in turn, looked at and updated. In 1998, the Committee found that the direct costs to the national health service would be £480 million and the indirect costs £2.1 billion—a combined cost of £2.58 billion to the economy. It estimated that the cost would rise to £3.6 billion by 2010. The Committee recalculated those costings and found that the cost of obesity alone was £3.7 billion—and that is the cost now, not by 2010. So the very conservative figures that the NAO came up with are already found to be wanting. The challenge is found to be greater. When "overweight" is added to the equation, the total cost rises to £7.4 billion a year, as we have heard. We need to be doing more to promote physical activity as part of the equation to reduce those risk factors.

I was struck by the contribution of the hon. Member for Southend, West regarding the parental angst of taxiing one's children from one place to another. The evidence from the University College London study into physical activity is very persuasive. It is not just the physical activity within the curriculum that matters. More calories were burned by walking to and from school than during the two hours of weekly PE lessons. It is not surprising, if most of that time is taken up with getting to the gym and getting changed, then having the exercise before getting changed and going away from the gym, that that two hours does not have the impact that is needed. Clearly, there is a lot that has to be done across government outside the Department of Health, in planning and highways policies, to make our environment beyond the school safer, so that people feel more willing to walk to school with their children, and more content for children to walk to school. That has to be a focus.

The Olympics in 2012 are all about excellence in sport. The key to cracking this problem is about encouraging everyone to participate in physical activity. We must not lose sight of that when we make decisions about the way in which the curriculum is structured and funding for sport is orientated, so that we do not underfund everyone taking part at the expense of ensuring that we have the excellence as well.

Nutrition has been mentioned. I feel very strongly that we need to see every school developing a nutrition policy in consultation with parents and children. That would be a powerful tool for change within schools. It

*[Mr. Paul Burstow]*

would make possible critical discussion of the merits and demerits of, for example, tuck shops and vending machines, and what should be in those vending machines. That could be a useful way of moving things forward at a local level without undermining the autonomy of school governing bodies.

There is an area, however, where the Government have the right to step in: nutrition standards for school meals. One of the areas that I was particularly disappointed with in the public health White Paper, "Choosing Health: making health choices easier", was the Government's approach to nutrition standards. The Health Committee recommended that the English standards should be abandoned and we should adopt the Scottish standards. The Government are committed to a leisurely three-year review of this. They are only committed to considering it. They are not minded, at this point, to make such an important change, which could have a real impact on the quality of the food served in our schools.

It is worth picking up on what we have done to under-educate people about food. The hon. Member for Dartford mentioned that there is less education now, and there are no requirements in secondary schools. It is not surprising, therefore, that in 1983 the average time spent preparing a meal was about an hour. Today, that has gone down to 13 minutes. It is amazing that it takes that long to unwrap the packaging of a fast food meal and shove it in the microwave, but clearly it does. My belief is that we need to have a curriculum that equips everyone with the basics to shop for, and prepare, a meal—not a curriculum that turns out the food technologists of the future.

**Mr. Evans:** The hon. Gentleman has reached a very important point. Does he not also believe that newspapers have a role to play in giving this information to parents and youngsters? Indeed, in today's *Metro*, in Metro Health, it talks about breakfast being the most important meal of the day. It goes through about 10 options, saying that having nothing is the worst thing you can do, and porridge is the best. Would the hon. Gentleman recommend that newspapers play a more active role in disseminating information for parents and youngsters?

**Mr. Burstow:** The hon. Gentleman is absolutely right that newspapers can play a powerful part in educating and informing parents, not least because it was found in a survey that one in four children regularly eat sweets and crisps for breakfast, not porridge, which is the more desirable foodstuff.

The other point that I should like to pick up briefly is reformulation. It is important not only that we focus on salt, but that sugar and fat are rapidly addressed. Food labelling has a part to play in driving the reformulation agenda. We need to move beyond a voluntary approach to labelling towards something mandatory, not least because of the confusion that could arise if a multiplicity of labelling schemes emerged throughout the country. Surely the Government should give a clear lead and a framework within which labelling schemes can be operated.

Hon. Members have rightly highlighted the challenges that obesity poses to the country and the costs, human, personal and to the economy as a whole, that it imposes. I hope that the Minister will say—or at least indicate when she will be able to say—at what point she believes the sum total of Government policies that bear down on the problem will reach a tipping point and the obesity trends will begin to reverse. If the Government are willing to set targets for others, we need to be clear what their own targets are, so that we can see whether Government policy really is making a difference and, ultimately, saving lives.

3.6 pm

**Mr. Simon Burns** (West Chelmsford) (Con): I warmly congratulate my hon. Friend the Member for Ribble Valley (Mr. Evans) on securing this important debate. We have heard in the speeches so far, from my hon. Friend the Member for Southend, West (Mr. Amess), the hon. Member for Dartford (Dr. Stoate) and the Opposition Liberal Democrat spokesman, the importance that is attached to the problem of obesity.

In many walks of life, we are thought to be about five to 10 years behind the United States and constantly playing catch-up. However, obesity is not something on which we want to catch up with the US, where the problem is far more significant than it is here. Sadly, however, that is not to minimise the extent of the problem in this country.

In the past decade or so we have, regrettably, been playing catch-up. The statistics, as hon. Members have mentioned, are daunting. About one in 20 boys and one in 15 girls—or 5.5 per cent. and 7.2 per cent. respectively—aged between two and 15 were obese in 2002, according to the international classification. Overall, more than one in five boys and more than one in four girls were either overweight or obese. Projecting those figures forward 15 years and assuming steady growth suggests that around one third of adults will be obese by 2020. However, if the rapid acceleration in childhood obesity in the past decade is taken into account, the predicted prevalence of obesity among children in 2020 will be in excess of 50 per cent., which is a staggering and extremely worrying statistic.

In the majority of European countries, the prevalence of obesity has increased by between 10 and 40 per cent. in the past 10 years, but in England the rate has more than doubled. Levels of walking and cycling have fallen drastically in recent decades, while the number of cars has doubled. That shows the extent of the decrease in the amount of exercise taken.

Added to those statistics is the equally worrying research carried out by London Metropolitan university, which shows that between 1989 and 1998 the average waistband of a two-year-old girl increased by 5 per cent. and that that of a two-year-old boy increased by 4 per cent. An increase in waist size is the most serious problem for health, because it increases vulnerability to heart disease and type 2 diabetes. The waistline of a two-year-old girl increased during that decade by 2.5 cm, or 5.2 per cent., and her body mass index increased by 1.7 per cent. The waistline of a two-year-old boy increased by 2 cm, or 4.1 per cent., and his body mass index increased by 1.8 per cent. If one takes the average waistline figures alone, there was an increase of 2.9 per cent. over the decade, which is staggeringly and deeply disturbing.

The question that we must ask ourselves is where we go from here to ameliorate the problem. As many hon. Members have said, the answer is a combination of two things: a healthy, balanced diet and proper exercise. At this time of the year, one often sees people making new year's resolutions to join a gym and start losing weight, but by the end of January, all their good intentions have gone by the wayside. That is not the way to solve the problem; it is a short-term gimmick, which will not succeed.

Instead, we must ensure that there is better education, not only for children in the school system, although that is important, but for parents. There is a lost generation in this country—a generation of couch potatoes who have been all too quick to jump in their cars and to choose a sedentary lifestyle. They are now superimposing that lifestyle on their children, and we are reaping the harvest of that failure. Therefore, we must use the education system to teach young people about the differences between quality food and poor food, between fresh food and processed food. We must also educate them about cooking and about the need to eat fruit and vegetables, of which, to be fair to the Minister, the Government have made great play. Their work in that respect is to be commended, and it is part of an educational programme that we should all welcome. We must educate children about the importance of such issues, in the hope that they will then be able to educate their parents, who are, in many ways, members of a lost generation. In that way, they, too, will be able to pick up on the benefits of a healthy, balanced diet.

We must also ensure that people do not eat a disproportionate amount of certain foodstuffs. To my mind, there is nothing wrong with a Big Mac or a KFC once in a while, but when everything is with chips—three times a day, seven days a week—and everything is fast food, rather than part of a balanced diet that includes fresh fruit and vegetables, one has problems.

Similarly, we must ensure that there is provision for proper exercise in our schools. We must ensure that there is more school sport, by which I mean not only sports lessons, but physical exercise during playtime in the playgrounds. We must ensure that children understand that it is important to walk up or down escalators, rather than just standing there letting the machinery do the work for them.

It is also important for children to be able to walk to school, although I accept that there is a serious problem as regards their cycling there, and I suspect that the Minister will agree with me. There has been a dramatic decrease in recent years in the number of school children who cycle or walk to school, and for the first time in our history, fewer than 50 per cent. of children cycle to school. That is because the competing traffic makes many roads too dangerous for them to do so, and parents are unwilling to let them. In certain areas, particularly in the winter, many parents are not happy to let their young children walk to school unescorted in what could be the hours of darkness. All of that has increased the numbers of parents getting into their cars and taking their children to and from school. I am not sure what the answer to that problem is, because it is a difficult issue. However, that does not excuse us from examining it. There are many other aspects to the matter. Before the Government proceed, I urge them to consider that although they may perceive some advertising of certain foodstuffs as poor and unhelpful, advertising can also be used positively, to get positive messages across.

It will seem odd if the Government decide to ban television advertising of foodstuffs for part of the day or before a certain watershed, but not to pursue a ban in other areas of advertising, where there are so many food advertisements. I think that the proposal is unworkable per se, but I urge the Government against a knee-jerk reaction of rushing ahead without considering the whole issue and its implications.

The key message is a balanced, healthy diet and more exercise, but it is necessary to educate young people, children and parents, so that we can begin to make an impact and try to reverse a deeply worrying trend that is already having a significant and adverse impact on the health of the nation and individuals.

3.16 pm

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):** I respond with pleasure to this important debate, and join other hon. Members in congratulating the hon. Member for Ribble Valley (Mr. Evans) on raising the issue of obesity in young people. Much public attention has been devoted to the matter in the past few years by influential bodies and the press. That concern is not misplaced, as we all agree.

There is emerging evidence of the effect of obesity on children's long-term health, including UK researchers' frightening prediction that the increase in obesity threatens to reverse the gains in longevity made in the past 100 years and in some cases could result in parents outliving their children; that is a terrifying thought.

It is well recognised that overweight and obesity increase the risk of coronary heart disease and some cancers, as hon. Members have said. They can also increase the risk of diabetes and hypertension, as my hon. Friend the Member for Dartford (Dr. Stoate) said, and conditions such as osteoarthritis. All those factors led the National Audit Office to highlight the fact that obesity is responsible for more than 9,000 premature deaths each year in England. That is not many compared with the number of deaths from smoking, but it is still a large number of deaths and a major problem.

I agree that the problem being stored up for young people is of particular concern to us, as it presents an opportunity to get things right, and those people have the longest lifespan ahead of them. As hon. Members have pointed out, obesity results in significant costs to the NHS and the wider economy where it can result in lost days at work and other costs.

I am grateful to hon. Members on both sides of the Chamber for their support and enthusiasm in this matter—particularly my hon. Friend's remarks about the White Paper and the action proposed in it. I think every hon. Member knows that the Government recognise the impact of obesity, and that tackling it is at the heart of many of our priorities. There is considerable cross-government action to deal with the prevention, management and treatment of obesity, as we have set out in what I am grateful to see is a much-quoted White Paper.

Increased consumption of food and drinks that are high in fat, sugar and salt may contribute to increasing rates of obesity and other health problems. Few children

*[Miss Melanie Johnson]*

eat the recommended five portions a day of fruit and vegetables, and four in 10 boys and six in 10 girls do not take the recommended hour a day of physical activity.

In response to the remarks of the hon. Member for West Chelmsford (Mr. Burns), England is not the only country to have experienced a rapid increase in the prevalence of obesity, although rates differ between countries and I entirely accept that we do not want to catch up with the US in this regard. Virtually all population surveys have shown an increase in the past two decades. Several countries, including the US and Denmark, are taking steps to deal with the issue.

Hon. Members asked how we judge ourselves and how we know whether we have made progress. They are legitimate questions. We believe that we will have delivered if we move the balance of the national diet in England towards that recommended by experts and by 2010 halt the year-on-year rise in obesity among children under 11 within our broader strategy to tackle obesity in the population as a whole. That is part of our 2004 target. It is the way in which we measure our success, although there are many other indicators too.

I am grateful for hon. Members' examples and points. I shall not be able to respond to all of them in detail. There was a veritable forest of good questions and positive points.

I am grateful to the hon. Member for Ribble Valley for agreeing that we cannot make people healthy. That is our starting point which, as my hon. Friend the Member for Dartford said, is far from the nanny state. There is a role for a nanny, as it were, in a child's life. Parents mostly fulfil that role, but the state also has responsibilities, as do schools and other organisations, for the well-being of young children. Again, that is uncontroversial.

Our principles are informed choice—much has been said about the importance of giving people more information; personalisation—allowing people to make choices that are tailored to the reality of their lives; and working together. The Government must not only work with individuals; key partnerships are needed to help to deliver these principles. A number of hon. Members have mentioned the important role played by schools and sports clubs. There is huge scope for partnerships to work here in the right way.

As a Department we cannot tackle things on our own. We are working with a range of partners—national, regional and local. Action on nutrition includes investment in the five-a-day programme mentioned by some hon. Members, an excellent programme that is leading to changes in eating behaviour at home as well as at school.

As hon. Members have cited their own constituencies, I may as well revert to form and do so too. I visited the Green Lanes primary school in my own patch a little while ago and saw children taking part in the school fruit and veg scheme. I was amazed to see even raw mangetouts being consumed with enthusiasm. I am sure that many parents would have been surprised by that. We must also challenge parental assumptions about what children will and will not eat. The children were gobbling the mangetouts down as if there were no tomorrow; most parents would not have put money on that.

**Mr. Burns:** The Minister is talking about children gobbling down food. Does she remember the Minister for Sport and Tourism endorsing the Cadbury's wrapper campaign, in which children had to buy X thousand bars of Cadbury's chocolate to get a piece of sporting equipment for their schools? If a subsequent campaign were proposed, would the Minister be happy with the Department for Culture, Media and Sport endorsing it, as it did the last campaign?

**Mr. Deputy Speaker:** Order. Before I call the Minister, perhaps I should get in on the act and declare that I am a life member of Blaydon rugby football club.

**Miss Johnson:** We are following your lead on these matters now, Mr. Deputy Speaker. Clearly anything like that will be tackled by the Government, as a cross-government issue, and will be in line with our suggestions in the White Paper.

**Mr. Burns:** That was not my question.

**Miss Johnson:** I was amazed that the hon. Gentleman did not ask about avocados and DCMS policy on avocados.

**Mr. Burns:** Will the Minister give way again?

**Miss Johnson:** No; I would like to make a little progress.

**Mr. Burns:** The Minister has not answered my intervention.

**Miss Johnson:** I will give way one more time.

**Mr. Burns:** I should be grateful if the Minister would answer the question: would she expect the Government to endorse another wrapper campaign in the way that the Minister for Sport and Tourism endorsed the last one?

**Miss Johnson:** It is clear that the White Paper policy would not necessarily advocate such support in future. I am sure that we would not expect to see such developments in future. As hon. Members have outlined, we want the Office of Communications to take action about advertising food to children. I myself was commenting on the EU proposals for action last week. We are clear that some food promotions aimed at children, such as toy offers, are extremely unhelpful, as they put pressure on parents and encourage children to try certain foodstuffs or demand more of them.

It is for all those reasons that we are investing in schemes such as the school fruit and vegetable programme, and working with the food industry to reduce fat, sugar and salt. I agree with the hon. Member for Sutton and Cheam (Mr. Burstow) that we should be tackling all three substances. The progress that we are starting to make on salt will be replicated, as will the methods of working, when dealing with fat and sugar.

We are determined that unhealthy foodstuffs should not be promoted to children by adverts that are clearly aimed at them, during children's programmes or otherwise.

I have already mentioned that we have a public service agreement target. We want to see more action at a local level, and a number of Members have talked about the importance of that. I am delighted by the admission by the hon. Member for Ribble Valley that he is a member of the Clitheroe Wolves. We will not comment about wolves here, but it is clear that a lot of clubs, such as Blackburn Rovers football club, have good programmes for helping young people to think through diet and exercise issues, often building self-esteem as well. Such work is enormously valuable and provides leadership in the community. It is difficult to find the kind of leadership that has quite that standing with young people.

**Mr. Evans:** I am grateful for the Minister's comments, and pay tribute to everybody who volunteers in the wider community to give our youngsters opportunities to participate in sport outside school. Will she now give a commitment to increase the number of hours for which youngsters can participate in sport in school?

**Miss Johnson:** We have made it plain that we expect to see a large investment in school sport. One billion pounds is going into facilities and improvements. Many programmes are designed to increase the number of hours in which children get physical activity each day. There will be a supportive environment through the healthy schools programme, and people have talked about active travel programmes. We are also considering some of what the chief medical officer has set out, including ensuring that children get the recommended amount of physical activity a day. It is also important to look beyond sport. Sport is important and I entirely endorse its important role, but we must build physical activity into everyday life for children and parents. We should push for people to walk or cycle to school regularly, as they are the kinds of activity that help keep weight down and lead to more cardiovascular activity.

We are committed to nutritional standards, and to a nutrition-based approach to school meals. Because schools have a lot of freedom, governors can now take action themselves. The school fruit and vegetable scheme has taught us that schools often wait for some other incentive to come along, and introducing that programme then means that they can decide to take action on other issues, such as the food that children bring to school, the wider availability of fruit and vegetables, the availability of water and what the vending machines contain. All those questions are already for the schools to decide, and although they can do a great deal, we will support them and give them more direction, looking at the way that school meals can be used in the school environment and ensuring that healthy schools are developed across the board. It is important to recognise that walking and cycling to school are ways that that can happen.

On the question of the fresh food audits raised by my hon. Friend the Member for Dartford, the local authorities and primary care trusts have been working together in Barnsley, Knowsley and other places. They have identified some of the "food desert" issues, and addressed them through food co-ops.

**Mr. Deputy Speaker:** Order. I am afraid time is up. We have to get on with the other debate, as there is likely to be a Division in the House later.

## Rail Services (Worcestershire)

3.30 pm

**Mr. Peter Luff** (Mid-Worcestershire) (Con): I am extremely grateful for this opportunity to raise an important subject. Worcestershire is overlooked in so many ways and its two principal rail routes to England's first and second cities are no exception. They are the London line—the Cotswold line, in my case, via Pershore, Evesham and Honeybourne to Oxford—and the Birmingham line, or rather lines, via Droitwich and Bromsgrove, or via Hartlebury and Kidderminster.

This debate is timely for three separate reasons. The first is that the Government are on the verge of assuming responsibility for the Strategic Rail Authority, which is currently taking all the decisions on these lines. The second is that the route utilisation strategies have either just been published or are about to be published for both those routes. The third and most urgent reason is that the franchises are both being redrawn. The Central Trains franchise to Birmingham has been broken up into its component parts and on the Cotswold line a new, Greater Western franchise is being created.

I intend to concentrate on the Birmingham services as that is where I have had the greatest volume of complaints about the quality of service. However, I also attach great importance to the strategic potential of the Cotswold line. Complaints about the Birmingham services soared in late 2003, leading to a local meeting organised in Droitwich with commuters and attended, rather bravely I thought, by Mike Haigh and his colleagues from Central Trains. I pay tribute to him for coming into the lion's den and braving the wrath of the commuters.

For a period after that, things appeared to get better, but the volume of complaints has been rising again. I have heard from the prospective Conservative parliamentary candidate in Worcester, Margaret Harper, how many people there have raised the issue with her, and I know from my own postbag just how bad things are for my Droitwich commuters.

Let us turn first to the Birmingham services. I received an e-mail a couple of days ago from Jeremy Batt of Ombersley, who said:

"I am extremely disappointed with the very poor rail service we get between Droitwich and Birmingham. Last year was pretty awful, with many trains late or overcrowded. Since the changes in timetables in September last year they have got progressively worse. Trains are routinely late, and we receive little or no information about what is happening."

That sums up the situation.

I am grateful to Mike Haigh who has provided me with Central Trains' punctuality and reliability information for two key services in each direction, between Worcestershire and Birmingham. The 06.49 from Great Malvern achieves only 63.6 per cent punctuality within 10 minutes. The 07.09 does a bit better at 83.3 per cent but that still means that nearly 17 per cent of trains are arriving late, beyond 10 minutes. Coming back, for the 17.50 from New Street to Worcestershire, only 66.7 per cent of trains make it within 10 minutes and, for the 17.59, the figure is 79.1 per cent. Central Trains' own figures show that there is a real problem with punctuality on services in my constituency.

I am particularly grateful to two of my constituents, Haydn Lloyd and Michael Norris, for the way they have kept me up-to-date with their experiences. Mr. Lloyd has sent me detailed logs of his commuting experiences between Droitwich and Birmingham, and I quote from his most recent letter, dated 19 December:

"Unfortunately the introduction of both the autumn and winter timetables from 26 September and 12 December 2004 has not brought in any improvements in punctuality and reliability. This is illustrated in my logs of the periods for October and November 2004."

He summarises his position by saying:

"Total time lost outward and return journey over 11 week period = 12 hours 54 minutes; this includes over a week when I was on leave. Therefore it could have been worse if I had been at work all the time! Regular delays both on the outward and return journeys. Week commencing 13 December 2004 alone I lost 1 hour and 18 minutes on the outward journeys."

Michael Norris, who is a particularly diligent correspondent, told Mr. Haigh in an e-mail of 5 January:

"At 17.30, the 17.45 arrival for Stansted was shown to be due at 17.55".

This gets a little complicated but it is important to concentrate as it shows how difficult these things are. He continues:

"but the 17.50 to Droitwich Spa was 'on time' which is impossible if the same unit is to be used. It was later announced as being 14 minutes late. At 17.50, the 17.50 was announced as arriving at Platform 12b. Instead the 17.59 (two car unit) arrived and everyone overcrowded on to it (at least we had seats on this occasion). With having to wait for the Conductor, we finally departed at 18.15.

What happened to the 17.50? There was no audible announcement of its arrival but observing passenger movements it could have arrived on 12a and possibly left via the Bordesley loop to Kings Norton. If this was the case, why were we not given the option of transferring to this train particularly if it was to depart before the delayed 17.59?"

That may sound rather complicated, but it shows how frustrating it is for passengers at Birmingham stations trying to catch trains to Worcestershire. I am grateful to the Minister of State, Department for Transport for the serious interest he has taken in overcrowding on trains when answering my parliamentary questions and correspondence. Overcrowding is a serious issue on trains to Birmingham.

In an e-mail on 17 October, Martin Whitehouse of Evesham said:

"On Saturday 16th October I had the misfortune to travel on your 1649 hrs service to Great Malvern from Birmingham Moor Street. When the train arrived (15 minutes late!!), it was already quite full. Approximately 100 people were waiting to get on.

Imagine my dismay when we were all crammed in with nowhere to move. I did a quick count and in our carriage, there were as many people standing as were sitting, (approximately 80 people!). This ridiculous state of affairs lasted for about 1½ hours, until the train was terminated at Worcester Shrub Hill. The situation was so bad, that 2 passengers had panic attacks, one of them had to leave the train soon after getting on.

At subsequent stops more people tried to get on than were getting off. Tempers were so frayed by the time we got to Stourbridge Junction that when one of your staff members tried to get us to squash up even closer to allow more passengers on, (a similar number to those at Moor Street), they were prevented from doing so by passengers already on board. I myself had to lean on my wife and daughter for most of the journey, which made it very uncomfortable for them."

The situation is very bad. That is just some anecdotal information portraying just how bad the services are in our county. At present, services are worse because of the overtime ban caused by the dispute over rest day working. We will not get into that, because it is an industrial relations dispute for Central Trains to sort out with its drivers.

Central Trains has made mistakes. Its timetabling has not always been up to the mark. It has allowed inadequate turnaround time for its trains. I am particularly critical of its failure to stop enough trains at Hartlebury, which would provide a valuable service to my constituents in what is an area of population growth.

On the subject of population growth, one fundamental problem is that passenger volumes are increasing sharply. There is natural population growth, a sharp increase in housing and the success of the Bull Ring development in Birmingham. All are driving more and more people on to the trains, but there has been no planning for increased capacity to cope with increased volumes on those services. The route utilisation strategy is imminent, and I hope that it will have some important and useful things to say about capacity on those services.

I am dismayed by the recently published west midlands regional spatial strategy, which shows no provision for increased investment in transport infrastructure to support the increase in housing in Worcester and Droitwich. We cannot keep cramming into those areas more people who want to commute to Birmingham, unless the transport infrastructure to take them there is provided. There are too many two-car units running, and as four-car units cannot even stop at Bromsgrove station, they are not used on the line. My hon. Friend the Member for Bromsgrove (Miss Kirkbride) supports my view, but she cannot be present today. The Health and Safety Executive must be much more pragmatic about allowing four-car trains to stop at Bromsgrove. Selective door opening is not beyond comprehension; it could and should be achieved. The only long-term solution at Bromsgrove is an extension to enable it to take four-car trains with all doors opening. I hope that my party will include Bromsgrove in a list of priority schemes for improvements, but more must be done now.

Safety is not optional—overcrowded trains are not safe. We have seen some unpleasant accidents at level crossings recently. I was involved in one just over a year ago. People on a seriously overcrowded train could have a much worse experience than those on a train that is acceptably loaded.

Signalling, reliability and adequacy are not good enough. Major improvements are due in the Worcester area, I am told, by 2012, with some hinted at this year. However, we urgently need a new signalling section between Worcester and Droitwich to improve capacity on the line. It has been talked about for years, but when will it happen? In Worcester, improved track layout between Shrub Hill and Foregate Street stations would improve train service flexibility, but there is no sign of that happening. It is talked about, but there is a shift right in time terms all the time. It would be a tremendous improvement, offering flexibility to the operators of trains not only on the Birmingham but on the London services.

There are too many speed restrictions on the line. It is a little known fact that 65 per cent. of all delays on the Birmingham services are still down to Network Rail and not Central Trains. I remain concerned about the primacy of Centro, the passenger transport executive for the west midlands, which seems to be able to call all the shots on the use of rolling stock and services in the wider west midlands. That means that my constituents are left with a worse service than those who have the good fortune to live in the conurbation.

The Government plan to make that problem worse by giving more powers to the passenger transport executives. The Secretary of State for Transport was helpful on that point in the House recently, so I hope that he will reconsider his proposals.

The size of the franchise area has been too big, which is a problem, although the size is being reduced, which I welcome in principle. However, concerns have been expressed about the continuation of through services in Worcestershire, between Malvern and Droitwich, for example. There are hints that Chiltern Railways, which is the favourite to take on the franchise, does not have the resources to do so. Concerns have also been expressed in the railways press about the thought that has been given to the proposal by the SRA and the Government and about whether they are making things up as they go along—I refer the Minister to the latest edition of *Rail* magazine.

Finally, information on the Birmingham services is a scandal, on trains and at stations, especially at New Street station, but also at University station, Droitwich station, Worcester Shrub Hill station and Foregate Street station. It is confusing for those who are not experts on how the services run to work out exactly what is happening.

That is a brief and rather rapid synopsis of the Birmingham services, but what of the London services? I am talking about a major inter-city route that has for decades been treated as a sideshow by successive nationalised and privatised operators of the railway. The line was downgraded by the old nationalised British Rail and it is now difficult to achieve the vital improvements that are needed. The line still suffers from a dreadful poverty of aspiration, particularly on the part of the SRA. Passenger volumes are high and growing, but could grow much more if the service were not so irregular and if the service in the middle of the day were better.

Two to three-hour gaps are a regular feature of the timetable. For example, the service from Evesham to London is okay in both directions at peak times and is serviced by the better Adelante trains. However, after 09.02 the next through train to London leaves at 12.37. There is a train at 13.37, an hour later, and then another three-hour gap, until 16.33. That is not the way to build passenger volume on a potentially lucrative route.

The remedies are more straightforward than on the Birmingham services, although I fully acknowledge that they have a price. For example, there could be minor signalling improvements to address the so-called Evesham double stop—the fact that an inter-city 125 pulls in at Evesham station, stops 100 yd later to exchange tokens at the Evesham signal box and then proceeds to Worcester on a single line section. That is

*[Mr. Peter Luff]*

ridiculous. Even the Severn Valley railway has more modern signalling arrangements than the public railway at that point in my constituency.

We should consider limited re-dualling of the long single track sections. I came here by train this morning and my train was 20 minutes late, largely because we had to wait for a unit coming on to the single line section approaching Moreton-in-Marsh. If there were some passing loops on those single sections, how much better things would be. Full re-dualling of the line should remain on the agenda. I recognise that that is an expensive item and would be some years away, but re-dualling must remain our aspiration for the line.

We could look to the Strategic Rail Authority, and subsequently the Government, to give a higher priority to service levels on the existing infrastructure. I know that First Great Western was anxious to do more on service levels, but that the SRA was not prepared to back it. One major weakness is parking. Parking at Worcester Shrub Hill station is a real problem and I still think that Worcester Parkway station would be one way of encouraging people to drive to the railway and then take a train to their destinations.

Worcester Parkway station is discussed in the route utilisation strategy a little dismissively. The strategy seems to suggest that the station is relevant only for Worcester to London services, but it would also be important for Birmingham to Worcester services. The strategy does not refer to the north-south aspect of that station, so I hope that the Strategic Rail Authority, and subsequently the Government, will consider the proposal afresh.

The route utilisation strategy is in some ways helpful, but overall a disappointment. It acknowledges the impact of single track sections, which is good, although it is a little optimistic about the impact of Adelante trains on the route. it does not acknowledge the infrequency of service outside peak hours and does not acknowledge any possibility of infrastructure improvements to improve service levels on the line. Page 33 of the strategy says that the stakeholder aspiration is to have a full hourly service on the line, but that that is not recommended. The strategy says that potential demand is

"insufficient to justify additional resources and risk to performance",

and recommends:

"Progress development and appraisal of more limited options in view of potential significant wider economic benefits."

In other words, the strategy recommends tinkering at the margins. That is not good enough on a line that could deliver so much more for the county.

On page 39, we read about the possibility of reducing first-class accommodation on the inter-city 125s that serve the line to increase the standard-class accommodation. I came down this morning. I admit I travelled first class, and it was full. The prospect of reducing first-class accommodation seems to be ludicrous. We should be looking at increasing overall capacity of the line, and not fiddling with the construction and configuration of inter-city 125s.

Finally, in the route utilisation strategy, we read with some hope that the aspiration for a so-called "clockface" timetable—an hourly service, in other words—between Oxford and Worcester is not entirely dismissed. It is:

"Recommended for further development and appraisal to improve affordability by focusing on more marginal peak timetable enhancement."

That is the extent of the SRA's aspiration for these crucial services.

I have rattled through a list of things, and I gave the Minister some guidance in advance of the kind of things I would be saying, which I hope was helpful. A range of things should and could be done to improve the Droitwich service to Birmingham, involving both Government and regional operators and organisations. It is complex, but it can be done. On the London services, it is fundamentally about improving the infrastructure of the line, but no one is talking about that.

I use the train as much as I can, not as much as I would like, because of the timings of some of the services. This morning, as I said, I was 20 minutes late. Last week, and I see the hon. Member for Worcester (Mr. Foster) here, we were both 35 or 40 minutes late. The service is not good enough and needs to be improved. I hope the Minister will have some words of encouragement for our hard-pressed commuters.

3.46 pm

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** I congratulate the hon. Member for Mid-Worcestershire (Mr. Luff) on securing this debate and on providing an opportunity for us to discuss rail services in Worcestershire. He has raised a number of concerns, which I will try to address.

The White Paper, "The Future of Rail", published in July 2004, envisaged that the Strategic Rail Authority would be wound up and its responsibilities transferred to various bodies, including the Department for Transport. I assure the hon. Gentleman that those changes will not be detrimental to the efficient re-letting of franchises during the transitional period. The White Paper also announced our intention to consider how rail passenger franchises could be best aligned with Network Rail's regional and route structure.

**Mr. Michael Foster** (Worcester) (Lab): I emphasise the fact that the Department will have a stronger role to play in terms of the organisation of rail services in Worcestershire. Sub-regional capitals such as Worcester need to have a top-class rail service to the regional capital—Birmingham—if my constituents and those of colleagues in Worcestershire are to gain the economic, social and wider environmental benefits that rail services and good public transport links can have. I urge my hon. Friend to use the Department's newfound influence to put right the historic wrong of the way rail services in Worcestershire have been built up over time.

**Charlotte Atkins:** My hon. Friend makes a valuable point. It is important that we are now taking control of the railway industry by bringing it back in-house to ensure that the issues that arose from privatisation, where we had a disjointed railway service, can be

addressed and that areas such as Worcestershire, and Worcester in particular, can benefit from much more joined-up thinking.

**Mr. Luff:** I do not wish to introduce a partisan note, but with, for example, the London service, the major damage to the railway was done well before privatisation. It is not a function of privatisation that we have a problem in the county. It is much more deep-rooted than that.

**Charlotte Atkins:** The hon. Gentleman has almost implied that privatisation did cause damage. I accept the point that he makes.

The changing of the franchise map is part of the commitment to improve the efficiency of our railways. Those changes will help to encourage joint working between track and train in order to deliver an improved service to customers and help to ensure that efficiency savings through economies of scale are maximised.

On 19 October 2004, the Secretary of State made a statement on the number of franchises, which included the announcement that, following the expiry of the current Central Trains franchise in 2006, its routes will be distributed into the Silverlink, Chiltern, Virgin Cross Country, Midland Mainline and Northern franchises. Work on remapping the routes currently in the Central Trains franchise is at an early stage and no decisions have yet been made on any potential changes to service levels and patterns.

Among the changes to the franchise map announced by the Secretary of State in his statement was the formation of a new Greater Western franchise from existing First Great Western, First Great Western Link, formerly Thames Trains, and Wessex Trains services, following the expiry of current arrangements. The invitation to tender for those services will be issued in the summer and the new franchise is due to run from April 2006. The decision to form the new franchise followed extensive consultation with passenger groups, local and regional stakeholders and the rail industry on the SRA's policy for single franchise operations at major London stations.

The specification for and procurement of the new franchise will be informed by the Greater Western main line route utilisation strategy, which the SRA published for consultation in January. The deadline for responses is 8 April. The RUS aims to make the most efficient use of the existing network, balancing service provision, maintenance access and performance levels, while taking into account anticipated changes in demand. The RUS has come about primarily because of the congestion of train services into Birmingham and rising passenger demand, which we accept. It looks specifically at current crowding and future demand, and will devise a strategy to meet that.

In the consultation document, the SRA acknowledges the aspirations of stakeholders for additional capacity to Worcester and the north Cotswolds. That has been considered as one of a number of options. The RUS notes:

"The London-Oxford-Worcester route has a service with certain two-hour intervals and a number of trains operate only between Oxford and Worcester. This option would seek to provide an hourly service with all trains running to and from London."

The SRA's current view is that:

"Initial appraisal indicates that the financial benefits from this option would be outweighed by the cost of additional rolling stock resources leading to an unaffordable increase in subsidy. In addition, performance risk would be high given the intensification of use of a route with several single track constraints."

I appreciate the hon. Gentleman's concern about the issues at Evesham. We know that that arises from a rather strange situation where drivers need to stop alongside the signal box to obtain a token from the signalman, giving them permission to pass safely through the single track stretch. Clearly, that should be resolved. Network Rail is examining the possibility of altering the token system, so that the exchange could take place using equipment on the station platform instead of outside the signal box, with the double stopping that exists at present. That would avoid the need to stop twice. The work could be undertaken by the end of 2006, but precise details are not available yet.

The hon. Gentleman raised the issue of Worcester Parkway. Worcester Shrub Hill is not well placed for current passenger demand and if a new parkway station were to replace Shrub Hill it is thought that it would have a strong business case. That would be further strengthened if a new parkway station were linked to and part funded by new development. The SRA is prepared to consider the replacement of Shrub Hill in these circumstances. The local authority has been invited to consider ways of improving the business case for Worcester Parkway.

The SRA says:

"Significant potential wider economic benefits are forecast . . . and it is therefore proposed to undertake further option development and appraisal in order to seek to identify more affordable options"

possibly providing

"a service which is less frequent in the contrapeak than the peak direction."

The new December 2004 timetable, which the hon. Gentleman mentioned, introduced 125 mph class 180 Adelante trains, offering greater capacity and improved on-board facilities to First Great Western Link direct services from Great Malvern to London. For passengers wishing to travel during the day, there are direct trains at 12.21 and 13.21 from Worcester Shrub Hill to London Paddington, each scheduled to take two hours four minutes.

I accept that the hon. Gentleman will set those improvements against the reduction in the number of direct services. However, although the December timetable slightly altered the departure times of daytime services, involving a change at Oxford, the journey time remains the same. Furthermore, many journey opportunities are still offered by connections at Oxford on the Great Western line and from Birmingham on Chiltern and Virgin West Coast services.

Chiltern Railways currently operates as far as Kidderminster on a limited basis, with five trains to London in the morning and five back in the evening, as an extension of its Birmingham Snow Hill to London Marylebone services. Chiltern Railways also offers the hon. Gentleman's constituents regular access to stations to London Marylebone through connections provided

*[Charlotte Atkins]*

by Central Trains at Snow Hill. If Chiltern Railways were to operate services beyond Kidderminster, additional rolling stock would need to be secured for the mileage.

Services from Birmingham to Worcestershire will be considered in the forthcoming west midlands route utilisation strategy, which is due for publication in February. There will be a 12-week consultation on that. I am aware that the hon. Gentleman has raised his concerns about overcrowding, particularly on the Central Trains route, on many occasions. The RUS will look specifically at that issue.

The hon. Gentleman raised the health and safety issue of train doors opening at the platform at Bromsgrove. Selective door opening would be a possibility, but would obviously be expensive as all vehicles would have to be modified to include that as an option. Again, cost becomes a crucial issue.

In conclusion, future planning will be informed by the route utilisation strategies on which the SRA is consulting. The Greater Western main line RUS was published earlier this month, and the west midlands RUS is due to be published in February. Those will be used to develop the Greater Western franchise and to examine services between Worcestershire and Birmingham. I am sure that the hon. Gentleman and other stakeholders, such as my hon. Friend the Member for Worcester (Mr. Foster), will play a full and valuable role in developing the conclusions.

*Question put and agreed to.*

*Adjourned accordingly at three minutes to Four o'clock.*

# Westminster Hall

*Wednesday 26 January 2005*

[MR. FRANK COOK *in the Chair*]

## European Union Fraud

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[Gillian Merron.]*

9.30 am

**Mr. Edward Leigh** (Gainsborough) (Con): In 2000, in the wake of the resignation of the Santer Commission over allegations of fraud, corruption, incompetence and nepotism, we debated fraud in the European Union in this Chamber. At the time, my predecessor as Chairman of the Public Accounts Committee, my right hon. Friend the Member for Haltemprice and Howden (David Davis), and I welcomed the appointment of Vice-President Kinnock, who was appointed to oversee the fight against fraud and to reform the Commission. We had high hopes that he would bring about fundamental change, but, even then, we were concerned about the speed of the proposed reforms. One development that we welcomed particularly was the new anti-fraud body, OLAF, because its predecessor had been completely ineffective.

Five years on, we now have a new and enlarged set of commissioners under the leadership of José Manuel Barroso and Vice-President Kallas, who is responsible for fighting fraud. With the United Kingdom presidency of the EU fast approaching, it is a good time to take stock of what has been achieved and what remains to be done. The signs of improvement are evident, but painfully slow.

The Commission seems to be attempting to get a grip on fraud within its ranks, but about 80 per cent. of EU money is spent in member states where controls are even more lax and sloppy than in the Commission. My sense overall is that the European Union is still not taking fraud seriously. We urgently need a strong lead from the centre to drive member states forward into a new culture of zero tolerance of fraud and corruption, and that zero tolerance needs to start in the Commission itself. We must start putting warm words and plans—believe me, there are plenty of them—into action. We need a more rigorous approach to safeguarding taxpayers' money.

How much have things changed? Well, we can measure the financial competence of any organisation by its independent auditors' report. In November 2004, the European Court of Auditors published its audit report on the Community's annual accounts and, for the 10th year in succession, the court was unable to give those accounts a clean bill of health. According to MEP colleagues in Brussels, there are worrying signs that the Commission is now pressuring the Court of Auditors to fine-tune the rules, so that the accounts can be signed off in future years.

The Court of Auditors was also concerned about the lack of reliability of aspects of the Community's accounts. That was due partly to the Commission's accounting system, which could not record assets and liabilities correctly—surely a straightforward accounting procedure that we would expect in a reputable organisation. Even more worrying, the number of errors that was found was so high that it could not vouch for spending streams that covered 93 per cent. of expenditure. That does not mean, of course, that all the spending was wrong, but it is astonishing that we cannot be confident that as much as 93 per cent. of expenditure was properly spent. For example, the court reported that payments under the common agriculture policy and for structural funds totalling about €70 billion were affected in some way by errors. That conclusion was not new. It was a familiar story and we have been hearing it for a decade.

When will that familiarity breed sufficient contempt to spark some action? The accounts and accounting systems tell us that the Commission falls far short of full financial competence. That is one thing, but what about fraud? The value of reported fraud in the EU was 49 per cent. higher in 2003 than it was in 1999. Fraudulent cases worth an incredible €900 million were dealt with by OLAF in 2003 alone. Those statistics are one year old, so who knows what the situation is now? More worrying, the real levels of fraud are almost impossible to quantify at present.

It is impossible to separate suspected fraud from irregularity. On the one hand, the Commission defines fraud as a deliberate, criminal act with intent to achieve financial advantage. Fair enough, but, on the other hand, irregularities are failures to comply with Commission regulations. So, until a case has passed through the criminal courts in the relevant country, which may go on for years, it cannot technically even be labelled as fraud.

Member states report fraud differently. How can we track something down if we cannot agree on what it is? Some member states will not recognise fraud until a conviction has been obtained through their national legal system. Germany and Greece seldom report cases within a two-month deadline after detection. Some countries wait until recovery is underway before reporting cases of fraud. Greece often does not even report the date of the discovery. For the Commission to allow member states to pursue such varied practices is sloppy and suggests to me that it is not taking fraud seriously.

The figures that we hear about are only those that have been reported. The actual value is probably much higher. I have estimates of fraud at anything between 7 per cent. and 10 per cent. of the total EU budget. It could have been as high as almost €10 billion for 2003 alone. The Commission, of course, puts the figure much lower at about 2 per cent., but even that is almost €2 billion. Whatever the exact figure, the problem of fraud is immense. The situation has surely gone on long enough.

I turn now to the blame game. The Commission is too quick to shrug off responsibility for the astonishing levels of fraud and irregularity by blaming member states. They may well be culpable, but the Commission is too. It is not a moral responsibility, but a statutory responsibility set out in the founding treaty of the EU. It is time that the Commission seized the initiative with member states. We need common recognition that fraud is a problem and renewed determination to tackle it.

*[Mr. Edward Leigh]*

Some frauds are so ludicrous that they should be blindingly obvious. For example, certain Balkan countries have preferential trade agreements with the EU for exporting sugar. The anti-fraud authorities eventually came across some suspect activities with the importation of sugar into Greece from Croatia, where it had been produced. What was the problem? It was not a complicated, underground system nor a corrupt and complex fiddling of the books. No, the fraud was even more blatant than that and yet went unrecognised—Croatia does not produce sugar cane at all.

Individual embezzlement also threatens public money spent by the EU, even when that money is aimed at vital infrastructure for people living in difficult conditions. In April 2002, OLAF investigated a case from the United Nations mission in Kosovo relating to alleged misappropriation of funds intended for the electricity sector in Kosovo. It turned out that the money had been stolen and spirited into personal bank accounts in Gibraltar. A further attempt by the principal suspect to send the funds from Gibraltar to Belize was thwarted. OLAF managed to secure the return of €2.7 million. The suspect, a former United Nations official in Kosovo, is now serving a three-and-a-half-year prison sentence.

Such activities happen in the United Kingdom, too. We cannot sit in a warm bath of our own prejudices and say that it is all down to Johnny Foreigner. It is not. My Committee has reported on several cases when abysmally lax control by public bodies allowed serious frauds to be perpetrated on EU funds, and further control improvements are still needed.

I shall cite two examples. In 2002, my Committee published a scathing report on a notorious fraudster, a farmer called Joseph Bowden, who claimed against the common agricultural policy for different crops on the same piece of land and went on to give fictitious co-ordinates for some of the fields for which he was claiming. If those claims had been examined by experts, or anyone with a map, it would have been discovered that the fields were apparently in Greenland, the North sea and the Norwegian sea. He received a 30-month jail sentence as a result and new controls were imposed, but at the time he got away with it because controls were obviously lax in the then Ministry of Agriculture, Fisheries and Food.

My second concern is perhaps even more worrying. It could be said that that was just one fraudster and one case of lax controls in one Department, but the Committee also looked at the sheep annual premium scheme in Northern Ireland, an EU strategy designed to support sheep producers through payments for eligible sheep. When we investigated the administration of that scheme, we were shocked to find a catalogue of errors and control failures, all of which pointed to what we described as a "particularly slack regime" in place under the Department concerned, and I believe that there was almost certainly collusion. We found, for example, that some payments were made for dead sheep—surely something that is not unknown in Irish history, but there we are—even though there was often no evidence that they had ever existed. These dead sheep were never alive. When visiting farms, the Department's inspectors detected more than four times as many irregularities when accompanied by staff from the National Audit Office as when they were not accompanied by them, which suggests that they were on occasions turning a blind eye to the rules.

I acknowledge that in response to our findings the Department agreed to take strong steps to address the Committee's concerns. Indeed, following wider changes in the EU, the sheep annual premium scheme itself has recently ceased to exist. However, the failure to address the European Court of Auditors' recommendations over 10 years was, in the Committee's view, a serious error of judgment. Failure to manage the scheme properly led the Commission to refuse to pay some of the UK's claim, £1.5 million of which was attributed to Northern Ireland. Perhaps controls are much more lax in other European countries, particularly Mediterranean ones, but we, too, are not without blame.

Such cases undermine the integrity of EU funding. If Departments and agencies are as soft on fraud as we found, fraudsters will regard it as a risk worth taking. All bodies involved in the administration of EU schemes must make fraud a decidedly unattractive proposition; they must have effective inspection processes, a rigorous prosecutions policy and penalties that far outweigh the potential gains from fraud.

Our Committee has repeatedly emphasised that £1 of EU subsidy is as much taxpayers' money as any other form of voted money. We make no distinction between the rigorous safeguards that we expect to see operated for EU subsidies and any other form of grant payment.

Improving financial management in the EU has, of course, long been an important issue for the Public Accounts Committee, and in recent years it has increasingly become a priority for European institutions and member states too. Recently there seems to be a new spirit of co-operation between the Court of Auditors, the Commission and the European Parliament, to work towards the achievement of an unqualified opinion on the Commission's accounts.

The PAC's counterpart in the European Parliament, the committee on budgetary control, has taken a robust approach to the discharge of the budget this year. It has closely questioned members of the Commission and, for the first time, officials from the European Court of Auditors, on how a positive statement of assurance can be achieved. That focused approach and pressure to address difficult issues has been welcomed by Vice-President Kallas, the new commissioner charged with the job of rooting out fraud. However, he is the subject of alleged fraud in his own country.

**Mr. Richard Bacon** (South Norfolk) (Con): Given our experience on the Public Accounts Committee with the National Audit Office, does not my hon. Friend think that it is extraordinary that the European Parliament budgetary control committee is just now, for the first time, meeting the Court of Auditors and taking evidence from it? Should not that have been its meat and drink for years past?

**Mr. Leigh:** One would have thought so. Parliamentarians in the Westminster model find that extraordinary. I talked yesterday to my colleague, Mr. Chris Heaton-Harris, Member of the European

Parliament for the East Midlands. It is colleagues such as him who are trying to change attitudes in the European Parliament, and although it is an uphill struggle they are doing their best. However, it is extraordinary that the budgetary control committee has found its teeth only this year.

There have been some moves towards a more accountable system that helps prevent fraud. One step was the introduction on 1 January of an accruals-based Commission accounting system, which is an excellent start, as the Commission is fond of telling us, but even a first-class accounting system cannot guarantee good financial management. A certain company, now a household name for its high-profile failures in corporate governance, used accruals accounting. I am talking about Enron, and we all know what happened there.

There have also been some useful wider developments in the Commission. There is now a strategic planning function to assist commissioners, a deputy secretary-general to cut through red tape and an internal audit service starting in May to look at control of management. We are told that there is now a human resources policy in the Commission—whatever that is—that will help manage whistleblowers better, and an audit progress board to ensure that recommendations are followed up. However, the impression I get from talking to Members of the European Parliament is that the only people who have suffered so far in the European Commission in rooting out fraud are the whistleblowers themselves. Even in the EUROSTAT scandal, it was Dorte Schmidt-Brown, an official who revealed what was going on, who lost her job, suffered a nervous breakdown and effectively had her career ended.

Hans-Martin Tillack, a German journalist, was arrested on 19 March on the orders of the EU's anti-fraud office, OLAF, and taken into custody. His personal papers, computer and archives were confiscated in an effort to identity sources of revelations about EU corruption. That was his crime. He was arrested because he was not prepared to reveal his sources who had told him about EU corruption. OLAF says that it is implementing a policy of zero-tolerance towards corruption and fraud in the European institutions and is working to produce a robust estimate of the level of fraud and error. We are told that at least we will understand the full scale of the problem. We await results.

I am pleased that my right hon. Friend the Member for Wells (Mr. Heathcoat-Amory) is present in the Chamber. He fought almost a lone fight in the Commission to try to give extra powers to the European Court of Auditors. Indeed, extra powers were given to virtually every other institution in the EU, but not the Court of Auditors. My right hon. Friend's warnings fell on deaf ears. However, I am delighted that he is here today. He is clearly an expert on these matters in the House of Commons.

In conclusion, there are signs of improvement in the way that the EU manages its finances and I am encouraged to see a glimmer of light, but it is, as yet, a light of expectation, rather than action. We need dedication and prompt action from the Commission and all member states, including the UK, to stamp out fraud. The UK's presidency of the EU in the second half of 2005 provides an excellent opportunity for us to drive forward further progress.

In dealing with fraud and corruption in an institution it is not enough to say that the rules are being carried out correctly. Moral corruption on a petty scale, and on a large scale, must be dealt with too. It is not good enough for any institution to say "We are carrying out the rules," if the rules are corrupt. Let us take one example of petty corruption. Members of the European Parliament are paid travel expenses on the basis of what is known as kilometrage, which involves fixed payments per unit of distance travelled. The sums paid are the equivalent to club class air travel. If Members choose a cheaper form a travel, and, of course, most of them do, they save considerable amounts, which they are allowed to keep because there is no mechanism by which it can be returned. That is an example of petty moral corruption. It can be argued that there are examples of much larger moral corruption on a grand scale, and one such example would involve the European fisheries policy. However, that is a debate for another time and place.

I said in my opening remarks that now was a good time to take stock. Taxpayers across Europe are rightly concerned at the apparent endemic inability of the EU to manage its finances well. We have every reason to believe that mongy is still pouring down the drain. We may not be able to say how fast the flow is, or whether it is quicker or slower than before, but it is time to plug the hole. We need a radical policy where we press for our own National Audit Office, which has a reputation second to none, to be allowed to pursue the trail of the money that we give to the Commission into the Commission.

Currently, the NAO has no rights of access in the European Commission. The Public Accounts Committee will go to Brussels in March to discuss what further progress is planned, within its rights of access. It will have no ability to cross-question officials, but some points are evident from the outset. We need the Commission's new accounting system to work and the Commission to drive forward consistency in member states' approaches to reporting fraud. We also need all public institutions across the EU to treat each euro of EU subsidy as they would every euro funded by their own national Treasury or finance ministry. That is a very clear agenda for the UK Government as they take on the presidency and I commend it to the Minister.

**Mr. Deputy Speaker:** Order. This is a 90-minute debate and it is advisable to remind right hon. and hon. Members that the usual convention is to start the first of the three winding-up speeches 30 minutes before its conclusion. While I am interested in the subject and am learning a lot, I appeal to all right hon. and hon. Members to bear in mind the time limitations. We need to start the winding-up speeches at 10.30 am.

9.52 am

**Mr. David Heathcoat-Amory** (Wells) (Con): When I heard my hon. Friend the Member for Gainsborough (Mr. Leigh) making his excellent speech, I experienced a strong sense of déjà vu, because the issues are of considerable antiquity. I grappled with some of the problems when I was a Minister with responsibility for Europe 10 years ago, and also when I was at the Treasury, as the Minister responsible for our contribution to the European budget. At the time, I failed to push through

*[Mr. David Heathcoat-Amory]*

the necessary reforms. I received the brush-offs from the European institutions, and the warm assurances that everything would be different, that reforms were in place and that I had to wait only another year and everything would be fine. Of course, the reform never happened.

In the background, there was a strong sense of not in front of the children. The issue was seen as an internal matter where exposure would damage the European project, so there was a strong reluctance to bring many of the deep-seated problems into the open.

We are now well past that point. The public know perfectly well what is going on and are aware of the scale of the waste, mismanagement and fraud, which was so well described by my hon. Friend. That is now an open sore on the face of the European Union and contributes in large part to the widespread disillusionment and disenchantment that the public feel towards it.

The problem has got much worse during the intervening 10 years. The European budget is now more than €100 billion a year and growing, and, as we have heard, the accounts have not been signed off by the auditors for 10 years. If the EU was a commercial institution operating in the private sector, all of the directors would now be in prison. If it were a public institution operating in a member state, those responsible would have been kicked out long ago. Instead, the whole project simply rolls forward, despite the fact that it destroyed the last but one European Commission; the Santer Commission resigned en masse in 1999 because of fraud and mismanagement in its budget.

Fraud is still going on. EUROSTAT has been discovered to be riddled with fraud, with money siphoned off into secret accounts. The Government's contribution to that subject is the Treasury Command Paper 6134, which was published last April and goes into some detail. It is truly awesome that one of the agencies of the Commission had secret bank accounts and there was no audit trail. When that was discovered, no one lost their jobs.

My hon. Friend is right to remind hon. Members that the only people who ever lose their jobs are the whistleblowers—the people who draw attention to scandals. OLAF, the anti-fraud office, was rather dismissively referred to by the Government last year as part of the Commission, which is a telling observation. It is not an independent body as we would understand such things, but part of the European Union institution that causes most of the problem. It is a branch of the Commission and reports to it. It is not truly independent.

I had a rather sad conversation with one of the whistleblowers, Marta Andreasen, when she came to this country to give a lecture before Christmas last year. She was the first qualified accountant to be appointed chief accountant in the European Union. She pointed out that the system has no proper double-entry bookkeeping. I am a chartered accountant; I declare that interest. Every first-year student of accountancy learns about double-entry bookkeeping. In fact, it was a European invention. It was discovered by the Venetians in the 15th century. It has been around for quite a long time in Europe, but it has not yet reached Brussels.

Ms Andreasen reported the failings to her superiors and, of course, nothing was done. Her objections and complaints were ignored and, even more scandalously, she never received a proper hearing from the people who should be the guardians of our interest—the European Parliament. When Mr. Prodi retired as President of the European Commission he was congratulated in the European Parliament on the way in which he got rid of Marta Andreasen by the leader of the Liberal Democrat group. That speaks eloquently about the lack of assistance—to put it at its mildest—that we get from the European Parliament in guarding not only British taxpayers, but the European taxpayers.

I want to discuss opportunities for reform and to be positive. There was a giant opportunity in the form of the Convention on the Future of Europe, on which I sat. It was given a wide remit, in particular to reconnect with the citizens of Europe. Knowing that an important part of that reconnection was to assure the public that something would be done in future about the European budget and about the scandals, I submitted a six-page paper on 7 July 2003, which was referred to in kind terms by my hon. Friend in his remarks.

I set out the problem in detail. I referred to whistleblowers and their evidence, and I suggested some reforms, for example, how budgetary control committees in national Parliaments—in our case the Public Accounts Committee and the National Audit Office—should be given some way of following national money through into the European system to ensure, and to help, the value-for-money procedures in Brussels.

I suggested reforms to the audit process, and I suggested that where the European Court of Auditors had severe misgivings about a budget line, it should be able to block expenditure until it could sign it off as being regular and legal. I also suggested making reforms to the European Court of Auditors, to strengthen its authority and independence. I suggested that OLAF be given proper independence and be subjected to democratic scrutiny.

I advanced a case for greater transparency and openness. In that connection, it is interesting that, this afternoon, we are debating that issue in the European Scrutiny Committee, which, amazingly, still sits in secret, and there is a move by some Government Members to entrench that secrecy in our proceedings. I also suggested giving additional rights to whistleblowers in the European Union, to match the statutory protection that we give them in our country.

All that was completely ignored. It was never referred to in debate in the Convention, except by myself and a few of my allies. I submitted specific amendments to the evolving European constitution to reflect the need for some of the reforms that I have just outlined. Again, all of them were ignored and, sadly, they were not supported by the British Government representative on the Convention.

The only plan advanced by the European institution itself was to set up another European institution called the European public prosecutor. That body would consolidate new, awesome powers to prosecute and investigate at European level, right across the European Union, from Brussels. It is not the setting up of new institutions that we want; we have seen that too often in the past. We need to reform the existing institution

before we give it more powers. That is one reason why the European constitution deserves to fail, and will fail. But my hon. Friend deserves to succeed in his noble crusade to do something about the matter at national level, and I very much hope that he does.

10.2 am

**Mr. Richard Bacon** (South Norfolk) (Con): I am pleased to have the opportunity to contribute to this debate on an extremely important issue, and I congratulate my hon. Friend the Member for Gainsborough (Mr. Leigh) on securing it. It is somewhat sad that the Chamber is not packed, because this issue cuts to the quick. We will have a response from the Financial Secretary, and I look forward to it, although I say in advance that I have almost no confidence in what he will tell us. That is an awful thing to say, because the Financial Secretary is a distinguished member of the Government, and we all have a lot of respect for him, but I am almost certain that he will give us not a crumb of comfort. I shall now explain why.

The epiphany for me came in a House of Lords report on European fraud, which said that

"huge sums of Community money were lost each year because of fraud; that financial management was weak; that the failure both to detect fraud and take action when it was detected allowed the fraudsters to continue in business; and that for years there had been no political will to tackle the problem."

The report

"detected some signs that the situation might be improving, although there was a long way to go."

It went on:

"We were too optimistic. According to the Court of Auditors' Report . . . there has been 'little or no improvement' in the Community's financial management, despite repeated criticisms made in previous reports . . . Many certificates have been issued without the issuing authorities exercising any proper control over what is really going on; and the large increase in the transfer of Structural Funds has not been accompanied by any significant improvement in the way in which the programmes are managed. The report also accuses the Commission of having had enough time to take the necessary remedial measures but of failing to do so."

The report's summary concludes:

"Clearly there is still a long way to go to achieve the sound financial management which Community taxpayers have the right to expect."

As I say, that report was my epiphany, and it came out in July 1994. It talked about the previous five years, yet my hon. Friend has described the litany of problems that there have been in the 11 years since the report. If anything, things are now worse; my hon. Friend described how the scale of fraud has increased. That is why I do not have much hope that the Financial Secretary will give us any comfort. I found a rather good description of the situation on a German website recently. It said that the situation was "grundsätzlich betrugsanfällig", which means fundamentally susceptible to corruption.

My right hon. Friend the Member for Wells (Mr. Heathcoat-Amory) re-iterated that the people who try to sort out the problems get sacked. Marta Andreasen was an accounting officer. On the Public Accounts Committee we are familiar with that role; the job of the accounting officer is to make sure that moneys approved by Parliament are spent legally by the Government of the day. We all understand that an accounting officer can ask for a direction from a Minister if he or she is uncertain that what he or she is being asked to do is lawful. In that instance, the accounting officer will be exonerated by the Public Accounts Committee for having acted in a certain way if it should turn out that there was doubt about how public money was being spent.

Marta Andreasen refused to sign the EU accounts because, in her view, they were so dodgy. She was told: "Sign them. That's why you're paid a high salary." That is the culture and the attitude. That is what we have to face. Now the Commission is putting pressure on the Court of Auditors to change the basis on which the accounts are written up. That way, without changing the culture underneath, the goalposts are moved, and accounts appear to be clean when they are not.

The last time I was in Luxembourg at the Court of Auditors with the European Scrutiny Committee, I asked the court why it did not publish more value-for-money reports, as the National Audit Office does in this country. The response was, "You should try getting the budget committee and the agriculture committee of the European Parliament to take any interest in them." That, to us on the Public Accounts Committee, is an astonishing response, but that is the culture. We now learn—I did not know this before—that the Liberal Democrats in the European Parliament congratulated the Commission on getting rid of Marta Andreasen.

I have two further points to make, and the first concerns OLAF. Most EU taxpayers would be surprised to know that there is a distinct possibility that they have been funding Palestinian terrorism and suicide bombers over the past few years. The last time I was in Brussels, I raised that subject with Mr. Alberto Perduca, the official in OLAF responsible for monitoring moneys that go to the occupied territories. He said that he could not rule out that that was happening, largely because the moneys are transferred in actual cash. When Yasser Arafat was alive, that money went to his own bank account at the Bank Leumi in Tel Aviv.

My second and final point concerns the EU financial perspective. My right hon. Friend pointed out that instead of trying to sort out current problems, the EU was ever extending into new areas. I commend a speech made by my hon. Friend the Member for Mid-Worcestershire (Mr. Luff) on 15 June 2004, *Official Report*, column 731, in which he describes in some detail the proposals of the Commission to expand into a whole range of new areas, from health and education to training and social policy. There is even a target for increasing the rate at which European films are distributed outside their country of origin from 11 per cent. to 20 per cent. That is the position that we face: we have a system that cannot cope with what it is doing at the moment, and that cannot account to taxpayers for the money that it has spent, and yet it wants to extend further.

I am pessimistic, because there has been no apparent adequate drive for change. I would love to think that the Financial Secretary will say something that will give me cause for comfort, but the time has come for shock therapy. For years, people have been waiting for some sort of change, and they have not seen it. The only thing that the Financial Secretary can say that will give me any

*[Mr. Richard Bacon]*

cause for optimism is that the British Government will finance—and will encourage other member states to do so too—only those areas of expenditure that receive a clean bill of health. If he does not do that, I am afraid that there will be just more of the same.

10.9 am

**Mr. Ian Davidson** (Glasgow, Pollok) (Lab/Co-op): The right hon. Member for Wells (Mr. Heathcoat-Amory) talked about déjà vu, or, as we might say in Glasgow, déjà vu again. We have repeatedly had debates on EU fraud, with warm words coming from the Government and nothing effectively happening. It is clear that the EU is weak on fraud, and the Government's attitude seems to be that it is a price worth paying. They have not been nearly as outspoken as they ought to have been in the circumstances about this substantial waste of taxpayers' money.

The Government's attitude seems to be that because this is EU money, it does not matter; but it is our money that is being wasted. We are the second largest contributor to the EU budget; it is the money of the taxpayers of this country that is being wasted. I welcome the fact that the Prime Minister identified a share of the EU contribution to the recent flood disasters in south-east Asia as Britain's contribution. On that principle, the Financial Secretary should accept that a share of all the fraud that is occurring is fraud against UK taxpayers, and that it ought to be dealt with.

The Chairman of the Public Accounts Committee raised a number of interesting points, some of which I had not previously been aware of. I am sure that we all enjoyed the Croatian sugar export story; it would be funny if it was not so tragic, and I hope that the Financial Secretary will respond to it with a degree of seriousness. I was also aware of the farm buildings in the North sea, and the Irish dead sheep that may or may not have existed. However, I am reliably informed that none of those sheep were involved in the recent bank robberies in Belfast.

I ask the Financial Secretary to tell us what the Government's attitude is to the sensible suggestion of the Chairman of the Public Accounts Committee that the National Audit Office should be able to pursue UK money into the Commission—that it should have rights of access to EU books and officials in order to follow through how our money is being spent. We cannot trust the EU system to police itself, and therefore it is essential to adopt a mechanism such as that proposed by the Public Accounts Committee Chairman. I will be very disappointed if the Financial Secretary does not suggest that he intends to support the request and to do what he can to make sure that it comes about; otherwise, the Government will be seen to be acquiescing in the present level of EU fraud, irregularity and mismanagement.

In my opinion, the Government have been more interested in covering up EU fraud than in exploring and revealing it. If that is not the case, I would be grateful if the Financial Secretary would give me an assurance that the Government will publish as soon as possible a list of all the frauds and irregularities that they are aware of and that cause them concern. Failure to do so will be seen as placing the EU project above the rights and duties of the Government and the interests of EU taxpayers.

I am sure that we have all noticed that the Commission has been pushing for a 35 per cent. increase in EU spending in the next budget round. I hope that the Financial Secretary will give us a clear and categorical assurance on behalf of the Government that Britain will not agree to that until such time as fraud and irregularities are removed from the EU budget.

However, we must remember that the EU budget is not the only source and site of fraud. When Greece joined the euro, it rigged its books to minimise the appearance of its deficit in order to make it eligible to join. The concept of cooking the books for political purposes is endemic to the entire EU project.

I ask the Financial Secretary to explain the Government's intentions with regard to dealing with fraud when Britain takes over the EU presidency. We have heard many warm words about those intentions, but what is the target in combating fraud? What are the objectives against which the success, or otherwise, of the British presidency can be measured?

I look forward to hearing the Financial Secretary's response.

**Mr. William Cash** (Stone) (Con) *rose—*

**Mr. Deputy Speaker:** The Chair acknowledges that the hon. Gentleman who seeks to catch my eye is a member of the European Scrutiny Committee and, as such, I shall allow him to speak. However, I must point out that, as he heard only three minutes of one of his European Scrutiny Committee colleague's contributions and six minutes of that of a Government Back Bencher and Public Accounts Committee member, he will have missed many of the points made. I hope that the hon. Gentleman will avoid undue repetition, and I remind him that the first of the three winding-up speeches begins at 10.30 am and they can last for only 10 minutes each. I trust that the hon. Gentleman will bear those comments in mind when making his contribution.

10.16 am

**Mr. William Cash** (Stone) (Con): I am extremely aware of what you have said, Mr. Deputy Speaker. I am sorry that I arrived a little late, but sometimes that is unavoidable. However, I will do my best not to repeat myself, and I have no desire to repeat what others have said.

Let me explain the question that I want to address. I am well aware of many of the arguments that I dare say have already been adduced, as I have been involved in this issue since the early 1990s. I was involved in the debate on the European Communities (Finance) Bill when some of my colleagues lost the Whip. On that occasion, there were frenetic discussions between the Whips Office, the Foreign Secretary, the Chancellor of the Exchequer and the Prime Minister, because I had the temerity to table an amendment that said in effect that the rules governing the manner in which fraud is investigated in the EU should take account of and follow the procedures prescribed by our own Public Accounts Committee, several distinguished members of which are present today. I have persisted in that, and I have reason to believe that the Comptroller and Auditor General agrees with my principal point. I am

also delighted that the Chairman of the Public Accounts Committee is present, because he and I have persistently raised that question over many years.

The reality is that it is open to the other member states to change their rules to take account of the point made by the hon. Member for Glasgow, Pollok (Mr. Davidson) and my hon. Friend the Member for South Norfolk (Mr. Bacon)—and I dare say, although I did not have the privilege of hearing him, my right hon. Friend the Member for Wells (Mr. Heathcoat-Amory).

The fundamental question is, how do our country and other countries address the mismanagement and outright fraud in the EU? Several years ago, I visited the European Court of Auditors as a member of the European Scrutiny Committee—then known as the European Select Committee. We were informally told that although about £6 billion a year was the figure that some German professor had come up with, the fact was that the exact amount was not known, and not only was it not known, but it could be £20 billion or more. The situation is seriously out of control. A senior member of the Court of Auditors resigned because he was not getting the sort of answers that he wanted to such questions. I am putting it in a nutshell, but that is all I need to do because the incidence of fraud and mismanagement is set out in detail in the Court of Auditor's report.

These debates used to be taken on the Floor of the House; I remember complaining when they were referred to a European Standing Committee. Those Committees are useful, although they will be subject to reform, but issues such as the scale and range of European fraud are a matter of grave interest to all Members of the House and they should be taken on the Floor and not in Standing Committee. Because of the nature of the budgetary arrangements in the European Union, interaction between fraud in other countries and the financial perspective to which my hon. Friend the Member for South Norfolk referred means that mismanagement and fraud in other countries impinge on our financial arrangements.

It is inevitable that in the desire to achieve economic management under the European Union Bill, which is published today, we are affected by what goes on in other countries. That Bill, which will give effect to the treaty implementing the European constitution, should deal with these questions but it does not.

There is the further question of the connection between resources and potential tax. If functions are set up and they are fraudulently handled in other countries, or if there is a failure to deal with fraud properly, there will be more and more pressure to bring in a tax system to match the increased functions and the increased resources that are called upon. That is a black hole in the middle of the European Union.

**Mr. Bacon:** Does my hon. Friend recall that when the European Union financial perspective 2007–13 was discussed at a seminar sponsored by the Commission in Helsinki 18 months ago, two items dominated the agenda—first, the British rebate and, secondly, common European taxation?

**Mr. Cash:** Absolutely, and the lies that have been generated from outside the House with respect to the matters that my hon. Friend raises are simply incredible. There is a determination to move to a common tax policy; that is connected with the budget and therefore with the question of fraud. The scale of the fraud speaks for itself.

The problem can be resolved, but there is a lack of willingness to resolve it. In fact, there is a determination not to. If one asks some of the other 26 member states what are the rules for the equivalent of our Public Accounts Committee, do we find that in the other member states they properly examine matters, with the scrutiny available through the National Audit Office and the Comptroller and Auditor General? Is there a determination in each of those member states to deal properly with the accounting system? The Marta Andreasen case and the complete failure of the then Vice-President, now Lord Kinnock, to deal with the matter is a good example of the massive problem of the accounting system and fraud in the European Union, which affects us and our voters. The way in which the whole of the European Union finances operate and the increase in the amount of fraud is a disgrace to the European Union and to those who have been responsible for trying to correct it.

**Mr. Bacon:** In the last year or so—certainly in the last 18 months—the Committee has visited the Cours des Comptes in Paris, the Bundesrechnungshof in Berlin and, last October, the Tribunal de Cuentas in Madrid. The European Court of Auditors in Luxembourg is modelled on that continental, juridical, legalistic model—not on the financial audit, taxpayer, value-for-money model, such as the one we have here. Does my hon. Friend not appreciate that the reform he is looking for will not happen because it is utterly inimical to the system?

**Mr. Cash:** I could not agree more. I am living in hope that some good will come of putting forward arguments that make sense and are necessary. I entirely agree with him, because, as I think I said earlier, that is exactly what the European Union does not want. It does not want its accounts to be looked into properly. It does not want to have proper auditing and public accounting. Indeed, a similar problem arises with corruption in Africa as well. The plain fact is that until we face up to the reality of the complete determination not to look into these questions of public accounts, I fear that the situation will simply get worse and worse.

We will have a referendum on the European constitution. The Bill was published this morning, and I can absolutely assure you, Mr. Deputy Speaker, that I and my colleagues will be highlighting these questions in our determination to show that, under the European Union constitution that is being proposed, nothing has changed and nothing will change. The EU does not intend anything to change, and we will put that message firmly across to the British voters, who will produce a resounding no.

10.27 am

**Mr. Colin Breed** (South-East Cornwall) (LD): Whether people are avowedly in favour of the European Union or totally against it, no one could suggest that

*[Mr. Colin Breed]*

anyone would countenance fraud and the misuse of taxpayers' money. Therefore it is absolutely right that we have these debates and, while there is a certain amount of déjà vu, they should continue, because these are extremely important matters.

The annual reports by the European Court of Auditors and the European anti-fraud office—and, indeed, the National Audit Office—are scrutinised at a number of national and European levels. In the UK, of course, they are considered by the European Scrutiny Committee and European Standing Committee B. As a member of the Scrutiny Committee for quite a little while, I concur with all who have spoken on the subject today that our scrutiny process, in general, needs to be significantly enhanced. It needs to be open, not held in secret as it is, and it ought to have many more powers to ensure that it can get to the bottom of things, not least the budget and the control of funding. All other areas of scrutiny could be significantly enhanced as well.

Part of the problem is that we have a majority Government, and therefore a Government majority on the Committee, whereas most other European scrutiny committees are comprised of coalitions. While they may not get to the bottom of all their finances, I suspect they hold their Ministers to account more. Far too often when I was on the Scrutiny Committee we were advised that the Minister had ignored the scrutiny reserve and had gone ahead and decided on a particular view at the Council of Ministers, of which he informed us later. Our European scrutiny process is in need of great reform and overhaul, and it needs to be held in public.

Fewer matters should be referred to the European Standing Committee and more should to be taken on the Floor of the House. That was often recommended by the Committee, but was never taken up. There is ample evidence that parliamentary time is available on the Floor of the House, particularly on Thursday afternoons, when we could properly debate the issues that we are discussing today.

The European Court of Auditors produces an annual report, as has been said, and I have had a good look at the most recent one. It is required to do so by the treaty that established the European Community to provide the European Parliament and the Council of Ministers with a statement of assurance—I am not quite certain what it assures at the moment—

"concerning both the reliability of the accounts drawn up by the Commission and the legality and regularity of the underlying transactions."

I understand that to be the payments actually made.

The court's assessment usually goes beyond what we would see as a pure accounting exercise; it also assesses the financial management and control structures of the EU Executive. As we have heard, for the 10th successive year it has failed to give the all clear to the accounts. It refused to give a positive assurance on the legality and regularity of 93 per cent. of the EU budget, which is an extraordinary figure. Most auditors would say that in the time available and in normal circumstances they are unable to get 100 per cent. of everything right, but for the court to say that it could not vouch for 93 per cent. is extraordinary.

The notes on the reliability of the accounts are quite instructive. I want to quote a couple of paragraphs from what was said. Paragraph III states:

"In the absence of effective internal control procedures for miscellaneous revenue and advances, the Court cannot be certain that the transactions relating to the sundry debtors item have been correctly and completely recorded."

Almost any auditor going into almost any public or multinational company would be unable to provide absolute assurance in the way in which it is expressed there. Paragraph VI (b) states that

"in the case of the structural measures, owing to persistent weaknesses at Member State level in the systems for supervising and controlling the implementation of the EU budget, payments were still subject to the same errors occurring with the same frequency as in previous years."

That gets to the heart of the matter. The fact that, for 10 years in a row, the court has qualified or failed to sign off the accounts seems to have had no effect whatever. There has been no real improvement. Auditors will often make suggestions and indicate areas where there needs to be more effective control, and they would expect, a year later, to see at least some improvement. That is one of the most damning paragraphs; despite 10 years of not being able to sign off the accounts, the payments are

"still subject to the same errors occurring with the same frequency".

I should like to make one further observation on the report. It relates to paragraph VII, which states:

"The Court notes the progress made by the Commission as regards the reform of its internal control system and the positive impact of this reform on the legality and regularity of operations subject to direct management by the Commission. However, progress is still required in terms of actual implementation."

Progress has been made in one area, but there is a problem with implementation. That seems to indicate that although new regulations are introduced and new instructions given, implementation is not followed through. That is another part of the damning evidence.

I turn now to OLAF, which also produces a report. Its report indicates that the irregularities that it finds are not necessarily fraud but are the result of simple, non-criminal errors. In that context, I want to give an example of one of my constituents, a farmer who—I believe quite properly—indicated that after the re-measurement of his fields some of his subsidy claims needed to be revisited. He reported that his fields were slightly different, and had carried different crops over the past four years, and in doing so he was made to feel an absolute criminal. He was then asked to return all the subsidy that he had received and told that he would be subject to a penalty, notwithstanding the fact that some of the changes would have resulted in credits and others in debits: in some cases he would have received too much, but in others too little. He thought that, having reported the matter, he would receive fair treatment—that a balance of the credits and debits over the four-year period would be calculated, and that if a payment was due he would pay it, and if not, a payment would be made to him. But he was told absolutely categorically that that could not be the case; he would have to pay back all the subsidy that he had received and a penalty would be imposed. He felt pretty bruised by the whole exercise.

That case would probably go down as fraud, but it was not a fraud. My constituent reported the matter and the difficulties were explained. He was extremely harshly treated. I do not know whether that was the result of an attempt to crack down on fraud, but obtaining money in such a way is not always fraudulent.

The main source of fraud undoubtedly seems to be farmers making fraudulent claims. Spot checks found that 25 per cent. of farm payments in Italy were in error or fraudulent, 23 per cent. in Greece, 21 per cent. in Spain, and 14 per cent. in France. Our error rate was said to be 6 per cent. That may be better than everybody else's, but it is still a problem. How many of those cases were actually fraud rather than honest mistakes I am not certain.

**Mr. Bacon:** When Marta Andreasen was appointed as the Commission's first budget execution director and accounting officer, there was some hope that those problems would be addressed and sorted out. Why did the Liberal Democrats support the sacking of Marta Andreasen?

**Mr. Breed:** The short answer is that I do not know. I was somewhat surprised myself. However, I have confidence enough in my own member at the Commission to know that it would not have been out of spite. There must have been significant reasons. I will find out and let the hon. Gentleman know.

The introduction of the integrated administration and control scheme in 2003 has had a significant effect in beginning to check some of the irregularities that were seen in the past. As that rolls out year on year it is beginning to have an effect. Some other reforms, although they have been painfully slow, are also beginning to be implemented. They include satellite imagery of farms to determine their size and to allow proper checking. We are not alone in raising the issue; budgetary matters are raised in other European countries in similar settings but that has only a minimal effect where it makes a difference.

I want to finish with the issue of zero tolerance. It is a good adage to say that we want zero tolerance of fraud, and I would agree with that, but I wonder whether we are prepared to face the underlying costs of implementing the systems that would achieve that. I recall from my banking days that the costs of trying to drive out some of the problems were sometimes 10 times what was being lost. There is a balance to be struck. We are nowhere near it at the present time, but if we want to pursue zero tolerance on all budgetary expenditure to drive out every single euro of fraud, the costs involved would be enormous. We need to take that into account before we go down that road.

10.39 am

**Mr. Richard Spring** (West Suffolk) (Con): First, I warmly congratulate my hon. Friend the Member for Gainsborough (Mr. Leigh), the distinguished Chairman of the Select Committee on Public Accounts, on securing this debate and on his contribution, based on his considerable knowledge and expertise. What he said about the principle of zero tolerance is absolutely right. Nothing alienates people from the European Union more than the thought that taxpayers' money is being squandered in a irresponsible and unmeasured way. I thank him for what he has done this morning.

I absolutely accept that the European Commission is not inherently corrupt. However, it is bureaucratic, inefficient and vulnerable to fraud, and that vulnerability has been exploited. My hon. Friends the Members for Stone (Mr. Cash) and for South Norfolk (Mr. Bacon) and the hon. Member for Glasgow, Pollok (Mr. Davidson) made this point tellingly this morning. The Government are to assume the presidency of the European Union. We have the NAO and other close mechanisms for inspecting any type of financial irregularity in this country. If the Government have, as they say, influence in the EU, it is fundamental that they seek to address the problem in the next year, because the situation has not improved to the satisfaction of people who consider these matters and feel depressed by them, as I do.

I pay particular tribute to my right hon. Friend the Member for Wells (Mr. Heathcoat-Amory). I have looked again at his contribution on systems of management during the proceedings of the Convention on the Future of Europe. It is a telling document and a telling analysis of what could and should be done in that context. I pay tribute to him for often being a lone voice on these matters. He has been right in so many instances, and we are seeing that again this morning on immigration and asylum.

The first step must be to acknowledge the extent of the problem. The European Commissioner for Institutional Relations and Communication Strategy, Mrs. Wallström, has said that the Commission has the problem of being afraid of too much openness and has a way of thinking that is "in the walls here". That must change, because it certainly has not changed in any adequate sense of the word. As we have heard, there have been so many instances of fraud, including the EUROSTAT affair and the disgraceful situation involving Croatia and sugar cane. That cost the EU £700,000.

In its annual report in November, the EU's own OLAF said that the incidents of fraud in the aid budget increased by 9 per cent. to 637 over 12 months. The report stated that the international aid budget was dogged by "complex and well-organized" financial fraud. For instance, the EU funded a project to improve water supplies to 50 local authorities in Paraguay. An external audit found that 90 per cent. of the funds had disappeared into a foundation that had nothing whatever to do with the project. The report stated:

"Such fraud takes ... advantage of the lack of coordination in the monitoring and auditing activities between the various international donors".

OLAF's director-general has said:

"Of the problems we detect, more and more are in the aid sector, where things have to be looked into more closely."

He also says:

"All donors have systems of control, but we have to improve them".

I totally agree. After the terrible tsunami disaster and the terrible problems in Zimbabwe and other parts of Africa, international aid is very much at the forefront of people's minds.

*[Mr. Richard Spring]*

We have heard about Ms Andreasen, the European Commission's chief accountant, who was suspended by the Commission after exposing publicly how its accounts were wide open to fraud and abuse. I say with some pride that Conservative Members of the European Parliament helped Ms. Andreasen to make those shocking accounting practices public, thus fulfilling their public role. The European Court of Auditors has repeatedly confirmed many of her most serious allegations. I add in passing that a British accountant, Brian Gray, is seeking to carry on the work that she was originally put in place to do. We all wish him well in his role and in introducing some of the high standards that we have in this country. In any event, Ms. Andreasen got her reward in October by being sacked from her post.

Regrettably, in November, we yet again faced a farcical situation in which, for the 10th year running, the European Court of Auditors could not give a positive statement of assurance in respect of the overall EU accounts. It is simply unacceptable that the court found that 93.4 per cent. of spending was either unsafe or riddled with errors, up from 91 per cent. the year before. Indeed, the court said that once again there is

"no reasonable assurance that the supervisory systems and controls of significant areas of the budget are effectively implemented so as to manage the risks concerning the legality and regularity of the underlying operations".

That speaks volumes for the court's view of the accounts, and is what qualifying the accounts really means. Spot checks by the court found fraud or error leading to demands for repayment in 25 per cent. of farm aid to Italy, 23 per cent. for Greece, 21 per cent. for Spain and 14 per cent. for France. Given the huge burden of the common agricultural policy, the fact that fraud continues under the umbrella of agriculture is an absolute disgrace.

I understand that the usual defence is that the blame lies with the member states. A senior EU auditor said that the Brussels budget is high risk because most of it is doled out to member states, making it hard to track, but—this is the important point—he went on to say that Commission officials set a dreadful tone, behaving like:

"rats in a bag seeking to evade responsibility."

It is absolutely wrong that hard-working, tax-paying families have their taxes so blatantly misused in this way.

We welcome the fact that the Commission has a reform plan, but I doubt that will be enough. The full resource accounting system that we are implementing in Britain has not been replicated in the European Commission—aspects of it have, but not the full system. We need to deal with this problem seriously, and to encourage the European Parliament in its role as watchdog, because it should take itself even more seriously in that role.

I accept that the Commission has made limited progress in this direction. I am pleased that it has taken up our proposal to have a Commissioner with sole responsibility for budgetary control. Frankly, reform must go further. As the treaties say, the buck stops with the Commission. That is a simple fact.

All Commissioners should have a Cabinet member with specific responsibility for all management control issues. They must take full political responsibility for failings within their department. This is hugely important if public credibility is to be reasserted. Quite frankly, it is absolutely wrong that these reports have been signed off, given the circumstances.

OLAF should be fully independent, with its own staff, budget and organisational priorities, subject to a new management board. Member states must account adequately for all expenditure on EU programmes. The Court of Auditors should undertake programme audits for all member states, rather than just a sample of them, publishing a detailed assessment of each. That should be followed up so that progress can be measured in subsequent years.

Until voters can have confidence in EU accounting, Conservative MEPs will refuse to sign off the Commission's accounts, and so would a Conservative Government. The British people contribute to the EU, and they deserve value for money. They do not expect to have their money stolen. Openness, accountability and honesty from the EU should not be too much to ask. After almost eight years in power, the Government have not gripped the issue significantly.

There have been some practical suggestions this morning on how to take the matter forward. I look forward to the Minister's explanation of what the Government will do about such a serious state of affairs, which must be part of the reason that the credibility of the European Union has never been so low, not only in this country, but in many other parts of the European Union.

10.48 am

**The Financial Secretary to the Treasury (Mr. Stephen Timms):** I, too, congratulate the hon. Member for Gainsborough (Mr. Leigh) on securing this debate, and on a very thoughtful speech, which is characteristic of him as Chairman of the Public Accounts Committee. I was pleased that he acknowledged that there were signs of improvement, as did the hon. Member for West Suffolk (Mr. Spring), though perhaps more reluctantly. He said that those improvements were painfully slow, but, nevertheless, acknowledged signs of them. I felt that the contributions of the other Opposition Members were weakened because they said that there had not been any signs of improvement. I agree with the hon. Member for Gainsborough—I think there have been.

I want to be a little more generous than the hon. Gentleman towards the Commission with regard to what has been achieved in the recent past and, in particular, to endorse the fundamental reform initiated by Neil Kinnock when he had responsibility in this area, but I agree that the matter gives rise to serious concern. All Members who have spoken made the point that a great deal more still needs to be done.

My hon. Friend the Member for Glasgow, Pollok (Mr. Davidson) asked me for an assurance that the UK would not agree to proposals to increase the EU budget by 35 per cent. until the problem of fraud is solved. I can tell him that we will not agree to that proposal, period. Six member states, including the UK, have taken a firm view that the EU budget should be limited to 1 per cent. of member states' national incomes rather than the 1.26 per cent. that is implied by the proposal to which he referred. Our argument is that the current Commission proposal is unrealistic and unaffordable.

There are two important questions that we need to address in this discussion. First, how much fraud is there against the Community budget? Secondly, what is being done to reduce and prevent it? There is a good deal of uncertainty about the true extent of fraud, as has been rightly said in the debate. Most of the figures that are quoted relate not to fraud but to errors or irregularities, within which fraud is an element—although it is difficult to establish precisely how large an element that is. Member states are required to report all detected irregularities to OLAF, but they are not, under current legislation, required to identify actual or even suspected fraud. Some countries—for example, Germany—are not able in law to identify fraud cases until a conviction has been obtained. The UK has been working with OLAF and other member states to try to improve things. I am reassured that OLAF now has the staff and the expertise needed to identify the true extent of fraud. OLAF did not have those at the outset, and putting them in place took rather longer than we had hoped. That they are now in place is a welcome development.

The Commission's annual "Fight against Fraud" reports publish the amounts of irregularities reported each year by member states. The most recent report covered 2003, as we heard. The figures published there add up, as the hon. Gentleman said, to total irregularities of €921 million, and he fairly and rightly drew attention to the increase in that figure since 1999. I think it is also fair to draw the attention of the House to the decline in the 2003 figure of 20 per cent. from the previous year. That is one of the developments that I would emphasise as indicating that there are some signs of improvement.

That does not mean that there is any justification for complacency. The figures can go up and down from year to year. We cannot say yet that the figures are on a consistent downward trend, welcome though the reduction for the most recent year certainly is. Some cases take years to investigate. Total figures may not be included until investigation has been completed. There may be events contributing to an increase, such as the final closure of the 1994 to 1999 structural fund programmes, which required heavy auditing and, consequently, a higher detection of errors, contributing to the 2002 figure.

OLAF has estimated in the past that perhaps some 20 per cent. of the irregularities reported may turn out to be fraud. If that figure was right, taking the €921 million of reported irregularities, that would put the value on fraud at €185 million. If correct, although there are lots of caveats around that figure, that would be 0.2 per cent. of total Community budget expenditure. That is a significant sum, but not as large a share of the total as some that have been quoted in this debate. Although we cannot be sure of the true extent of fraud, we will continue to encourage OLAF to improve its analysis and encourage member states to identify suspected fraud when they report cases of irregularities. It is unacceptable that we cannot pinpoint the true extent of fraud; the sooner we can, the sooner we can expect to see a reduction in the regular critical headlines.

**Mr. Cash:** Given the seriousness of the situation, and despite the claims of slight improvement—I shall not dispute those, but I do say that it is only slight—why did the Government not take the opportunity to red-line the necessity of dealing with the question of procedures during the negotiations on the constitution? That would have ensured that we dealt with the matter properly.

**Mr. Timms:** I am pleased that the hon. Gentleman has acknowledged the possibility that there has been some improvement. It is important that the House should acknowledge improvement when that has occurred. There are very welcome assertions in the proposed constitution that address the issue; they provide reassurance and helpful underpinnings for the work that needs to be done in future. Perhaps I shall have the opportunity to come back to that in a moment.

The second important question is about what we are doing to reduce the incidence of fraud against the budget. The treaty—the new draft constitution—will make an important contribution.

**Mr. Heathcoat-Amory:** Will the Minister give way on that point?

**Mr. Timms:** No, I had better not. I have only three minutes, and I hope to get to the precise point on which the right hon. Gentleman wants to press me.

OLAF is the key player in the fight against fraud. The Commission and the Council worked with commendable speed to set it up in June 1999 after the European Court of Auditors' uncomplimentary report in 1998. What material difference has OLAF made in comparison with its predecessor? We start to get a partial picture by examining the helpful and informative annual activity reports, which tell us, for example, about the Croatian sugar cane case, rightly referred to in this debate.

The latest activity report shows a service that is getting to grips with its predecessor's legacy. It is particularly welcome that the backlog of old and very old cases has been mostly eliminated. OLAF has become more effective, particularly in the past 12 to 18 months, and the new directors for investigations and intelligence have helped to drive that improvement. As I have said, OLAF is now up to its full staff complement and has more than twice as many people as its predecessor UCLAF. The fact that it has achieved that is welcome.

**Mr. Bacon:** Will the Financial Secretary give way?

**Mr. Timms:** I have only two minutes. I know what the hon. Gentleman wants to press me on.

**Mr. Bacon:** No, you do not.

**Mr. Timms:** It is important that I make as much progress as I can through the points that I want to raise.

I welcome the fact that OLAF was able to identify that an agent employed by a Commission agency had wrongly claimed more than €20 million in allowances, and that the agency was able to recover that cash.

The EUROSTAT case was referred to, and work on that is ongoing. There is absolutely no doubt that serious mistakes were made, but the systems put in place as part of the reform programme unearthed those problems at EUROSTAT, and decisive action was taken. Under article 280 of the treaty on European

*[Mr. Timms]*

Union, the Commission and member states are required to take measures to counter fraud and any other illegal activities affecting the financial interests of the Community. That article also requires member states to take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud that affects their own interests—

**Mr. Deputy Speaker:** Order.

## Education Funding (North Somerset)

11 am

**Brian Cotter** (Weston-super-Mare) (LD): I am delighted to have the opportunity to debate education funding in North Somerset, and I am grateful that the Minister is attending.

Funding for education is a priority for us all. I am deeply concerned about the lack of such funding for North Somerset. The local education authority covers the constituencies of Weston-super-Mare and Woodspring. Funding for education in the area has consistently been below the national average, and education services there are beginning to suffer.

Concerned about current education funding levels in North Somerset, I asked the Secretary of State for Education and Skills about the average funding per pupil in England and in North Somerset. I was extremely concerned about the figures given in the ministerial response that I received. They showed that average funding for pupils in North Somerset had been consistently lower than the national average for a great number of years, and that the trend was set to continue. In 2004-05, pupils in North Somerset will receive £340 less on average than other pupils across England. That adds up to an £11 million shortfall this year in education for the region.

North Somerset has consistently ranked among the lowest-funded LEAs in England, and the provisional figure for 2004-05 shows that the trend is continuing. North Somerset is currently ranked 121st of the 150 LEAs in England and Wales for secondary school funding and 134th for primary school funding. The model that is used to calculate the funding needs of each LEA is fundamentally flawed. The relative affluence of the Woodspring constituency has been overvalued, and the significant social and financial deprivation in areas of Weston-super-Mare has been grossly undervalued. The funding model appears to bear little recognition of the difficulty and costs associated with addressing the needs of small groups in isolated areas. Rural poverty is not a consideration in the model. Those factors added together ensure that schools in Weston-super-Mare are not receiving a fair level of funding and are struggling to maintain standards.

Those levels of underfunding are certain to have an effect on local schools and education services. Teachers in Weston-super-Mare have worked extremely hard to produce excellent exam results, but cracks are beginning to appear in other areas. Presented with the figures for underfunding, I decided to conduct a survey among local head teachers to learn more about how poor funding levels were directly affecting local schools and education services. I questioned 37 head teachers about how underfunding had affected their schools and asked them to provide specific details of those effects. I circulated the survey to 37 LEA schools in my constituency, comprising five secondary schools, six infant schools, four junior schools and 22 primary schools.

Twenty-five head teachers responded to the survey, and the results were deeply concerning. Almost two thirds of those surveyed said that underfunding had affected their school. More than half said that it had affected resources and equipment, and a third said that

it had affected the appointment of teaching staff. Almost a quarter of those surveyed said that large class sizes were a problem in their schools. The general comments made by head-teachers were also alarming. One wrote:

"If I had known the extent of under-funding, I would not have applied for a headship in North Somerset."

Another wrote:

"Years of under-funding in North Somerset is now taking its toll on the quality of education on offer."

Those are just a few of the outcomes of the survey, but head teachers also identified many other significant problems caused by Government underfunding. They included the impossibility of implementing Government-set targets in certain areas. One example is teachers' planning, preparation and assessment time. As I am sure the Minister is aware, from September 2005, all schools must guarantee their teaching staff a minimum of 10 per cent. of their timetabled teaching time as PPA time. In order to guarantee that that time can be spent away from the classroom, head teachers must have support staff available to provide cover. However, the lack of funding means that local heads are unable to hire the staff that they need.

For example, Mr. Bruce Dale, head teacher of Mendip Green first school in my constituency, said:

"By the time you've paid the wages, there's little left with which to appoint auxiliary staff."

The cost to local schools of employing additional staff for PPA time will be £65,000 to £70,000—money that these schools simply do not have. It will therefore be impossible for most schools in North Somerset to meet this Government-set target, for which they could again be penalised with reduced funding. That is clearly unfair.

The environment in which pupils are taught has also been affected by underfunding, according to local head teachers. Indeed, 41 per cent. of head teachers surveyed said that underfunding had affected their school buildings and maintenance. Many such buildings have seen very little refurbishment since they were built, which for some schools goes back to the 1950s.

To put the problem into context, I shall use an example involving Mr. Ron Richards, the head teacher at Priory community school in my constituency. He had to organise a meeting with the school's business manager to check whether it was okay to replace a 27-year-old faulty central heating boiler. He said:

"I didn't have a choice about paying for it to be fixed, but it has already put our maintenance budget into the red. In this day and age, it's incredible we have to worry about minor, but necessary expenses such as this."

In such a situation, there should have been no question about the cost of the repair. It should simply have been done automatically. To put it quite simply, schools in Weston-super-Mare and the constituency as a whole should be better funded so that necessary expenses such as those incurred by that basic maintenance requirement can be dealt with immediately and do not create such a significant problem for the school's budget.

I must take a moment to credit the teachers in my constituency who have worked extremely hard to ensure that pupils in Weston receive the best possible education. However, in order to fund projects in schools and ensure a high level of education, head teachers are forced to look for increased funding wherever they can find it. Many are forced to apply for grants simply to top up their funding to national levels. Grants are all very well, but gaining them requires a lot of time and preparation, and there is not always certainty. Applying for grants is time consuming, but without them, the schools in my area would be unable to provide much-needed education services. Head teachers are therefore forced to spend their precious time completing grant applications one after the other, rather like beggars.

The education problems in Weston have previously been recognised by the Government. As I am sure the Minister is aware, in 1998, Weston became one of the first 25 education action zones to be established by the Government. That meant additional funding of £750,000 a year for three years, subsequently extended to five years. Following on from that, Weston was transformed into an excellence cluster on 1 September 2003. That means £650,000 of additional funding for schools across the zone and ensures that all the secondary schools receive leadership incentive grants.

I admit that those grants and that additional funding have enabled Weston schools to provide services that otherwise would have been impossible with the basic funding levels. For example, Worle community school has been able to run a learning support unit to provide extra support for pupils with special education needs. Since the establishment of that unit, no permanent exclusions have been made at the school. The head teacher, Trevor Bailey, believes that that is largely attributable to the unit.

Excellent work has been done as a result of the grants that have been received, but those grants and additional funding from the excellence cluster scheme will end in April 2006, and there are currently no Government plans to renew the funding. If basic funding levels remain as they are, several services in local schools will have to be scrapped. Local schools should not have to rely on those Government grants to provide much-needed services. The basic funding level should be sufficient to carry the provision of necessary services.

Head teachers in my constituency have expressed grave concern about the short termism of the Government's attitude. Special grants are a help in schools, but part of what they do is simply cover up for a short time the fundamental problems caused by the lack of basic funding. The only way to ensure the long-term future of education services and projects in local schools is to provide improved basic funding year on year.

Teachers in my constituency work extremely hard to try to ensure that the shortfall in education funding is not translated into a shortfall in local pupils' education and opportunities. They have taken on a great deal of additional responsibility and given up their own time for that purpose. Several teachers have brought to their schools resources and equipment such as paper and pens from their own homes to use in lessons as they know that funding is simply not available to provide enough of those resources in their schools. Bruce Dale of Mendip Green school, whom I have already mentioned, said:

"The lack of funding is ridiculous. It has meant buying everyday school items is fast becoming very difficult."

The increased pressure on teachers to maintain high standards in local schools is unacceptable and inevitably means problems with retaining local staff. Why work in

*[Brian Cotter]*

a school in North Somerset with low funding and increased stress when one can move to a different LEA for increased funding and decreased stress, do the same job and receive the same rate of pay?

I ask the Minister to take note of what I am saying today. We have a genuine problem. The consistently low levels of Government funding for North Somerset have caused cracks to appear in the education system in my constituency. Despite the continued hard work of local head teachers and their staff, it is inevitable that, without the necessary funds, they will not be able to prevent the growing problems. Head teachers are battling to climb a descending escalator, and as they have admitted in the survey, in some areas they are beginning to lose the service that they have provided until now.

Pupils across the country deserve the same standard of education and the same opportunities, but the current funding levels are beginning to put pupils in my constituency at a distinct disadvantage. Many of these pupils already come from deprived areas and simply deserve a better deal. In the light of the increasing problems and the growing concerns of local head teachers, I ask the Minister to look again at the funding model and the levels of funding for North Somerset. I should also like him to meet me and head teachers so that we can discuss the way forward.

11.15 am

**The Parliamentary Under-Secretary of State for Education and Skills (Derek Twigg):** I congratulate the hon. Member for Weston-super-Mare (Brian Cotter) on securing this debate, and I note his concerns about education funding in North Somerset.

I would like to start by talking about the performance of schools in North Somerset. When we speak about education in the House, it is important to recognise the outstanding work that is carried out in our schools. I am pleased that figures published in April 2004 show that there are now 3,900 more teachers in schools in the south-west than in 1997 and 500 more teachers in the region than in 2003. The "School Workforce in England" statistical release shows that in the south-west full-time equivalent teacher numbers have increased from 36,300 in 1997 to 40,200 in 2004. The number of support staff has increased from 13,100 in 1997 to 23,200 in 2004. In North Somerset, regular teacher numbers have increased from 1,360 in January 1999 to 1,500 in January 2004—a 10 per cent. increase. Over the same period, the number of school support staff working in the county has risen by almost 50 per cent., from 490 to 730. The teacher vacancy rate in January 2004 was 0.4 per cent.; there were five vacancies.

I want to put on the record my gratitude for the work of the teachers and pupils in North Somerset who have been responsible for significant improvements in the quality of education in the county. For example, the percentage of pupils leaving primary schools in North Somerset who are doing well in English has risen from 70 per cent. in 1998 to 79 per cent. in 2004. In maths, the figure has risen from 64 per cent. to 77 per cent, and in science it has risen from 78 per cent. to 89 per cent. I am sure that hon. Members will agree that that represents outstanding work in primary schools.

Looking at the transition into secondary education, there is equally impressive evidence of what is happening in North Somerset at key stage 3. Some 75 per cent. of pupils achieved level 5 and above in 2004, compared with 72 per cent. in 1998; in mathematics 78 per cent. achieved that level, compared with 65 per cent. previously; and in science 73 per cent. did so compared with 61 per cent. I am pleased that the number of pupils achieving the important five A to C grades in their GCSEs has continued to increase steadily, moving from 50.9 per cent in 1998, compared with the national average of 46.3 per cent., to 54.9 per cent. in 2004, compared with 53.7 per cent. nationally.

On funding, it is worth reflecting on the increases in funding that North Somerset has received since this Government came to power. We estimate that, between 1997–98 and 2004–05, North Somerset's total funding per pupil has increased in real terms from £2,690 to £3,520—an increase of £830. Capital investment has also greatly increased. In 1997–98, capital funding in North Somerset was £4.3 million. Its 2004–05 allocation is £27.1 million, while for 2005–06, the allocation so far is £17.9 million.

Looking ahead to the national picture, recurrent funding for schools will increase by about £2 billion in 2005–06. As the hon. Gentleman will know, last July, my hon. Friend the Minister for the Cabinet Office announced school funding arrangements for 2005–06. Further details were announced as part of the provisional local government finance settlement early in December. The settlement builds on the package of funding measures introduced in 2004–05 in response to the funding difficulties of the previous year.

The settlement for 2005–06 promotes continued stability and certainty in school funding. For 2005–06, all secondary and special schools will have an increase in their budgets of at least 4 per cent. per pupil where pupil numbers stay the same. The guarantee for primary and nursery schools is higher, at 5 per cent. per pupil, which recognises that those schools need extra support to implement the final phase of the work force reforms from September 2005, as the hon. Gentleman mentioned.

We have also ensured that every LEA has the resources, headroom and flexibility to deliver the guarantee and provide support to help schools facing additional pressures. Next year, all LEAs will receive an increase in their school formula spending share of at least 5.5 per cent. per pupil. North Somerset's increase is significantly higher, at 7.2 per cent. per pupil, and follows its above average increase of 6.5 per cent. per pupil in 2004–05. Also, standards fund support, school standards grant and Learning and Skills Council funding for sixth forms will all increase by 4 per cent. for 2005–06. Of course, we expect LEAs to play their part in ensuring that funding reaches schools. We expect them to assess and support the needs of every school and to ensure that resources, on top of the minimum guarantee, are targeted effectively to deliver the highest possible standards.

The point has been made that North Somerset receives lower funding than many other authorities. Although North Somerset has, like other authorities, benefited from the significant increases in funding that the Government have committed to education, the funding on a per pupil basis is below the national

average. Indeed, I understand that the hon. Gentleman tabled a parliamentary question last September about the level of funding per pupil.

I have checked with my officials, and we have not received any representations in the past year from the LEA about any serious concerns regarding underfunding in schools. I take the point about seeking a meeting, and I shall certainly see whether we can arrange a date and time. I shall come back to the hon. Gentleman on that, but I stress that we have so far received no representations from his LEA saying that there are specific problems in schools in his constituency.

**Brian Cotter:** I thank the Minister for those remarks. Did I understand correctly that he would be prepared to have a meeting with me, head teachers and others?

**Derek Twigg:** I shall go away and see whether that can be arranged.

The Government aim to give all pupils an equal opportunity in life. Pupils from more deprived backgrounds have additional learning needs and require additional help to access that equal opportunity. That is why the funding formula takes into account the level of deprivation in each authority and gives additional funding accordingly. Schools serving deprived communities face significant challenges in handling and educating pupils and therefore need additional support. Even with the extra funding, attainment is still much lower in deprived areas.

North Somerset is less deprived than many other authorities. It has well below the average proportion of pupils from families receiving income support—the most heavily weighted deprivation factor—and below the average proportion from families receiving the working families tax credit. Compared with the national average, North Somerset also has significantly fewer primary pupils with English as a second language and secondary pupils from low-achieving ethnic minority groups.

The funding formula gives additional resources to sparsely populated areas such as North Somerset to help pay for transport costs and the higher costs of maintaining a large number of small schools. The authorities in such areas face higher costs in delivering the same service. The formula also gives additional resources to high-cost areas to reflect the higher cost of recruiting and retaining staff. North Somerset receives some extra funding through the area cost adjustment to reflect those costs. It is for the LEA to ensure through its local funding formula that additional funding for additional needs reaches the schools that need it.

Although North Somerset is one of the least deprived authorities, I appreciate that there are some deprived areas in Weston-super-Mare. I am therefore pleased with the progress being made by the Weston education action zone, which has successfully evolved into an excellence cluster and is embedded within the wider local authority approach to school partnerships. It is one of two large groupings of schools through which the LEA and its partners are increasingly moving towards local and community provision of education and other services, including the change for children programme.

Excellence clusters are designed to bring the benefits of excellence in cities to small pockets of deprivation. As part of that programme, the Weston excellence cluster will receive an allocation of at least £650,000. The Government are also currently piloting two federations.

**Brian Cotter:** As I said earlier, the excellence cluster scheme has been very handy, but will the Minister consider the fact that the funding will come to an end in April 2006, even if he cannot comment on that this morning? I appreciate his acceptance that there is a particular problem in the Weston-super-Mare constituency. The Woodspring constituency is much more affluent. I am particularly concerned about Weston, as the MP, and I wanted to emphasise to him—I believe that he acknowledged this concern—and to officials that the Woodspring aspect affects the weighting for Weston. I welcome the comments that he made, but I am also concerned about the ending of the funding in 2006.

**Derek Twigg:** I recognise that the hon. Gentleman makes a strong point about his constituency. I shall turn shortly to funding issues, which I will take further.

The Government are currently funding two pilot federations in North Somerset. Federation is one way for small schools to make their resources go further, by collaborating with other schools under joint governance arrangements. Through federations, they can deliver the curriculum through collaborative approaches that enable sharing of facilities, staff and expertise. For example, federations offer scope for shared heads, administrative and support staff, and information and communications technology.

As I said, one of these federations is the Weston education partnership, which consists of four mainstream secondary schools, two special schools and a college, which will receive £600,000 over three years, from 2003–04 to 2005–06. The federation aims to overcome a culture of poor educational achievement in the town and to improve the number of people progressing to further and higher education.

I expect that the hon. Gentleman is aware of my right hon. Friend the Secretary of State's announcement of 8 July 2004 about the funding changes we propose for the longer term set out in the Department's five-year strategy for children and learners. The strategy includes a dedicated schools budget and three-year budgets for schools aligned to the school year, which will give schools financial security and freedom in their forward planning so that they can concentrate on their key role of school improvement, teaching and learning.

We will shortly consult on the education funding proposals set out in the five-year strategy. The proposals are not, however, about an arbitrary change in variations in funding per pupil between various authorities. LEAs will continue to be funded under the formula on the basis of relative need. Our top priority in making any funding changes in 2006–07 is continued stability and predictability for schools in their funding. The consultation document will set out our proposals on how funding might be distributed between LEAs from 2006–07.

Turning to the work force agreement, which the hon. Gentleman mentioned, perhaps I can add a word about school work force remodelling. That reform is all about

freeing teachers to spend more of their time on their core responsibilities. Their core responsibility is, of course, classroom teaching, but there are also the key professional activities that support teaching, such as time for planning, preparation and assessment. We have always been clear that work force reform should largely be funded from better use of existing resources.

Schools will be able to implement the national agreement only by moving towards new ways of working. The more radical schools are realising that grasping the remodelling agenda can mean better outcomes for teachers and pupils and lower costs. Schools that abandon unnecessary tasks, redeploying support staff to ensure that the use of their time and expertise is maximised will get the best from existing ICT infrastructure and reduce reliance on expensive supply teachers, and will find that the reforms are achievable.

The hon. Gentleman may be aware that the national remodelling team is working closely with LEAs and other partners to help schools implement the changes in support of the agreement. The team is working with a network of LEA remodelling advisers who are available to school leaders and can give them help and advice on remodelling the school work force and managing important change.

The funding that local authorities receive per pupil reflects their relative need compared with that of other authorities. Any changes that we make in future will continue to reflect that. In setting the guaranteed increases in 2004–05 and 2005–06, we are allowing for additional costs on which authorities and schools are already spending. That is because we are aiming at stability rather than at changing the pattern of spend. Our priority remains stability and certainty in school funding.

11.29 am

*Sitting suspended until Two o'clock.*

[*Derek Twigg*]

## NICE Infertility Guidelines

2 pm

**Mr. Kevin Barron** (Rother Valley) (Lab): Through you, Mr. Deputy Speaker, I thank the Speaker for selecting this topic for debate this afternoon. Although there are not many Members present in the Chamber, the issue is one that concerns Members of both Houses. I shall put the debate in context by discussing what brought about the referral to the National Institute for Clinical Excellence and its guidelines as well as the work of the all-party group on infertility, of which I am chairman and of which some Opposition members are present.

I am sure that it is clear to many people in this House and outside that one in seven couples in the United Kingdom will experience problems conceiving at some point in their reproductive life. For about two thirds of them, the only way in which they will successfully conceive is through treatment consisting of either the use of ovulatory stimulatory drugs or techniques such as in vitro fertilisation—commonly known as IVF.

Unfortunately, although the World Health Organisation recognises infertility as a public health problem, the condition has not received public funding to allow those with fertility problems to receive treatment on the national health service as patients with other health problems do. As a result, about 80 per cent. of couples have to resort to paying for their own treatment, the cost of which can run to tens of thousands of pounds. Even in areas where funding is available, couples can be on a waiting list for years and might exceed the age limit before they receive treatment. I suspect from the evidence that I have received from my local primary care trust that in years to come there will be a increase in the age of people on the NHS waiting list, who cannot afford the option of turning to the private sector for treatment. Many people are forced into the private sector for treatment because of non-availability of the treatment on the NHS, although I accept that the Government are trying to make the system fairer than it was 12 months ago; I shall come on to the detail of that later.

The all-party group on infertility works closely with the National Infertility Awareness Campaign, which is an umbrella body formed in 1993 as a development of national fertility week. It was established with the support, which it continues to enjoy, of all the major infertility charities, patient support groups, most members of the medical profession dealing with the subject, and the pharmaceutical industry. I am not sure whether I should declare the fact that I also chair the all-party pharmaceutical industry group, although I have no pecuniary interest in that respect.

Most of us are generally dissatisfied with the level of infertility treatment that our constituents receive. I have been an MP for more than 20 years, and I have encountered about six cases in which I have sat with a couple who could not afford to go to the private sector as others can. I have shared both their disappointment with what was not happening in the national health service, and their disappointment as a result of wanting a family but, unlike many of us, being unable to have one without difficulty.

In November 2000, following pressure from NIAC, other stakeholders and, I suspect, from MPs, the Government asked NICE to produce clinical guidance

on the treatment and management of infertility. The Secretary of State for Health at that time, my right hon. Friend the Member for Darlington (Mr. Milburn), made it plain in a Department of Health press release at that time that his aim was to ensure that

"infertile couples get fairer, faster access to clinically, cost-effective and appropriate treatments."

In May 2003, NIAC approached supportive parliamentarians for their assistance in setting up an all-party group on infertility, both to raise awareness in Parliament of infertility issues and to maintain pressure on the Government to drive forward implementation of the guideline. As I recall, the guidance was at that time in draft form but had been leaked to the press. Some extraordinary claims were made in the press—for example, that the guidance would cost up to £400 million—and some cancer charities were dragged into the debate, saying a choice would have to be made between infertility treatment or dealing with cancer. I thought that was a misguided debate and do not know how it reached the press, but as a consequence of that initial debate, the all-party group was formed.

At first, we put together a report with a group of experts working in the field of infertility in both the public and the private sectors. The report outlined the structures needed to meet the NICE recommendations in full and was timed to coincide with the guideline's publication. Exactly what NICE was likely to recommend in its final report was no secret after the first leak of the draft, and we and the specialist group concentrated on that. In particular, the report recommended ways to achieve cost savings in the investigation and treatment of infertility by streamlining procedures, avoiding the duplication of tests and treatment and reducing the numbers of embryos transferred.

The report also discussed concerns surrounding the commissioning of infertility services and the problems associated with that following the move towards specialised commissioning by primary care trust consortiums. The aim was to demonstrate to PCTs how the guideline recommendations could be met in the most cost-effective way—that refers to what the then Secretary of State said back in 2000. Copies were sent to all PCTs as well as to the Department of Health—my hon. Friend the Minister for Public Health will have received one—and since then the group has continued to raise awareness in Parliament of the plight of infertile couples and the need for speedy and full implementation of the guidance.

It might be useful to say what the key recommendations in the guidance were. They were, first, that all women should be screened for chlamydia before they undergo procedures to check whether their fallopian tubes are blocked; secondly, that women who have no history of problems with their fallopian tubes should be offered an X-ray to see if their tubes are blocked, rather than an invasive procedure; thirdly, that couples with unexplained infertility problems, slightly abnormal sperm count or mild endometriosis should be offered six cycles of intra-uterine insemination; and fourthly that couples where the woman is aged between 29 and 39 who have an identified cause of their fertility problems or unexplained fertility of at least three years' standing should be offered three cycles of stimulated IVF. Our report certainly looked at far more than just IVF, but I suppose that IVF took the lion's share of the debate because of its costs and the pressures on the health service to supply it. We might have been remiss in not looking at the guidance as a whole, because the focus is on IVF treatment issues and the deadline of April this year. However, there is a lot more in the guidance that I would have liked the NHS to address, but up to now, according to my information, it has not done so.

**Mr. Andrew Lansley** (South Cambridgeshire) (Con): I entirely endorse the right hon. Gentleman's remarks. However, does he agree that one reason that we have focused on the number of IVF cycles is because in some areas—my own constituency, for example—the policy prior to the NICE guidelines was essentially for there to be investigation of impaired fertility, but not to the point of going on to support assisted conception through the NHS? Very often, from the patient's point of view, they have been supported by the NHS up until, but not through, the assisted conception that would help them to give birth.

**Mr. Barron:** The hon. Gentleman is correct. Everybody knows that there were large areas of England and Wales where IVF was never offered—probably the only thing that was not. He makes a fair point: it is likely that people would have concentrated on IVF because, in some parts of the country, that was the piece of the jigsaw that was missing.

The guidelines that I have read out were published by NICE and form its key recommendations. I think that, to some extent, we took our eye off the key recommendations by concentrating on IVF. When the guidelines were published, the Secretary of State for Health, my right hon. Friend the Member for Hamilton, North and Bellshill (Dr. Reid), responded by announcing that

"As a first step, by April next year I want all PCTs, including those who at present provide no IVF treatment, to offer at least one full cycle of treatment to all those eligible."

Moreover, he added, the NHS was to

"give local priority to couples who do not have any children living with them."

This was in the Department of Health press release of 25 February of that year.

My right hon. Friend's final comment seemed to be the only criterion that either the Government or NICE were saying was to be used. I always found that point strange. In my own constituency for many years, having a child living with them was one of the hurdles that the local health authority, as was, raised against people having IVF treatment. The child or children in question, however, might have been one of the partner's from a previous marriage or relationship. It was effectively a denial of a person's right to become a mother or a father through that technique. I do not want to use up today's debate on criteria, however, because we could go on for many hours about how criteria have had different impacts in areas throughout the United Kingdom.

**Mr. Lansley:** Although the hon. Gentleman said that that was one of the criteria that were related to the NICE guidelines, social criteria as such were outside the scope

*[Mr. Lansley]*

of the NICE guidelines. The only real guidelines in that respect were, for example, the clinical characteristics or the age of the woman, but not that social criterion.

**Mr. Barron:** That is correct. The Secretary of State is not with us, and the Minister for Public Health probably will not know the answer to this question, but it would be interesting to ask why that criterion was put in the Department of Health press release at that time. There were many others that could have been in there that would operate locally as well.

Although NIAC and the all-party group welcomed the Secretary of State's announcement as a starting point for full implementation, there was a degree of disappointment about the lack of any clear time frame for the remaining two IVF cycles to be put into place. As is now well-known, one cycle offers approximately a 25 per cent. chance of conceiving, compared with a 70 per cent. chance of success over the recommended three cycles. Waiting lists tend to consist of women who are getting near to the age cut-off, and my local PCT is saying that it will treat women who were under 40 when they started treatment until they are 42 years old, and then the cycles will be over. That is very important.

On 25 February, the same day that the announcement was made, I actually rose at Prime Minister's Question Time and asked him directly when he expected full implementation of the guidelines. He responded to me, saying that he hoped that

"over the next couple of years we shall see at least very substantial progress towards implementation of the full NICE guidelines".—[*Official Report*, 25 February 2004; Vol. 418, c. 278.]

Of course, "the next couple of years" is substantial progress from the Secretary of State's less forthcoming

"In the longer term I would expect the NHS to make progress towards full implementation".

That was also in the Secretary of State's press release of 25 February. That phrase, "in the longer term", was reiterated last year by my hon. Friend the Minister for Public Health when she addressed the June 2004 national infertility day conference.

It has been nearly a year since the NICE guidelines were published, and the PCTs should have the necessary structures in place by now to meet the April deadline for providing at least one full cycle of IVF to all eligible couples. I alluded earlier to the fact that I have kept in touch with what is happening in my locality, primarily through the good offices of Dr. John Radford at the Rotherham primary care trust, whom I have known for many years and who is leading on commissioning for a group of PCTs. Last week I received a draft paper that sets out the criteria for access to NHS-funded specialist fertility services for patients who are the responsibility of 13 primary care trusts. I am sure that this time last year I would have been very happy that people were looking at commissioning infertility services in that way, particularly in areas where there was no cover for issues such as IVF, as the hon. Member for South Cambridgeshire (Mr. Lansley) said earlier.

The 13 PCTs in question cover the North Derbyshire, South Yorkshire and Bassetlaw commissioning consortium—Bassetlaw being north Nottinghamshire from a geographical perspective. The consortium is known as NORCOM. Two of the PCTs cover my constituents in Rotherham. The paper sets out the draft minimum entitlement across the consortium to NHS in vitro fertilisation, intracytoplasmic sperm injection and intra-uterine insemination. There are currently significant differences between the NORCOM PCTs in respect of existing specialist fertility treatment policies, and phased introduction will be required to bring them all to one common policy. It is envisaged that each PCT will adopt at least the minimum eligibility criteria, and it is not intended that any of them will adopt a more restrictive policy than their current one. The present policy in Rotherham is to offer two cycles, so I am glad the consortium has addressed that issue. I have had anecdotal evidence, which I will not use in this debate, that there has been a reduction in the IVF treatment on offer. I would be interested to know if my hon. Friend the Minister has any evidence of that.

The NORCOM document continues:

"Initial investigation of patients is usually carried out by a network of specialist gynaecologists at District General Hospitals throughout the NORCOM area".

The report published by the all-party group on the day that the guidelines were published considered whether specialist centres were needed. I understand they operate in Scotland. I would be interested, if my hon. Friend has time today, to hear whether she thinks we should consider that option. The document continues:

"In any healthcare system there are limits set on what is available and on what people can expect. Primary Care Trusts are required to achieve financial balance; they have a complex task in balancing this with individuals' rights to health care. It is the purpose of the criteria set out here to make the limits on fertility treatment fair, clear and explicit. Nationally this is undertaken through the work of the National Institute for Clinical Excellence and this paper reflects this. The paper should be read in conjunction with the NICE Fertility Guidance.

"The NICE Guidance places NHS assisted fertility services firmly in the mainstream of NHS provision".

I think everyone, no matter where we are at this stage, should be pleased about that. I certainly am. The paper then states:

"Patients as a result will expect the NHS to provide this. This document includes recommendations for the first part of the phased introduction of the Guidance. Further phases of the implementation will be defined in the light of future Department of Health requirements and the prioritisation and availability of resources".

It goes on to list a series of criteria the that will be used in that commissioning area. What is interesting about the "mainstream" comment is that from now on, I assume, the PCTs in my area will be looking to central Government for direct guidance about what they should do next, and when they should do it. One issue has been dealt with, because it was centrally driven, so PCTs will expect direction from the centre on what should happen next and when.

In her speech to the national infertility day conference last year, the Minister said that the April deadline was "a starting point" to support PCTs in meeting the first stage of implementation and the subsequent implementation of the guidelines in full. The Department of Health agreed a broad programme of action last June, and last year the Minister answered

parliamentary questions that I and other hon. Members tabled on this issue. Part of the programme was that the Government would

"look to strategic health authorities (SHAs) to work with PCTs to ensure that they have effective arrangements in place for the provision of services, to investigate the barriers to implementation of NICE guidelines and to help ensure that the barriers can be overcome."—[*Official Report*, 4 October 2004; Vol. 424, c. 1978W.]

The programme also included advice from NICE on the development of resource templates to enable PCTs to estimate the resources needed.

The Minister will realise that a number of key questions remain about PCTs' progress toward meeting the April deadline. In part, that is what this debate is about. Are PCTs being monitored, are strategic health authorities playing their part and are they and NICE providing assistance? Does NICE have a further role to play? NIAC and the all-party group are keen to learn what support the Government are providing to PCTs, given that no additional funding has been provided either to meet the April deadline or to assist with the implementation of the guideline in full. What will be the repercussions for PCTs that fail to meet the guidelines? That question is relevant at this stage in the countdown to April.

The next issue is the old chestnut of NHS waiting lists. Will there be action by the NHS centrally to measure and, we hope, reduce waiting lists for couples needing infertility treatment? Now that the Government have gone so far as to ask for the delivery of one IVF treatment cycle by this April as part of the start of implementation of the guidelines, we could not accept people having to be on waiting lists for months, if not years, to get that first IVF intervention. I would be grateful if the Minister had any comments on that.

It must not be forgotten that even if PCTs meet the deadline to provide at least one full cycle of IVF, there will still be postcode provision of infertility services in the United Kingdom. People in Scotland can access up to three cycles: I am led to believe that in the constituency of the Secretary of State for Health, for example, couples have been entitled to three cycles for a number of years. That is unlike the position in my area, although the position there is a vast improvement on that in some areas of England and Wales, in which there has been no offer of IVF treatment under any criteria for many years past.

Access to infertility treatment on the NHS is well known to be patchy—indeed, treatment by postcode remains an intolerable feature of the NHS. We called for the debate to stress to the Government the need for full implementation of the guideline to ensure that couples have access to the most effective treatment, regardless of where they live. Fair and equal access for all those with an established need is the only way to tackle the unacceptable postcode lottery of treatment.

It is crucial that the NICE recommendations are implemented as fully and as quickly as possible throughout the country to ensure fair and equal access for all. As the Secretary of State said last year, we cannot expect all areas, particularly those that have never offered any IVF treatment, to achieve that overnight. I think that we all accept that. However, 12 months have elapsed since publication of the NICE guideline. I hope that, by now, we are in a position to have an idea whether the 5 April deadline for the single IVF treatment cycle will be met and—given that we are now looking at implementing the second phase—an idea of the timetable for the second and third IVF intervention if other fertility services have failed the couples involved.

2.25 pm

**Mr. Paul Burstow** (Sutton and Cheam) (LD): I congratulate the right hon. Member for Rother Valley (Mr. Barron) on securing the debate. I share his disappointment that others cannot be present to take part in it, but I pay tribute to him for his work as chair of the all-party group on infertility and for giving us the opportunity to explore how far the Secretary of State's undertakings in respect of the NICE guidance have been implemented.

I would like clarification of the two phrases that were used by the Secretary of State and the Prime Minister: what is the difference between long term and substantial progress in the next couple of years? The debate should be about getting some idea of the timelines involved. The right hon. Gentleman posed some important questions that I want to take up; I also have a few questions of my own for the Minister.

The issue is charged with emotion; it is about the fundamental desire that very many of us have to have children. Infertility frustrates that desire, which is further frustrated if a person does not have the financial means necessary for private sector provision and as a result has to go on an NHS waiting list. Prior to the NICE guidelines, about 70 to 80 per cent. of couples paid for private treatment. It is not long since the NICE guidelines were published and the Secretary of State expressed the desire that at least one cycle of IVF be available to couples in each PCT area. Can the Minister say how much she expects that to change? Will there be a reduction in the number of couples who will need to pay privately to have the treatment as a result of the guidance being implemented?

The right hon. Gentleman has already given some of the figures but it is worth repeating one or two of them: approximately one in seven couples in the UK need help in conceiving a child and rely on treatment, either ovarian stimulatory drugs or IVF. Figures available up to 2001, supplied to my hon. Friend the Member for Shrewsbury and Atcham (Mr. Marsden) in June last year, suggested that 28,076 patients had received IVF in that year, which was an improvement on 1997, and that 2,718 had received donor insemination in the UK, which was down from 1997. It puzzles me that more up-to-date figures than those for 2001 are not available. I hope that the Minister can shed further light on the matter and update the figures, so that we can see what progress has been made.

The NICE recommendations have been described in detail by the right hon. Gentleman, who is absolutely right to draw attention to the fact that most press reporting of those guidelines and the Secretary of State's response to them tended to dwell more on the number of cycles of IVF than on other aspects of the guidance. It is right to reflect that the guidelines referred to a host of

*[Mr. Paul Burstow]*

other issues, not least that of screening, which is an important safeguard. At the time, the chief executive of NICE said:

"Implementation of our guidance will take time. We have therefore suggested to the Department of Health and Welsh Assembly Government that they consider giving advice to NHS organisations on how they should approach putting our recommendations into practice."

The debate is about the Secretary of State's advice and to what extent it should be just that; should it be about social considerations and how they affect the criteria formulated by the PCTs in framing their approach to implementing the NICE guidance? The Secretary of State said on 25 February:

"As a first step, by April next year I want all PCTs, including those who at present provide no IVF treatment, to offer at least one full cycle of treatment to all those eligible."

The Minister later emphasised that that is the starting point. However, it is not clear from anything that has been published or said to date what the subsequent steps will be. What is the timeline for getting us from where we are now, which is patchy provision of IVF and of NHS fertility services generally, to the ideal that the NICE guidelines set out? What progress has been made in achieving that first step?

**Mr. Lansley:** I rise to endorse the hon. Gentleman's argument. The NICE guidelines said that there should be implementation resource assessments and that a timeline should be established by PCTs. However, on what basis did the Secretary of State intervene to say that the assessments had to be conducted by means of focusing on delivering one cycle of IVF by April 2005, with no target date thereafter? Was there not a case for saying that progress should be made, but giving every PCT the obligation to set out by some point how it would implement the guidelines in full?

**Mr. Burstow:** I agree entirely. It would be wrong of PCTs to interpret the Secretary of State's comments in last year's press release as relieving them of their obligation to set out their plans for implementing the NICE guidelines. I hope that the Healthcare Commission will look carefully and critically at the extent to which PCTs have done that. It should also evaluate whether the April deadline in the arbitrary timetable set out by the Secretary of State is a sufficient response to the NICE guidelines.

I will go one step further and say that it would be useful if the Minister confirmed the status of the Secretary of State's statement. Does it have any formal force in terms of what PCTs should be doing? In particular, what is the status of his comment about giving

"local priority to couples who do not have any children living with them"?

Surely in an NHS where the balance of power is shifted to local providers to make decisions of that sort, the Secretary of State should not give that sort of instruction, or implied instruction, to the NHS.

There are a number of concerns about the Secretary of State's recommendations, some of which the right hon. Member for Rother Valley itemised. First, the NICE guidelines come with a price tag attached, but exactly how much will they cost to implement? No additional resources were provided to allow the services to be developed; it is therefore incumbent on the Government to set out how they will assist PCTs and how they expect PCTs to plan for the implementation—not what they should do, but the mechanisms that they might wish to follow.

As the right hon. Gentleman said, the anecdotal evidence seems to point to a timeline that runs at least six years into the future. It would be useful if the Minister said whether that is a realistic assessment of how long it will take to implement the NICE guidelines fully. In answer to the right hon. Gentleman's question, the Prime Minister said that it would be a couple of years before we saw substantial progress. Yet when one looks at the NHS figures between 1997 and 2001, one sees that although the number of women having access to a cycle of IVF increased, the average number of cycles per woman decreased, and some people are concerned that access to more than one cycle will decrease further. The PCTs that already offer access to more than one cycle will take the opportunity of following the Secretary of State's advice from last year to level down, rather than to maintain their service at its current level. It is therefore important to monitor the situation at local level to ensure that that does not happen. As the right hon. Gentleman said, there is a 25 per cent. success rate from one cycle, but that rises to 70 per cent. with three.

I believe that Lord Winston expressed some concerns about the policy of offering one cycle, describing it as "half-baked" due to the financial and emotional costs of investigating whether a couple is suitable for treatment. There is a huge emotional commitment to going down that road, yet after making that commitment couples could be told, "You've had your one chance," even if they are reaching the age where they will no longer be able to gain access to the treatment. Infertility treatment is a huge investment for a couple, which is more than just financial.

There is also concern about specialised commissioning—tertiary commissioning and tertiary fertility services—and to what extent the roll-out of such commissioning is occurring. There is concern that the still patchy nature across the country of PCTs engaging with specialised commissioning will again slow the process of implementing the NICE guidelines. I would welcome the Minister's comments on that matter.

Can the Minister say whether the Department has assessed the cost of implementing the NICE guidelines in full? I should be surprised and stunned if the Department had not made some assessment. Does the hon. Lady plan to share the Department's figures with us? I hope that she does. Is the figure of about £50 million, which was the assessment made by the all-party group, a realistic assessment of the true cost of full implementation throughout the country? What discussions have taken place with Scottish Ministers, who are already supporting a three-cycle policy in Scotland?

There are financial pressures in the NHS; we need only read the *Health Service Journal* from one week to the next to learn about those pressures and their consequences. At present, there is a £500 million deficit in the NHS, which I am sure will disappear magically by 31 March until 1 April of the following financial year.

However, there is a real financial problem that the PCTs must grapple with. They have to find the resources to achieve the targets that are set by Whitehall, and everything else for which there is no target becomes a lesser priority. The NICE infertility treatment guidelines might fall into the second category, and we doubt whether the necessary resources will be delivered.

As we have heard, the anecdotal evidence suggests that progress is patchy. There are concerns that having one IVF cycle as a first step will give a green light to some PCTs to reduce the number of cycles that they provide. I hope that the Minister can tell us today what the plan is beyond the first step, whether that plan is on course, and when it will deliver. Will it be in six years, or in a couple of years? There are thousands of people outside the House who want the answers to those questions because they matter to them and their lives.

2.39 pm

**Mr. Andrew Lansley** (South Cambridgeshire) (Con): I join the hon. Member for Sutton and Cheam (Mr. Burstow) in congratulating the right hon. Member for Rother Valley (Mr. Barron) on securing this debate. I also thank the right hon. Gentleman for the work that he has done as chair of the all-party group on infertility; as vice-chairman of that group, I have seen that work at close quarters and I know what a close and dedicated interest he has taken in the work of the group. He has also secured influence over the subject, which I hope is reflected in the context of the debate. I do not disagree with anything that has been said. However, I shall elaborate a little on some points and try to capture some of the questions that I am sure that the Minister is expecting to answer. I hope that there will be ample time for her to do that.

This debate is not the first occasion on which we have discussed infertility—indeed, the history of debates on the subject goes back further than the right hon. Gentleman took it. On 6 May 1998, the Minister's predecessor, the right hon. Member for Dulwich and West Norwood (Tessa Jowell), responded to an Adjournment debate in which I participated. Agreeing with the comments of my hon. Friend the Member for Meriden (Mrs. Spelman), I said

"there is a case for national guidelines"—[*Official Report*, 6 May 1998, Vol. 311, c. 662.]

The then Minister said that the Government's policy objective was to ensure national consistency. At that point, it was intended to achieve that through national service frameworks and the National Institute for Clinical Excellence; subsequently, it has been done through NICE guidelines. We are therefore more than six and a half years past the point when the Government signalled their intention of getting rid of the postcode lottery for infertility treatment.

As the right hon. Gentleman said, the then Secretary of State for Health asked NICE to undertake the preparation of guidelines in November 2000. What happened then is a classic illustration of one of the key policy issues. While NICE was preparing the guidelines, there should have been a sense of what the developing consensus was likely to be, because work did not start from a blank sheet of paper: eminent bodies had already been examining the issue. Between November 2000 and February 2004, primary care trusts and others working in the field should have made themselves aware of what capacity would be needed to supply the infertility treatments that were likely to be recommended as both clinically effective and cost effective. That is what should happen when NICE does its work in future, but there is little evidence that it happened in the present case until the NICE guidelines were published in February 2004. NICE activity was a reason for there to be, in effect, planning blight in the system: services were not being developed. Therefore, in November 2000 the policy of some PCTs, including in my area was to provide assisted conception only in exceptional cases.

That illustrates something that has always depressed me since back in 1998, which is that the NHS is investing time, quality effort and resources into the investigation of infertility, but only those patients who are able to afford assisted conception are able to have treatment. That was certainly the case in my constituency, and my constituents justifiably regarded it as deeply unfair that they were unable to access assisted conception when in other parts of the country they would have been able to do so. We are trying to get rid of that. We want to establish a degree of consistency and a good standard of service. There is a special irony in relation to my constituency: the Bourn Hall clinic is in South Cambridgeshire. It is where the IVF treatment was conducted that led to the birth of the first test-tube baby, Louise Brown, in 1978. Bourn Hall was at the forefront of the provision of those services. It was deeply frustrating that people who lived in the same area as Bourn Hall could not access its services unless they were able to pay for them.

I am keen to achieve consistent delivery of infertility services. From time to time there are debates about the relative priority of IVF and infertility services. I have had them with constituents and colleagues in the House, and PCTs and health authorities have debated where the priority lies. Should resources go to infertility as distinct from other pressing health needs? Such judgments are always invidious.

We are now reaching the point where it can be seen that the job of the NHS is not simply to deal with the problems of physical ill health, but to achieve, wherever possible, a sense of well-being in the community and to promote positive public health. We should not underestimate the psychological and social harm that can result for couples who desperately want to have children but who are unable to do so. Equally, we should not underestimate the social benefit and enormous good that can result from enabling such people to have the opportunity of parenthood; the children would be loved and wanted. As it would depress us to discuss them, I will not go into the circumstances of unwanted children, children who are unloved by parents and not looked after by them, and the number of pregnancy terminations.

If the NHS should, for the reasons I mentioned, provide infertility services, what does it make sense to do? The question of providing one cycle of IVF was touched on by the hon. Member for Sutton and Cheam. The point of the debate is that NICE examined what was not only clinically effective, but cost effective for the NHS to provide. The evidence, which I do not think is disputed, shows that to provide three cycles of IVF broadly speaking gives one, in each of those first three cycles, a good chance of conception. The figures

*[Mr. Andrew Lansley]*

vary but let us say it is a 20 to 25 per cent. chance. That number falls off dramatically after three cycles. Subsequent cycles are much less likely to have a positive result. The same is true of age. Beyond a certain age—35—the chances of conception diminish; the balance that the NICE guidelines struck was 39. The same would also be true for body mass index. There are clinical criteria, so we can avoid the NHS pushing resources into the provision of treatments that have much less chance of success.

Having said that, the object of NICE was to produce a sound evidence basis on which treatment could be provided across the NHS. I hope that NICE will have the opportunity to do much more such work. Its work should establish a standard that patients, their clinicians and GPs should be able to access and that the NHS knows it should be gearing up to provide.

The hon. Gentleman was kind enough to allow me to intervene during his remarks to highlight something that happened in February 2004. There ought to have been a straightforward process: even if PCTs had not prepared for the NICE guidelines, at least in the subsequent local delivery plans they should have set out a process, which, according to the NICE guidelines in paragraph 3.1 would have been straightforward. PCTs would look at the template and set up the kind of implementation process that is required; in a local delivery plan, they would show their timetable for delivery of the service. Such a process does not require them to do it tomorrow, nor does it set a rigid timetable, but it would have enabled every PCT to be accountable for how and when it will deliver the standard. I cannot see what purpose was served by the Secretary of State intervening to say, "Oh, by April 2005 you should have delivered one cycle of IVF," but not giving any indication of what would happen thereafter or to what timetable it should happen. Would it not have been better simply to have said, "We know what standard we are aiming for"?

I hope that it is not true that some PCTs are reducing the service that they provide simply in order to meet the aim of providing one cycle of IVF. That is not true in my area because we are, in a sense, gaining services from a very low base. I also hope that the situation does not mean that there will be primary care trusts that make no provision and establish no plans to go beyond April 2005 and meet the NICE standard. The object is to meet that standard and to know when that will happen.

It would be instructive if the Minister could tell us precisely what steps the Department, or the strategic health authorities on behalf of the Department, will take to ensure that PCTs show how they will meet the standard. It is not clear, for example, how the Healthcare Commission will do that. It is to inspect against core standards only. The performance rating that the Healthcare Commission will construct for primary care trusts will reflect those core standards, but we do not know whether it will embrace developmental standards in 2005–06, and to what extent this particular aspect of NICE guidelines will be included in that. None of that is set out yet, and it is not in the Healthcare Commission's consultation, which is too vague to enable us to establish whether there is any requirement on PCTs to show how they will meet the guideline. Clearly, that is an area that needs to be considered.

What we seek is an explanation of what the Secretary of State intended by his intervention in February 2004. We also want to know how the Department will achieve the delivery of services to the standard set out in the NICE guidelines, on which I hope we all agree. As I see it, there are two possible explanations why the Secretary of State referred to one cycle of IVF. The implication at the time was that it had to do with available capacity, not cost. Members of the all-party group had a number of discussions with those involved in the provision of infertility services; it seemed perfectly clear to me that although there are some capacity constraints, they are not such that they would require service provision to be restricted to one cycle of IVF. In many parts of the country, it would be perfectly possible to provide access to three cycles of IVF, and generally across the country we can scale up services to that level quite quickly. There is a passing difficulty associated with some of the smaller units, which might have been affected by the introduction of new European Union directives, which had implications for them, but they would reduce capacity only temporarily.

If the ability to access services is the problem, the Department can publish the evidence on which it based its judgment. If, however, the issue is not capacity, it must be cost. The hon. Gentleman asked about that. The all-party group looked into the costs and benefits associated with changes in infertility services, and we reached a conclusion that seemed balanced and reasonable to us. If the Department reached the same conclusion, it raises the question why one cycle of IVF was the constraint placed upon such services. In terms of expenditure and the reduction of cost to PCTs, that is much more drastic a constraint than would have resulted from dividing £50 million among 300 PCTs across the country. The sort of costs implied to PCTs were not so great.

The third point relating to the Secretary of State's intervention is where the additional social criterion came from. As the right hon. Member for Rother Valley said, it raises serious questions about the impact on couples if, for example, the children in the home are those of either partner's previous marriages or partnerships. It can therefore place mothers and fathers in a difficult situation in which they are deprived of their access to infertility services and their chance to be a father or mother by the application of a rather arbitrary criterion. Where did it come from and why was it necessary?

As everyone who has spoken in the debate has stressed, can the Minister say precisely how the Government envisage the timetable from now to the full implementation of the NICE guidelines? The review of the guidelines is probably due in about 2008. I hope that well before we reach that point, we will have had the chance to see how the standards are being met throughout the NHS and the benefits that are flowing from them, so that another review does not happen a few years down the line. We do not want to be here again debating why people are subject to a postcode lottery and, in particular, why expensive resources in the NHS are being used to support investigations and why only those who can afford it subsequently receive treatment.

I cannot tell hon. Members the number of times that I have been castigated by the Government, whose inaccurate view is that my party is somehow not

concerned about access to services being based on need, rather than ability to pay. We believe in NHS services that are based on need. We are discussing an NHS service that is intended to be provided but which, at the moment for many people, is available only if they have the ability to pay. We know what service the NHS ought to provide. I hope that that will be achieved and that the Minister will tell us how and when.

2.57 pm

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):** It is with great pleasure that I rise to respond to my right hon. Friend the Member for Rother Valley (Mr. Barron) and to congratulate him on securing the debate. I recognise the work that he and the hon. Member for South Cambridgeshire (Mr. Lansley) have done with the all-party group and the progress that it has made.

In July 2001, we took the first step towards removing an historical postcode lottery, to which reference has been made by several hon. Members, by commissioning NICE to produce clinical guidelines. That was on the back of the establishment of NICE in 1999, which the hon. Member for South Cambridgeshire said had, at one time, caused planning blight as new developments were made. However, NICE has speeded up its work considerably, and the response of the NHS to the work undertaken through NICE is more accepting than it was when NICE was set up and in the years immediately afterwards. Progress has been made.

NICE worked with stakeholders in fertility matters. All the key organisations were involved, including NIAC, the British Fertility Society, Infertility Network UK and the Human Fertilisation and Embryology Authority. As hon. Members will know, the guidelines were published in February 2004. The Government, who commissioned the guidelines, obviously welcomed them. They are a useful tool by which to achieve consistency in the way that PCTs and health professionals approach the provision of fertility treatment, which means that wherever in the country they live patients will have some access to IVF. That will be a first. My right hon. Friend's constituency is at the upper end of the range of provision in that it currently makes two cycles available. It has done so for some time, whereas many other areas, such as the constituency of the hon. Member for South Cambridgeshire, have made no such provision.

The guidelines go wider than IVF, setting out the clinical side and the cost-effectiveness of a range of assisted reproduction treatments. NICE recognises that it is not feasible for the NHS to implement the guidelines in full immediately. It is, in fact, for PCTs, as hon. Members have noted, to build them into their plans, taking into account local population needs and health care priorities. We are aware of what is happening throughout the country. I will deal with one of the points raised—the stage that different areas have reached—and then come on to the detail of the monitoring arrangements. I will deal with the question of a reduction in existing provision.

Where existing provision is greater than one cycle—that is, two, as in the Rother Valley constituency—we expect provision to continue at least at that level. I have been informed of only one report that a PCT was reducing its provision. The Department wrote to the PCT concerned, which confirmed that it was not reducing the number of cycles. That is the only information I have pointing in the opposite direction; I can assure my right hon. Friend that that is the best information I have.

**Mr. Barron:** I am grateful for that. I thought that my information was anecdotal.

I am happy to listen to what my hon. Friend has to say about monitoring, but the issue for me is that the target for the first phase of implementing the guideline is now being set centrally. The likelihood of my PCT going from two to three cycles will depend on central targets from the NHS, as opposed to a service being provided locally because of patient need. Will there be a change in thinking inside PCTs? We are saying nationally that they must do x and y by April of this year.

**Miss Johnson:** Perhaps it is time to come to why we issued the guideline, to some of the other comments on that, and to what will happen beyond April 2005.

**Mr. Burstow:** If the PCT to which the Minister referred had written back saying that it was minded to reduce provision to one cycle, what would the Department have done?

**Miss Johnson:** Although there are no formal means of instruction, there are informal means of conveying messages. Strong messages would have been sent.

There are questions about the implementation of the guidelines. I will come on to monitoring, the structured arrangements surrounding that and the amount of contact that there has been.

First, the guidance covers an enormously sensitive subject. Infertility causes huge distress. Because of that and the historical postcode lottery, the Government felt that this was a worthy area on which NICE could produce a guidance, one with a commitment on implementation. The definition of infertility is given as a failure to conceive after regular unprotected sexual intercourse over two years, in the absence of a known problem. Implementation has priorities, such as screening for chlamydia and assessing tubal damage. Nobody mentioned chlamydia in the debate, but it is enormously important in this context, because it is increasingly causing infertility, and we are storing up a problem in the longer term. We must put the questions together—hence the huge investment in the whole area of sexual health and sexually transmitted infections.

There are six cycles of intra-uterine insemination for couples with mild male infertility problems, unexplained fertility or minimal to mild endometriosis. Contributions to the debate have mainly concentrated on the couples qualifying for up to three cycles of IVF. The guidance provides a consistency of approach across the health service. In welcoming that, we looked to PCTs to meet, by April this year, a national minimum provision of at least one cycle of IVF for those who meet the clinical criteria in the guidance. Our purpose was to put down a landmark to show that progress had begun to be made.

*[Miss Johnson]*

My right hon. recently wrote to me on behalf of the all-party group, suggesting that the group's estimate of the costs involved was about £36 million. We believe, on the basis of the work done by NICE, that the cost of full implementation will be about £80 million. A number of Members have asked about the figures. They are already in the public domain; certainly, I wrote to my right hon. Friend about them.

**Mr. Barron:** Although we did not agree with the Department on the final figures, its final estimate was a great reduction on what had been suggested by the media, which said at one stage that the cost would be £400 million. Our figures take account of measures to avoid multiple births and how much they would save the national health service, and of the full range of infertility services, as opposed to the cost of IVF treatment, which everybody acknowledges is quite expensive.

Has the Department conducted any study on the overall costs of the guidelines—all the other treatment prior to IVF? Does that show that savings could be made? That was the issue in our report.

**Miss Johnson:** Not that I am aware of, but if that is incorrect, I will write to my right hon. Friend on the matter. I entirely accept the point: there has been a lot of investment in procedures to investigate a problem, without any follow-up for the remedy. There is no doubt that that is an issue.

Our costings are based on the best available estimates. It is difficult to work out what they will be because the costings per cycle range from £2,000 to £4,500. The investigation costs vary hugely, depending on the history and medical condition of each patient; a variable amount of money can be invested.

**Mr. Lansley:** Before we move away from the point, the Minister said when she began her explanation that it was not feasible to implement the NICE guidelines, and she has referred to the cost of doing so. However, as I mentioned, there is also the question whether there would be the capacity to achieve the standard of three cycles of IVF.

Is the Minister saying that implementing the guidelines is not feasible because that would cost £80 million, according to the Department's best estimate, or that, as the implication was at the time, the Government are prepared to accept the cost of implementation, but it is not feasible because the capacity is not available? Which is it?

**Miss Johnson:** I was talking about the practical, rather than monetary, feasibility. Different areas start from a different base; one of the issues in developing this policy is that some areas start from zero and others start from two cycles—some may start from three cycles, although I am not aware of any that do. Certainly, many areas have got to two cycles. That is a huge variation in the starting point, the numbers of people, the provision and, ultimately, the money and weighing-up of local priorities.

Perhaps this is the time to say something about how this fits with local priorities and about the question of devolution versus guidelines and targets.

**Mr. Lansley** *rose—*

**Miss Johnson:** I would like to develop my argument, but I shall give way to the hon. Gentleman one more time.

**Mr. Lansley:** The Minister is generous with her time. The Department has a sense that the capacity does not exist. In South Cambridgeshire, a PCT was commissioning IVF treatments only in exceptional circumstances, but that was a question not of capacity—Bourn Hall has capacity; local providers have capacity—but of the treatment not being commissioned.

If the Department set a central minimum standard related to the capacity to deliver IVF treatments throughout the country, did it undertake an exercise, which we could see, that estimated what capacity would be available? The HFEA could have assisted with that, because it knows well, through its licensing process, what capacity is available. Is there such an exercise? Can we see it?

**Miss Johnson:** Advice on those matters would certainly have come to Ministers, but I am not sure that there is any formal report or study of the kind that the hon. Gentleman is looking for, or anything that would be published.

We expected PCTs to give priority to those in greatest need. Hon. Members have referred to couples with no children living with them and those who have children, or a child of one or other of the couple, living with them. It was felt that if PCTs had to prioritise, some help should be given to them on how to do that, and it was fairest to prioritise those who had no children living with them. Hon. Members can disagree with that if they want to, but we had to look at a difficult situation and make some difficult choices rather than leave PCTs without any advice from the centre about how they prioritised those choices. That is not to say that couples with children living with them are not to be considered at all. I am talking simply about a ranking of priorities and a reflection of advice to PCTs.

We rely on the NHS locally, through the PCTs, taking account of the needs of the local population and discussing proposals with patients and the public. That debate is happening in the context of the resources that are allocated to the health service rising to record levels, from £69 billion in 2004-05—the financial year just ending—to £92 billion in 2007-08. The sums that we have been discussing should therefore be seen in the context of a lot of extra money that is going to the health service. Overall, the national average increase over that time is nearly 31 per cent. in cash. There is a real-terms increase for Rotherham PCT of 6.5 per cent. in 2003-04, 7 per cent. in 2004-05 and 6.6 per cent. in 2005-06. That is only a sample, but it is typical and representative of the increases across the wider NHS.

My noble friend Lord Warner, who speaks on health matters in another place, wrote to the NHS on 14 June 2004 to set out a programme of action to support the implementation of the NICE guidance and set that in

context with the Government's overall policy for national standards in the NHS. He made it clear that broad partnership in local health economies is needed to ensure that patients get access to the quality of care that is recommended by NICE. However, that entails strategic health authorities working with PCTs to ensure that they have effective arrangements in place, are investigating barriers to implementation and are making sure that those barriers can be overcome. Lord Warner's letter referred to the Department's consultation on national health care standards for the NHS in England, which is now published as "Standards for Better Health" and includes a standard for patients to receive effective treatment and care that conforms to nationally agreed best practice, particularly as defined in NICE guidance. There is a direct link between the NICE guidance, the standards for better health care and the work of the strategic health authorities.

In relation to the NORCOM consortium arrangements, I am delighted that there is a wide consortium of 13 PCTs in my right hon. Friend's area that has developed a local commissioning policy based on the NICE guidelines. We are pleased to see that sort of local co-operation and partnership. To some degree, such arrangements answer the point raised by the hon. Member for Sutton and Cheam (Mr. Burstow) about specialist commissioning and people working together across PCTs. There are a lot of specialist commissioning arrangements for different services, including infertility services: they are growing in sophistication and effectiveness and we welcome and encourage them.

What progress are PCTs making towards implementing the NICE fertility guidance? The NHS has needed time to take account of the guidance and draw up its plans, but we know that PCTs are working together. The evidence that we have says that they are working hard to implement the guidance and are focusing on moving in the right direction, for example, by offering one cycle of IVF where previously they offered none and maintaining services at least at the current level where they offer more than the minimum. If any hon. Member has anecdotal evidence to the contrary, we shall be happy to consider it, but we have no such evidence other than that which I mentioned earlier, which we investigated.

I agree that monitoring implementation is important. Overall, SHAs are responsible for overseeing PCTs' performance. If a PCT fails to implement the guideline, SHAs will explore the reasons and work with that trust to overcome the barriers. The independent Healthcare Commission, which reports directly to Parliament on the state of health care in England and Wales, will use the standards in assessing health care provision. The chief executive of the Healthcare Commission has confirmed that assessing the implementation of NICE guidance is one of the commission's priorities. It is currently consulting on the assessment process that it will apply.

I note that the NIAC is conducting a survey of PCTs, in partnership with the all-party group, I believe. We shall be interested to see the results of that survey. If barriers to implementation are identified, we shall bring them to the attention of the relevant SHAs. The basic principle is that PCTs, in liaison with local health bodies and patients' groups, take resources and priorities into account when deciding how best to implement the guidance.

On devolution versus standards and targets, I have to argue a little with the hon. Member for Sutton and Cheam. I am sure that his comments on the subject were entirely well meaning, but they were somewhat muddled. There cannot be complaints about instructions and, at the same time, complaints that we are not tackling the issues. We must balance the need to give guidance and advice, to steer and to provide frameworks that drive progress with local commissioning and local production of services. One could argue that giving instructions works against local commissioning, but local commissioning might lead to ongoing postcode lotteries if developments do not take place within the right framework. We must achieve the right balance between putting a framework in place and local decision making on priorities and how to achieve them. That is what we have sought to achieve.

I have already mentioned that we put the costs of full implementation at about £81 million. We know the standard that we are aiming for: to achieve full implementation of the NICE guidance. We recognise that PCTs are starting from different places, which means that we are not in a position to give a formal plan beyond this year, but I am sure that we shall consider that after this year's implementation phase. We shall be look to see what the future holds, but I am sure that there will still be some PCTs on two IVF cycles and others that have only just achieved one. We need to work on that and allow what are felt to be the most appropriate choices to be made in local health economies.

My right hon. asked about waiting lists and other hon. Members raised questions about sanctions. Before I address those points, however, I should like to say that our estimate of the effectiveness of cycles is slightly different from my right hon. Friend's. Our estimates are that the pregnancy rate is about 25 per cent. for one cycle of IVF, about 33 per cent. for two cycles and about 50 per cent. for three cycles, which is slightly lower than the figures he quoted. I am sure that the figures vary according to the population on which they are based. However, those figures are the best that we have and are the ones to which we are working.

The hon. Member for South Cambridgeshire is right to say that there comes a point at which there is a fast-diminishing return. That is something that NICE considered. Hard as it might be for many couples to accept, we must recognise the problem and the advice that NICE gave us.

**Mr. Lansley:** I am surprised by what the Minister said. The figures are curious, because they appear to imply that the second cycle of IVF is significantly less likely to secure a positive result than the third cycle. Broadly speaking, the first cycle is the most likely to secure a result, and there is a slightly diminishing likelihood of success in each of the two subsequent cycles. One can argue about whether the figure is 50 or 70 per cent. at the end of three cycles, and the estimates

*[Mr. Lansley]*

vary, but I cannot imagine why the Minister would argue that the second cycle has less prospect of success than the third.

**Miss Johnson:** I entirely understand the hon. Gentleman's point, but that was not what I was arguing. Those are the figures that I was given, and I am not in a position to argue the point further.

On monitoring and sanctions, the Government have two main methods of monitoring: through the Healthcare Commission and through the strategic health authorities. The Commission's developmental standard D2, which is set out in the consultation document, says that patients should

"receive effective treatment and care"

conforming

"to nationally agreed best practice, particularly as defined in National Service Frameworks, NICE guidance, national plans and agreed national guidance on service delivery".

That is the formal basis of the monitoring arrangements.

My right hon. Friend the Member for Rother Valley asked about waiting times. The NHS improvement plan has established a target of a maximum wait of 18 weeks from GP referral to the initiation of treatment, which is to be met by December 2008. That maximum waiting time refers to all GP referrals to hospital consultants, including in respect of fertility services. However, IVF is not usually the initial treatment referral made by the GP, and the need for it is usually diagnosed later, so it will usually take longer than 18 weeks from GP referral to IVF treatment. The same applies to other treatments that involve a series of investigations and prior treatments, so it is not true only of IVF. Once an individual patient has been diagnosed as needing IVF, however, it is intended that a guaranteed waiting time will be set for them, although the details are still being developed.

**Mr. Barron:** That seems to be a crucial point, because the chances of success of treatment of women with infertility problems diminishes with age. We do not want many of the women who are waiting for treatment at the upper end of the age scale falling off the waiting list because their birthdays have come along. Given that potential demographic problem, it is crucial that they are considered separately from the generality of NHS waiting lists.

**Miss Johnson:** I understand my right hon. Friend's point. When we came into government, waiting times in some cases were 18 months—and that was only for in-patient admissions, including the out-patient wait. Now, the process will last a maximum of 18 weeks from start to finish, and given that that is the maximum waiting period, some people will be coming in earlier. To hit our target, we shall probably need to hit about 10 to 12 weeks for most patients—we shall need to bulk them in the middle of the period to achieve the maximum wait target—so we shall be able to offer a substantial improvement across the board. In so far as it can, the strategy will encompass patients who are experiencing infertility problems and a number of other patients who have complicated diagnostic and treatment schedules.

The hon. Member for Sutton and Cheam asked about the need for private treatment. I find it difficult to answer his question, however, because we do not know how many people on NHS lists are already going for private treatment or will go for it at some point. It is very difficult to know how great the double-counting element is, and we do not necessarily have access to all the figures from the private sector.

On the number of people receiving treatment, the HFEA will fairly soon be updating the figures that the hon. Gentleman mentioned, which were from 2001. That follows work on its database of treatment services. It generates the figures, because it collates them nationally.

I think that that deals with all the points that have been raised. The debate has been useful and has raised useful issues. We are committed to an improvement in the services offered to infertile couples and particularly to progress towards full implementation of the NICE guidelines as soon as NHS services can achieve that. We are committed to ensuring that the implementation due in April 2005 takes place. We welcome feedback on issues or difficulties, which we shall take seriously, and we look forward to the channelling of some of our huge investment in the NHS into improvements to fertility services.

## Children's Play

3.26 pm

**Paddy Tipping** (Sherwood) (Lab): I am delighted to have the opportunity to introduce this short debate and equally delighted that the Minister for the Arts is here to respond.

The Minister will recall that we had a similar debate about children's play 15 months ago, on 3 November 2003. There have been several developments since then. The report "Getting Serious About Play", which my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) produced, was published on 21 January 2004 after a fairly long period of gestation. Indeed, when we last debated this matter, we talked about how long it had taken for the report to be published.

Just last week, on 16 January, my right hon. Friend the Secretary of State for Culture, Media and Sport responded to what I shall characterise as the Dobson review. I am pleased to say that that ended a long period of uncertainty. The process has been fairly lengthy, and people from the play sector, and particularly the voluntary sector, have been involved in the discussions. The lack of decisions has caused uncertainty. There has been a positive outcome, but on the more negative side, people from the play sector were concerned about what the outcome would be.

It might be helpful for me briefly to recount the history of the review of children's play. Just before the previous general election the then Secretary of State

"outlined the Government's intention to kick off Britain's biggest ever children's play area building programme in a second term."

He went on to say that £200 million from round 4 of the New Opportunities Fund would be earmarked to create 2,000 new children's safe play areas. That announcement was received with great applause from people connected with children's play, because they saw it as a real opportunity. Almost four years on, and as we approach another general election, whenever it will be, we have an opportunity to take stock of what has been achieved since that time.

Last week, the Secretary of State said that the Government

"reaffirmed its commitment to revitalising children's play areas up and down the country with a huge investment from across lottery distributors."

She added that she

"expected £200 million of lottery money to be spent on new and improved play opportunities."

I welcome that clarification; the news is to be welcomed and I do not disparage it. However, I know that the Minister will not mind my saying, as this is a fact, that that does not quite match up to the original commitment made four years ago.

That is the case because, first, that spending is an expectation, to use the Secretary of State's words, and not a firm guarantee. Put another way, it is an aspiration rather than a pledge. Secondly, the spending of £200 million would be across all lottery distributors, while the original pledge was that £200 million would come from the New Opportunities Fund. It is therefore no surprise that the play sector was promised and hoped for more. Thirdly, the planned spending period in which the money will be available runs from 2006 to 2012—a slightly longer period than was originally envisaged. Fourthly, and most importantly, the announcement makes it perfectly clear that, although the aspiration is to provide £200 million, that money is not earmarked or ring-fenced. It is not there specifically for children's play.

There is no point trying to disguise the disappointment, concern and perhaps anger in the play sector about the disparity between the two pledges. There was a delay in coming to a decision and there is a strong view that the pledge has been watered down. I shall quote one or two people from the play arena. Angela Neil, a participation worker for Torbay children's fund, said:

"On behalf of local projects within the Torbay area, I would like to voice our serious concern over the fact that it seems the promised extra lottery money will not now be made available. Many groups have worked long and hard to be in a position to apply for some of this 'promised' money. Dear Secretary of State for Culture, Media and Sport, please keep your promise to give the extra £200 million lottery money to play."

Perry Else, who works on children's play in Sheffield, said, in effect, "We have done a lot of work." I quote:

"We've set up a coordinated partnership approach to provide for the city's 110,000 kids aged 5–14, but where's the money?"

Returning to my own area, my old colleague Rachel Adams said of Nottingham that she was

"very concerned about the lack of information on the 'Play Review Money'—£200 million. Discussions have already taken place locally about how this money could be spent in the area—trying to gain a consensus on the most pressing needs and on how finance can contribute to sustainable development."

All those people are effectively saying, "We worked hard alongside the Dobson review. We were promised £200 million and the money that is available is not quite what we anticipated."

I acknowledge that point, but in this debate I want to be positive. I say clearly that £200 million is still a significant amount. I know that the Minister will make that point. Whatever has happened in the past, we need to try to move forward, as they say, and to work in a positive and constructive way. I have been impressed by the approach of the new distributor, the Big Lottery Fund. I have been particularly impressed with its chief executive, Steve Dunmore. Mr. Dunmore has been around the sector. He has talked to it and seems willing to listen, engage and consult. Everybody welcomes that step forward.

While ring-fencing the £200 million has been ruled out, the consultation on future spending plans for the Big Lottery Fund provides a possibility for it to consider different workstreams, frameworks and programmes. I hope that there will be continued discussion on that. We have between £100 million and £200 million between 2006 and 2012. How can it best be spent? What kind of framework can we put in place to ensure that that money is wisely spent? The play sector is keen to be involved in those discussions.

In her announcement last week, the Secretary of State expressed her desire to meet the authors of the report, "Getting Serious About Play—A Review of Children's Play", together with the lottery distributors. Although such a meeting would be helpful, a lot of value would be added if not only the authors of the report and chairmen of the lottery distributors were invited, but key figures

*[Paddy Tipping]*

from the world of children's play. They would not be hard to identify. My only direct request to the Minister today is that they be invited.

The announcement has been made and there is disappointment, but it is important to move forward and build a consensus on the direction of children's play. I hope that the Minister will seriously consider my request, because I want a number of things to come out of any such meeting and discussions. I am clear that we ought to use the principles of the Dobson review about the future funding of children's play. A lot of work has gone into that; people have devoted a lot of time, and there is, by and large, consensus on the way forward. It would be sad if the underlying principle of the review were thrown away.

The worst thing that could happen would be that a blank canvas with £200 million was made available and groups were told, "You come and bid, and we'll allocate on a piecemeal basis." That £200 million is a lot of money; it is a shot in the arm for children's play. I hope that we can develop some programmes and a framework to enable us to spend that money wisely, so that it is not only strong bidders who get money, and there is a more thoughtful approach to building benefits across the sector.

One theme of the Dobson report is focusing money on areas of disadvantage. I hope that we will pick up that theme. If we look at where lottery funds have traditionally been spent, we see that affluent areas have generally tended to do better than areas of disadvantage, unless help and support is given to people, and capacity is built in neighbourhoods to bid for those funds. I hope that we will focus on such disadvantage.

From my experience of looking around the sector, I know that there is an awful lot of good practice in children's play, although there is also poor practice. We ought to identify the best practice and promote good practice, and try to roll it out across the sector. The sector agrees with that approach and would strongly support it.

I am keen that we should continue the process of involving children and their parents in planning the kind of play provision that they want in their areas. It is interesting to listen to children talk about play. They have strong ideas about local needs and solutions. When one asks parents about their priorities for their neighbourhood, one thing comes high on the list: safe and exciting things for children to do. I hope that we will also pick up on that theme.

I also hope that the work being done by good local authorities working in partnership with the voluntary sector and the play sector to build plans for areas—not only plans that run from now, but approach plans over a period of years—will continue. If the play sector were invited to a meeting of the kind envisaged by the Secretary of State, it would not be long before there was agreement that such principles should underlie the funding of children's play and the distribution of the £200 million.

I want to focus on two points that were raised in our last debate. The Minister will remember that slightly lively discussion, in which I was anxious that lottery funding was additional and was not a substitute for mainstream local authority funding. I am keen to see such an approach, as I see signs across the sector of local authorities delaying in bringing forward play projects while the decision on the £200 million was made. In a sense, I want that £200 million to be cornerstone money that is used to build new development. I do not want local authorities and other funding bodies to be let off the hook; I want lottery funding to stimulate development across the piece. We can do that, and there is good will for us to achieve it.

As we now know, commitments on lottery funding for children's play are not for ever. It is quite clear that the money envisaged from the Big Lottery Fund runs from 2006 to 2012. It is important that we use that six-year period to develop an approach to children's play that we can learn lessons from, because when lottery funding falls out, as it inevitably will, those lessons will ensure that we can keep the programme going. Again, there is wide support across the sector for that approach.

Before I conclude, I want to return to another theme that formed part of our last discussion. I have now followed children's play for 25 years or so; I have long ceased to be a practitioner; I call myself a philosopher on the subject instead. One thing that has struck me throughout those 25 years is the fragmentation of funding bodies for children's play. In terms of what happens in Whitehall, the Department for Culture, Media and Sport is rightly the lead Department, but the Department for Education and Skills has a stake. The Home Office also has an interest in the matter, and the Office of the Deputy Prime Minister is also a clear player, because of a range of activities connected with local authorities. I hope that one thing to come out of the review and the discussion of the £200 million—this aspect is acknowledged by the Secretary of State—will be greater emphasis on co-ordinating the approach.

We can add value to children's play simply by making sure that we work better together. We ought to be able to use the planning and regeneration process, for example, to create marvellous examples of children's play. I am not confident that we are doing that at present, and neither am I confident that it is happening at a local authority level. Again, at district and county council level, the approach to play is fragmented. I note that very few performance demands are made on local authorities around children's play.

I had a look at "Every Child Matters: Change for Children", and I saw an elaborate graph at the back of the report showing who is responsible for what, yet children's play features only slightly in it. I am keen to raise its profile across the board in our approach to children. It would not be impossible for us to look at the notion of public service agreements with local authorities in respect of play, and it would not be hard to identify some clear targets that the Government could set.

As I said at the outset, a lot has happened over the past couple of years—or since the last manifesto was prepared and the commitment of £200 million for children's play. As all the parties now look towards their manifestos, I am keen that we see children's play as a way of preparing children and their families, as well as their local neighbourhoods, for the future. Investment in children is investment in the future, and investment in

children's play is investment in all our futures. I hope that this short debate has contributed to the manifesto process.

The Minister has a longstanding commitment to children's play: £200 million is a significant amount. We can get a great deal of action and a lot of change if the Government, the lottery, the local authorities and the voluntary sector in particular work together in neighbourhoods to bring about change that will benefit not just children but the whole community.

3.46 pm

**The Minister for the Arts (Estelle Morris):** I congratulate my hon. Friend the Member for Sherwood (Paddy Tipping) on securing another debate on the subject of children's play. It does not seem a year since our last debate on the subject, but it has been. I acknowledge my hon. Friend's contribution to keeping children's play high on the parliamentary agenda and his commitment to the issue throughout his working life; the two are very much intertwined. As I said in the previous debate, it is essential that Parliament has the expertise of people who have delivered a service as well as being able to talk about it, and my hon. Friend has done both.

I apologise for the delay in responding to the report. There are several reasons for that, none of which is related to the Government's, or the Department's, attitude to play or their obstinacy in getting round to replying to my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson). It is not the job of those who work in the sector to understand the intricacy and bureaucracy involved in Government decisions, and it must have seemed an inordinate amount of time to them. I am grateful to my hon. Friend for not exploiting the delay in the meantime and damaging the trust between the Government and the sector even further.

The crux of the matter, as my hon. Friend said, is that things have moved on and the commitment to £200 million ring-fenced from the lottery fund has got into the same policy area as reform of the lottery. Had that not happened, there would not have been a delay and I would not be in the slightly difficult position of justifying what I accept is different from what was pledged originally. The intentions are clear, and I think we can reach a similar end, albeit by taking a slightly different route.

The irony in the reform of the lottery is that we are responding to the voluntary sector. On the whole, people do not want ring-fencing; they do not want the Government to intervene, or the top-slicing of grants for something that the Government want. All hon. Members know, from their time in politics, that everyone hates those pots of money unless they get one. I suspect that one part of the voluntary sector has had its money taken away at the very point when it was going to get a ring-fenced amount. If I were part of the voluntary sector and that happened, I would feel very cross.

However, in the wider sense, it is right that Governments should be less hands-on in terms of the NOF part of the funding. It also goes to show that the voluntary sector, which will include the play community, will have access to the millions of pounds that were formerly spent through the New Opportunities Fund, to which they had no access. They were rarely the chosen partners of delivery. The top-line message is that the announcement may not be as bad as the play sector thinks. It gives it slightly less certainty, because the £200 million ring-fenced pot was a belts-and-braces measure.

I will respond to one point in particular, which I hope will be helpful, and then answer questions and put on the record how we wish to proceed. As my right hon. Friend the Secretary of State made clear, and as my hon. Friend said, we anticipate, or whatever word we chose to use, that because our approach to the lottery is hands-off, it is far more difficult for us to give an absolute pledge, but it is more than an aspiration. I aspire to a great deal—in terms of layers, there are some things that I will aspire to all my life and will never achieve, but this proposal is not in that arena. As much as Ministers can with the new arrangements for the lottery, this may be more of a determination to do all that we can to ensure that it is delivered. However, the decisions will be for the Big Lottery Fund to make.

I was pleased with, grateful for, and appreciative of, the comments that my hon. Friend made about Stephen Dunmore and the meetings that they have had so far. I want to say one thing that he did not mention, which I think will bring some assurance to the set down. One of the essential matters will be to ensure that the amount of money spent on play is monitored. I do not want a Minister in 2012—they will still be a Labour Minister—to have to come back to an Adjournment debate and suddenly be faced with the question of whether £200 million was spent over six years. The sector needs to know what progress it is making towards the £200 million during those six years.

I confirm that my right hon. Friend the Secretary of State is prepared to meet not only the lottery funders but the Children's Play Council, Tim Gill and my right hon. Friend the Member for Holborn and St. Pancras. I suggest that the Children's Play Council may want to put on the agenda the question of how the lottery distributors will monitor how much money is spent on play. That is important because I know that we are building trust where the terribly long delay has damaged it. If I can help in that, I will.

My hon. Friend raised a point about the need for cross-departmental work. We will have to see how that progresses, but I wanted to raise the importance of the issue. I am here on two counts: play is part of the remit of the Department for Culture, Media and Sport, but in this case play is also about the lottery fund. However, so many Ministers could have answered a debate on play—those from the Department for Education and Skills, the Office of the Deputy Prime Minister, the Department of Health or the Home Office. Such is the contribution that play can make to children's lives in so many areas that those Departments all have a responsibility. If we turn that around, every one of them can contribute to play through their policies.

My hon. Friend is right to say that, try as we might, cross-departmental working does not come easily to Ministers, for no other reason than the pressure of time. We have made an essential first step: now, my Department regularly meets each of the Departments that I have mentioned and is beginning to draw up a Government agenda for play by drawing together

*[Estelle Morris]*

existing strands. The advantage of doing that in such a way is that one does not start again. Seeing where various Departments are on the issue of play and how to bring the existing work streams together works better than announcing—heaven forbid—one of those Cabinet cross-departmental committees that can be the bane of our lives, to start again with a different group of civil servants. Although we are late in starting and we are taking a different journey from the one that we might have imagined, I think that it can still lead us to a situation where £200 million has been spent on play by 2012.

There are one or two more points to reply to. It is absolutely essential that areas of deprivation are targeted. Historically, more affluent areas tended to get a larger share of the lottery. My hon. Friend will know as a constituency MP the effort that the NOF and the Community Fund have made to get more money to the coalfield communities and areas of greatest deprivation. The instructions that we will give to the Big Lottery Fund will be about looking after such areas and having regard to the fact that areas of deprivation should benefit most, especially in such matters.

We must learn from best practice. To some extent, the worst way to spend £200 million would be to give it out to 200, 400 or 1,000 projects, each of which did its own thing, and then, in 2012, to say, "Where do we go from here?" It is essential that there is some planning—some strategy, to use the word that my hon. Friend did. I hope that some of the work that people have been doing in anticipation of the money can be put to good effect. It needs to be about learning what works, getting an evidence base and bolstering the case for play when the lottery money runs out in 2012. I hope that when they talk to the lottery funders, that will be one of the approaches they can take.

Lastly—I believe this to be the case because I have heard it from more than one party—some local authorities assume that the lottery will pick up the play tab from now on, and they will be able to spend their money on other things. That is a dire warning because, as my hon. Friend said, lottery money runs out, by definition. It was never meant to be long-term funding. Lottery money should serve to yank more money into play. It should lever more money from local authorities and the community, private and voluntary sector. Otherwise, it does not do its purpose. It is an injection, a shot in the arm, for play: getting that evidence base, getting good practice, building capacity and making the argument. By 2012, however, the rest of society must have been sufficiently persuaded that the question "Shall we now stop funding play?" would be a very silly one to ask, because communities could not imagine a time without it.

Some of the things that my hon. Friend and I have talked about in this worthwhile Adjournment debate could form the agenda that must be the basis of a dialogue between the lottery distributors and the play sector in the years to come. I know that is asking more of the voluntary sector and the play sector. I hope that, step by step, we can persuade the doubters—through our decision to fund aspects of the sector, and some posts there—that we are serious about that, even if, because of another event, we are approaching it in a different way.

I am not sure how carefully plotted the timing of this debate was. I cannot recall whether the debate was requested before we responded, or whether the debate forced us to respond a week or two earlier than we might otherwise have done. I would like to think that this fairly long, convoluted Adjournment debate—upon which I again congratulate my hon. Friend—is the end of one phase, and has set out the map, dialogue and plan for the beginning of the second. I apologise that the first stage of the journey has been as long as it has, but I am confident that the second can get the trust and partnership back. At the end of the day, I have never heard of any difference of opinion between the Government and the sector about the importance of play.

3.57 pm

*Sitting suspended.*

## Vulnerable Passengers

3.59 pm

**Tom Brake** (Carshalton and Wallington) (LD): If I am a little breathless, Mr. Deputy Speaker, it is because I left myself just a few minutes to arrive here, and Portcullis House was shut because of a fire alarm.

I welcome the opportunity to introduce the debate. I also welcome the constructive role that the Minister of State, Department for Transport, has played on the issue of vulnerable passengers travelling on public transport. I hope that the Under-Secretary has been briefed by him on this issue and on the fact that it was raised in Standing Committee A, considering the Railways Bill, on 18 January. In that debate, my hon. Friend the Member for Caithness, Sutherland and Easter Ross (John Thurso) proposed new clause 2, which he had tabled at my request to enable the matter to be debated. The new clause stated:

"The Secretary of State shall instruct the Rail Passengers Council (RPC) and the Association of Train Operating Companies (ATOC) to launch a campaign to encourage passengers to be more considerate to vulnerable passengers and raise awareness of priority seating."

The new clause was debated and the Minister of State explained that he did not have the power to instruct, but it was a positive and useful debate.

I want to move the debate on and not simply go over the same ground, but it is worth putting on record the basic details of the case of a constituent of mine called Janice Norman. She was travelling on a crowded commuter train when she was 25 weeks' pregnant. She experienced what, regrettably, many pregnant women experience, which is the common British tradition of people raising their newspaper so that they cannot see the pregnant woman standing in front of them in the packed aisle. I have witnessed that practice myself, and have heard about it from my wife and many other women. My constituent was left standing in the aisle, and at some point during her journey another passenger barged past her, shoving her in the stomach so heavily that she felt it necessary at the end of her journey to see her GP. The GP did not believe that there was a problem at the time, but at 30 weeks, because my constituent could not feel the baby any longer, she went into hospital. The baby had to be delivered by Caesarean and, unfortunately, died after complications.

A port-mortem was carried out, which revealed that the baby had experienced some traumatic event at 25 weeks. The only thing that had occurred or that my constituent could recall was the incident on the train, which she had felt was very serious and necessitated a visit to her GP, so it seems as though that incident was the traumatic event. My constituent raised that with me and jointly we decided to set up what we have called a considerate commuters campaign. She has set up a website. I tabled an early-day motion in the last Session, which has been retabled in this Session, and as part of the campaign I contacted the Association of Train Operating Companies, London's Mayor and the Secretary of State for Transport.

It was as a result of that correspondence that the Minister of State responded positively and, in turn, contacted ATOC and the Rail Passengers Council. In the Secretary of State's letter, he expressed support for the possibility of launching a campaign to encourage people to be more considerate to other passengers and to raise awareness of priority seating. I welcome the Minister's support for that campaign.

This is an issue not only for passengers who are vulnerable because they are pregnant, but for many other vulnerable passengers. I received an e-mail from Sense, the UK's leading organisation for people who are deaf-blind or have associated disabilities. It raised similar points and, in particular, concerns about deaf-blind people, and about people with deafness who have problems with balance. As hon. Members will know, there is a link between people's ears and how well they can balance, and that is clearly an issue for people who are deaf if they cannot get seating. It is obvious that a woman is 25 weeks' pregnant, but it is quite hard to detect that someone is deaf, unless one can see their hearing aid. Many people—myself included, until I received the e-mail—would not have thought of offering their seat to someone who is deaf because they might have problems with balance.

To complicate the picture further, someone who works for Sense highlights in the e-mail that there is a group of people for whom giving up one's seat is about the worst thing to do. If people are deaf-blind, the only way to know that their train has arrived in the appropriate station is by standing close to the door and counting the stations and signals as they pass. Moreover, if they are left with little time to get out of a crowded train, the last thing that they need is for someone to give up their seat. It is quite complex for passengers to know whether to give up their seat. However, I welcome the Minister's support in the campaign.

I want to focus on two further points. First, what are the existing provisions and what should be provided? I am grateful to Transport for London for providing information about what should be available on tube trains. There are strict requirements for new trains. Apparently, Transport for London requires either 10 per cent. of seats or eight seats—whichever is less—to be priority seats. On a tube train, that would mean that for each carriage there should be priority seats next to each of the entrances. Transport for London is about to issue much larger notices, so that people will be able to see more easily where those priority seats are. That is welcome.

As for the Association of Train Operating Companies, there is some lack of clarity as to whether priority seats should be provided on all trains or whether they are currently provided on all trains, including the slam-door stock, although those trains should not be with us for much longer. I travel regularly on the slam-door stock, and if there are signs indicating where priority seating is, I never notice them when I get on the train, and I suspect that no one else does either. The existing provisions need to be clarified.

Secondly, there is the issue of what statistics are collated. Clearly, it is difficult for statistics on incidents such as that involving Janice Norman to be collated consistently, because people do not automatically think of reporting an incident to the train driver, who is required to carry a log. Train drivers are required to keep records of any unusual incidents that are reported

*[Tom Brake]*

and to record them in their log. However, I suspect that virtually no one would report the sort of incident in which my constituent was involved.

What can be done to collate much more consistent statistics on those incidents? I understand that the Rail Safety and Standards Board is producing a report, which was referred to in the debate in Standing Committee A on 18 January. The report was due to be published at the end of last month, but I understand that it will now be made available at the beginning of February. That report will be key. It is examining the safety implications for passengers of "crowding"—most people would recognise it as overcrowding, but I do not want to get involved in semantics—and will make key recommendations on issues relevant to this debate. I assume that the Minister will be familiar with the remit of the report and may well have seen a draft of it. I understand that it will highlight the need to have a consistent method of recording crowding—or overcrowding—on trains, and recommend standards by which crowding on trains, platforms or stations can be measured.

If those are the report's recommendations, I hope that the Minister will support them. I wonder if she has any views on how we can ensure that incidents such as that in which my constituent was involved will be recorded, so that we can build a picture of how widespread the problem is. If no statistics are collated, or if they are collated in an ad hoc manner, it is difficult to get a feeling of how widespread the problem is and what resources should be provided to introduce and publicise priority seating and deal with overcrowding.

Turning to national standards, I received a copy of a helpful letter sent by Philip Wilkes, a senior policy adviser at the Rail Passengers Council, to the Association of Train Operating Companies about standards in the industry. I hope that the Minister will be able, if not now, perhaps in writing, to set out her views on such standards. For example, does she think that an industry standard should apply for priority seating so that there is consistency in the percentage of seats made available, information about where those seats are located, and in which circumstances people should give up seats? Does she think that there should be a consistent standard of how reservation systems work for train companies? If a vulnerable, pregnant or disabled passenger rings up and says that they need to sit close to an exit, can the reservation systems of train operating companies handle that and give them priority?

There is also the issue of enforceability, to which I hope the Minister will respond. In the debate in the Standing Committee, it was suggested that by putting forward new clause 2, we were seeking to legislate for, or perhaps against, people's behaviour. Clearly, that is not what we were seeking to do, but it would be worth clarifying the position on the enforceability of priority seating—my understanding is that there is no enforceability. As a last resort, do powers need to be given to ensure that priority seating can be enforced?

Where do we go from here? This is not an issue only for Government, but principally for the whole industry, and also for commuters, who need to be more observant and considerate. However, I hope that the Minister will reconfirm her support for the "triple C" campaign—considerate commuter campaign—that Janice Norman has kicked off. I want the Government to consider introducing national minimum standards for vulnerable passengers for the provision of priority seats, reservations protocols, and also upgrades to first class, which I did not mention earlier. A limited number of train companies allow pregnant season ticket holders who hold monthly or annual season tickets to be upgraded to first class, provided that they can produce the necessary documentation. I am not quite sure what that is, but a photo might be sufficient.

I would also call on the Government to back the recommendations that I believe will be in the Rail Safety and Standards Board report. They include introducing national minimum standards for the level of overcrowding on trains, stations and platforms; streamlining and simplifying the reporting of overcrowding incidents, so that there would be one source and we would get a real picture of how serious the problem is, and reviewing the enforceability of priority seating.

I am not trying to legislate against people's behaviour. That clearly cannot be easily achieved. The antisocial behaviour that we experience all too often on our streets is spilling over into our trains, buses and tubes. The Government must back our campaign and ensure that public transport is enjoyed by all, not just those who are able bodied, inconsiderate or aggressive.

4.16 pm

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** I congratulate the hon. Member for Carshalton and Wallington (Tom Brake) on securing this important debate on the safety of vulnerable passengers on public transport. We take the issue very seriously, and I share his deep concern about the case of his constituent, Janice Norman. I should like to take this opportunity to offer my deepest sympathy to Ms Norman and her family for this terrible loss. I can fully appreciate her desire and determination, backed by her Member of Parliament, to raise awareness of the need to show consideration towards fellow passengers on public transport.

It is difficult to know exactly how one could collate information about such incidents, as they will be extremely varied. Many years ago, for instance, I was on a tube train with a youngster in a buggy, and I was worried that there was such a crush that people would fall over on top of the buggy. That situation was not life threatening, as in Janice Norman's case, but it was deeply worrying. I agree that the safety and comfort of vulnerable passengers must be ensured as far as possible, and the Government and the train operating companies already do a lot of work in this area.

As the hon. Gentleman said, the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) tabled a new clause to the Railways Bill seeking to require the Secretary of State to launch a campaign to encourage passengers to be more considerate to vulnerable passengers and raise awareness of priority seating. My hon. Friend the Minister of State, Department for Transport, acknowledged that this was a serious subject on which he had been in correspondence with the hon. Member for Caithness,

Sutherland and Easter Ross, as well as and with the Association of Train Operating Companies and the Rail Passengers Council. My hon. Friend said:

> "In the strict technical sense we cannot pursue the new clause because it would not achieve anything. The Secretary of State has no power to instruct the RPC or ATOC to do anything. ATOC is the umbrella group of a private industry. We could instruct it all we like, but we have no power to tell it to do anything. We have set up the RPC, of old and of new, as an independent body outside Government. It is rather inappropriate for us, having set up an independent body, to then instruct it what to do."

He went on to say:

> "The new clause asks the Secretary of State to instruct two organisations that we have no locus to instruct. However, it goes further than that and would legislate for behaviour. That is the crux of the matter."—[*Official Report, Standing Committee A*, 18 January 2005, c. 294]

Clearly my hon. Friend could not accept the new clause, but he was sympathetic to the view expressed by the hon. Gentleman. He said that he had written to ATOC and the RPC asking them to consider the matter in more detail and asking whether they would be happy to lend their weight to a broader campaign. He added, and I would also like to add, that we would be more than happy to be party to such a campaign. He also referred to London Underground's "Love is . . . " campaign, which he said had had a modicum of success in focusing on what should be second nature—consideration of fellow passengers generally, and a high degree of consideration for people such as pregnant women, who are clearly vulnerable.

The hon. Member for Caithness, Sutherland and Easter Ross stated in the Committee that some train operators, such as South West Trains, Thameslink and South Eastern Trains, also offer complimentary first class upgrades to pregnant women holding season tickets when there are no seats available in standard carriages. My hon. Friend the Minister of State undertook to ensure that train operating companies that use that practice continue to do so, and that those that do not use it consider implementing it. That also raises an issue about ladies who have not got season tickets. Often, a pregnant lady will be more vulnerable if she is not aware of the situation and the trains. If one is a season ticket holder and regularly uses the train, one is more likely to be aware of the situation.

The Rail Safety and Standards Board, the industry's own safety body, is due to publish a report at the end of the month on the first phase of research into the health and safety effects on rail passengers of crowding on trains. That will include consideration of the different groups of people at risk, such as the very young, the elderly, pregnant women and disabled people. The Rail Vehicle Accessibility Regulations 1998 prescribed a minimum number of seats for the use of disabled passengers. In addition, as the hon. Member for Carshalton and Wallington said, most train operators also designate priority seats for those who have difficulty standing, such as pregnant women and the elderly.

Our aim is a transport system that works for everyone. We have done much to achieve that aim by improving the accessibility, punctuality, reliability and safety of public transport. However, it is clear that not all groups have benefited equally from our increasingly mobile society. Understanding and recognising the different perceptions and needs of all passengers is fundamental to our transport policy. The Department sponsors a wide-ranging programme of research and consultation on issues such as people's mobility needs and personal security. We have issued good practice guidance to assist planners and providers to deliver services that meet people's needs, including many of the most vulnerable. I am not sure whether that includes guidance on the number or location of priority seats, but I will write to the hon. Gentleman about that. I imagine that some sort of guidance is probably given, but it is clearly guidance and not prescription.

**Tom Brake:** When the Minister writes, can she also set out—she may be about to do so—whether she believes that there should be a national standard for priority seating? She highlighted the fact that there were discrepancies between the operations of the different train companies.

**Charlotte Atkins:** I am happy to do that and examine what we have done in the past on that issue.

Improving accessibility is one of our overarching national objectives for transport. Local authorities are encouraged and empowered through the local transport planning process to work with local people, transport operators and infrastructure owners to deliver transport improvements to all sections of society. However, there is only so much that we can do; we cannot escape from the fact that comfortable and safe journeys rely on courtesy and consideration from fellow passengers. The good will of the travelling public, as well as the ability to recognise the needs of other passengers and give up seats willingly, are all crucial. It would be difficult to enforce such behaviour, especially on train services where there is no guard or inspector, but that should not deflect us from the importance of raising the profile of the issue not only in transport but throughout society.

Although the Disability Discrimination Act 1995 does not include pregnant women, it covers some vulnerable users of public transport. The Government are committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Regulations are already in place that require all new rail, bus and coach vehicles to be accessible to disabled people, and policy proposals for taxis have also been announced. Such an approach will help other vulnerable users as well.

The Disability Discrimination Bill, which is going through Parliament, builds on the measures already in place, and it includes measures to amend the 1995 Act in areas such as the definition of disability, public sector duties, premises and private clubs. It includes also measures on transport. The Bill contains powers to give disabled people the same right of access to transport services that they already have in relation to other services, such as shops and banks. It also includes measures to set an end date by which all rail vehicles will have to be accessible and strengthens enforcement. I hope that it will help to create a sea change in people's attitudes. Subject to the passage of the Bill, we intend to implement those changes as soon as is practical after Royal Assent.

The Government are aware that many people—particularly women, older people and ethnic minorities—are concerned about using public transport,

*[Charlotte Atkins]*

especially at night. We are committed to reducing the fear of crime wherever it occurs in the transport system. We know that no single factor makes people feel unsafe, and that only a combination of measures addressing the whole journey experience can reassure people about their personal security. The Department is encouraging the spread of good practice in crime prevention techniques on public transport through guidance to operators, local authorities, the police and other interested parties. We are constantly talking to operators. We need to stress the importance of other vulnerable users, too.

**Tom Brake:** In those discussions with operators, was the Minister made aware of concerns about the secure stations initiative? Those concerns are certainly shared by my local operator, Southern; it finds the surveys that it is required to carry out as part of the process so onerous in cost terms that it is not willing to put many of its stations through the process.

**Charlotte Atkins:** I was not aware of that, although my hon. Friend the Minister of State, Department for Transport, may be, as he is more closely associated with the scheme, which is of course designed to improve security. What the hon. Gentleman says is a real concern. If that is the case—and we will certainly look into the matter—we clearly have to address the issue.

Transport crime does not affect only transport operators, and it cannot be tackled by them or the police alone. Local authorities, town centre managers and the local community have an important role to play. We are talking very much about a partnership approach. Transport crime obviously impacts on the wider community and community safety initiatives, and it is important that the public play a role and look out for vulnerable passengers.

Many people are concerned about waiting for and using public transport, especially at night. We are concerned about the protection of bus passengers and staff against assault. Many vulnerable passengers are concerned about that issue. We are aware that young people are often the perpetrators, but they are also often the victims of bus crimes. We want to consider youngsters, too, because we want to ensure that they can use the public transport system; we all want to increase usage.

The safer travel on buses and coaches panel, STOP, looks at ways to combat assaults, antisocial behaviour and vandalism at bus stops and stations, and on vehicles and in waiting areas. The panel brings together those involved in dealing with safety and security and includes operators, local authorities, police and unions. It is charged with the important task of facilitating the exchange of ideas and spreading best practice. I hope that we can also get it to take up the other issues that have been mentioned. The introduction of accessibility regulations for buses has made it easier for those travelling with small children, luggage or heavy shopping to access bus services, and it will also make travel easier for other vulnerable users.

I hope that I have demonstrated that the Government take the issue of vulnerable passengers very seriously indeed. We have introduced regulations making all new trains, buses and coaches accessible to disabled passengers, and have announced our proposals for taxis. However, we have to be aware that staff input and training is important, too. We are making progress, but we are not at all complacent about the importance of ensuring that public transport is comfortable and safe for everybody.

*Question put and agreed to.*

*Adjourned accordingly at twenty-nine minutes past Four o'clock.*

# Westminster Hall

*Thursday 27 January 2005*

[SIR NICHOLAS WINTERTON *in the Chair*]

## Fire Safety

*[Relevant document: Eleventh Report of the Regulatory Reform Committee, Session 2003-04, HC 684, on the proposal for the Regulatory Reform (Fire Safety) Order 2004.]*

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[James Purnell.]*

2.35 pm

**Mr. Deputy Speaker:** The subject for debate is fire safety. I advise the House that the Adjournment debate is a Government debate, but it will be appropriate for the 11th report of the Regulatory Reform Committee, Session 2003–04, to be taken into account. That Committee was, and still is, chaired with distinction by the hon. Member for Burnley (Mr. Pike). I call the Minister to open the debate.

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope):** I am delighted that we have secured this debate on fire safety. I welcome the opportunity to debate that important subject and am glad that there are so many hon. Members here to consider all the issues.

In the light of our proposals to reform fire safety law, the Regulatory Reform Committee, in its 11th report of the 2003–04 Session, asked for a debate on fire safety in the context of fire and rescue service reform. I echo your comments, Mr. Deputy Speaker. I am sure that the Committee will welcome this further opportunity to examine our proposals. Indeed, to help it, we have sent a draft of our response to its report.

Latest statistics show that there were 284 accidental fire deaths in dwellings in 2003–04 and some 8,200 injuries. The main cause was the careless handling of smoking materials. In other premises, there were 18 deaths and 920 injuries. Many of those fire deaths were preventable. That is why fire and safety service reform is so important.

In recognition of that, the Government have set targets that will, from 1 April, be formally incorporated in the Office of the Deputy Prime Minister's public service agreement with the Chancellor. Our national target is to reduce by 20 per cent. the number of accidental fire-related deaths in the home by 2010, with no local fire and rescue authority having a fatality rate, from accidental fires in the home, that is more than one and a quarter times the national average. An element of the target does relate to arson, which I will deal with later.

The national house fire death trend is down from its peak in 1997–98, when 385 accidental dwelling fire deaths and some 10,200 injuries were recorded. In commercial premises, too, accidental fire deaths are down from a peak in 2002–03 of 26 deaths, and injuries are down from a peak in 1996–97 of 1,300 injuries. Clearly, however, there is still much to do. Prevention is obviously the key, as many people die before fire and rescue service personnel are called out. The new legislative framework recognises that. Not only are we reforming fire safety law as it applies to business through the regulatory reform order, but the Fire and Rescue Services Act 2004 places fire prevention at its heart. The promotion of fire safety is now a core duty of fire and rescue authorities.

Changes in behaviour are vital. Simple measures taken by households, such as smoke alarm installation and regular smoke alarm maintenance, will help to reduce the number of fire deaths and injuries. Smoke alarm ownership now stands at around 80 per cent. compared to only 8 per cent. in 1988. That is partly due to regular publicity and television campaigns sponsored by the ODPM.

**Andrew Bennett** (Denton and Reddish) (Lab): On the subject of smoke alarms, how satisfied is the Minister that the alarms have working batteries in them? Is it not important to convince people that they should go for electrically wired smoke alarms, rather than battery-operated ones?

**Phil Hope:** My hon. Friend raises an excellent point. My very next point was that we need not only to increase ownership, particularly among the most vulnerable, but to ensure that existing smoke alarms are fully functioning. Later I will talk about some campaigns that the Department is running, one of which is called "Push the Button! Not your Luck". That is all about testing smoke alarms to ensure that they contain a working battery. As we know, families may, stupidly, take the batteries out to put into toys, particularly at Christmas, when there is greater vulnerability, and not replace them. His point about the hard wiring of smoke alarms, which he knows is part of the building regulations—every new house has to have a fully-wired smoke alarm—goes some way to addressing the issue.

**Mr. Philip Hammond** (Runnymede and Weybridge) (Con): The Minister will be aware that recent regulations introduced by his Department make it more difficult for householders to carry out modest electrical wiring installations in their own homes. Indeed, they require them to hire external contractors or, alternatively, to pay an inspection fee to the local authority. Does he not think that that is likely to deter householders, especially the poorest, from hard wiring smoke alarms?

**Phil Hope:** The hon. Gentleman is referring to the part P of the building regulations, which have recently been introduced and come fully into force on 1 April. There is a transitional period at present. His assertion is utterly wrong.

Part P provides new safety measures. If a person is putting new wiring into, say, a kitchen or a bathroom or outdoors—somewhere where there is water—we recommend that they use a qualified person, somebody with a competent person certificate. If they wish to do the work themselves, they can. They can use their neighbour, who might be an amateur electrician or somebody who puts in kitchens. We are simply saying that, under the new regulations, they must have the work checked by the local authority building control to

*[Phil Hope]*

make sure that it has been done safely. In that way, we will reduce the number of deaths and injuries not only from electrocution but from fires created by faulty electrical installations, particularly in high-risk areas such as kitchens, bathrooms and outdoors.

I hope that that puts the record straight for the hon. Gentleman. He should, like other parts of the media, make sure that he gets his facts right before he makes such assertions.

**Mr. Hammond:** I was not aware that I was a part of the media.

The Minister says that I am utterly wrong. Can he then give us an assurance that the part P regulations do not apply to the wiring of smoke alarms?

**Phil Hope:** The point about the part P regulations is that any additional wiring put into a household—a brand new circuit—should be done by a competent person to ensure that it is done safely. It can be done by somebody who is not competent, although I do not recommend that it is, but that person must inform the local authority and have the work checked to make sure that it has been done properly and safely. The hon. Gentleman, like others, would not want faulty electrical installations to give rise to even more deaths and injuries. He will want to do something to reduce them.

**Andrew Bennett:** Does the Minister accept that the part P regulations should not apply to smoke alarms, because they should not be installed in a kitchen or a bathroom, where they can go off, giving false alarms? When people get false alarms, the natural thing is to take the battery out and stop the alarm working. Smoke alarms should go to the point closest to the kitchen but outside it.

**Phil Hope:** That was a helpful intervention. My hon. Friend is absolutely right. We recommend that smoke alarms be fitted near to those points. I would go further and say that not only should there be one downstairs but, in multiple-floor housing, one upstairs as well, so that there is early warning if a fire breaks out. The installation of working smoke alarms has the greatest chance of preventing deaths, most of which occur late at night. Unfortunately, people are often already dead before the fire rescue service turns up, because they have died from smoke inhalation.

**Dr. Doug Naysmith** (Bristol, North-West) (Lab/Co-op): The Regulatory Reform Committee has not spent much time on this point, but, as it has been raised, I should be grateful if my hon. Friend the Minister answered a question about small operators doing small jobs, which they can apparently continue to do under the regulations. Is he satisfied that local authorities will be able to cope with the requests from small businesses doing small jobs to certify their work and will a fee be involved?

**Phil Hope:** We are now having a part P debate, which is more interesting than I anticipated, but I shall endeavour to answer the points.

First, if somebody adds, say, an extra socket to a line, excluding kitchens and bathrooms, where there is extra risk, they do not need to notify the local authority or use a competent person. Such minor alterations and repairs are not notifiable, so a large majority of the jobs that ordinary householders do in their own home are not touched by the regulations.

If householders are putting in a new circuit throughout their house, or something of that kind, they should use a competent person, or notify the local building authority, so that the authority can come in and check that it has been done safely, the householder and their family are safe and those who rent or buy the house subsequently can rely on its safety.

An electrician who does regular work during the year will join a competent persons' scheme. That will require a fee of about £300 per year depending on the nature of the work. Given that the electrician is doing hundreds of jobs every year, that cost is marginal to total annual earnings. If the person is doing a one-off job as an electrician, they can notify the local building authority. The local authority's building control inspector will then inspect and charge a fee, the level of which will depend on the amount of work. If it is a small and simple piece of work, it will require less of an inspection, so less work will be involved than in, say, inspecting the wiring of an entire house. Therefore, the fee set by local authorities will be affordable and done per item if the person undertaking the work is not a competent person. I hope that that clarifies the position.

**Richard Younger-Ross** (Teignbridge) (LD): Does the Minister agree that such regulation is important? The kitchen and the bathroom are two rooms in which people tend to do their own work, putting up new kitchen units, wall cupboards, shower units or whatever. There is a high risk in those areas. Unless cables are properly buried at the right depth in the wall and run vertically rather than diagonally or horizontally, those cables can be breached.

I bring to hon. Members' attention a tragic case that took place last year. A diagonal wire was put up with a magnetic knife rack. The screw from the end of the knife rack touched the wire for a number of years. It took the coating off the cable. A lady who was put something away from a dishwasher put her hand on the knife rack while touching the dishwasher and died of electrocution. She was the daughter of my hon. Friend the Member for Richmond Park (Dr. Tonge).

**Phil Hope:** The hon. Gentleman gives a good example of how tragedy can strike. While I do not want to go into the specifics of that case, the hon. Member for Richmond Park (Dr. Tonge) has been directly involved with the Department in promoting the new part P regulations.

The reason that we are introducing the regulations is that 10 deaths and 750 injuries a year result directly from faulty installation and fixed electrical wiring in places such as kitchens and bathrooms. The regulations allow individuals to do the work but insist that they have it checked to ensure that it is done safely. That is an entirely sensible measure. A full regulatory impact assessment was done on the part P building regulations. The measures that we are taking to prevent people dying

from electrocution or fire from faulty electrical wiring are absolutely right and sensible. I know that the rest of the country believes that they are the right way forward.

**Ms Julia Drown** (South Swindon) (Lab): I appreciate the Minister's point and am keen to avoid such tragedies. Given that kitchens are often a source of fire, does he not want to promote smoke alarms for kitchens with hush buttons, so that, if someone sees the toast burning, they can press the hush button and carry on? They can keep their smoke alarm and keep themselves protected without having the annoyance of the alarm going off all the time.

**Phil Hope:** A number of innovative approaches to community fire safety are being developed. My hon. Friend has named one. I will say something later about a different fire alarm that is suitable for houses with deaf people in, where light is obviously the key way of alerting someone who is unable to hear a fire alarm going off.

Often, automatic fire alarms in public buildings are responded to as a result of people cooking toast, which sets the alarm off. We need to find ways of dealing with those circumstances, so that we prevent fires and we make a response in the most efficient way that will reduce the number of fires.

**Mr. Hammond:** I am grateful to the Minister for his explanation. I do not claim to be an expert on the part P regulations. To go back to where we started, the hon. Member for Denton and Reddish (Andrew Bennett) suggested that it would be good to encourage people to hard wire smoke alarms. Accepting that smoke alarms should not be in kitchens or bathrooms, will the Minister confirm that hard wiring one outside a kitchen or a bathroom would not give rise to the need to pay a building regulations inspection fee? If he can give that assurance, we have closed this little loop.

**Phil Hope:** The hon. Gentleman does not seem to appreciate that the hard wiring of smoke alarms in new properties covered by the regulations will be undertaken by people who are competent. Those competent persons are qualified under the various regulations and approved by the competent persons' scheme to do precisely that. Because the costs are spread out over the whole year, they are marginal. I do not believe that the cost of the competent persons scheme is any barrier whatsoever to the fitting of 10-year smoke alarms in new properties, any more than are the building regulations we have at the moment.

Last year, the Department announced a four-year, £25 million fire prevention initiative in support of such measures. Over 1 million vulnerable households are to be offered help and advice to reduce the risk of fire in the home, backed up by the installation of free 10-year smoke alarms. Local fire and rescue services have already purchased several thousand of those smoke alarms, and are identifying at-risk households in their area to offer free installation.

Some of the work on smoke alarms is innovative. The Cheshire fire and rescue service, in conjunction with the Deaf Support Network, have identified over 250 households which require smoke alarms tailored for deaf and hard of hearing persons. I am pleased to say that Cheshire will start its installation programme later this month—something I am sure that you, Mr. Deputy Speaker, will be particularly pleased about.

To help establish and to develop community fire safety programmes more generally, some 26 fire and rescue authorities—those with above average accidental fire death rates—are receiving funding amounting to some £400 million over three years from the Government's community fire safety innovation fund to support their local initiatives. It is no surprise that that funding has been well received. It pump primes fire and rescue services to shift their efforts towards fire safety.

Last year, Cheshire ran a safer Cheshire project to cold call 40,000 homes in vulnerable areas to offer free home fire safety checks. Humberside fire and rescue service has targeted funding at fire safety advice to children at key stages 1 to 3, with appropriate materials. The Department is evaluating the work of those fire and rescue services in receipt last year and this year of community fire service innovation fund money to establish the range and nature of activities undertaken, and to develop good practice models in community fire safety projects. Once we have established good practice, that can be rolled out to other fire and rescue services across the country.

**Ms Drown:** I would be grateful if the Minister told me whether that funding can also be used for fire suppression methods. If that is the case, what is the Government's view on some of the newer methods, such as water mist systems and sprinklers? I ask because the Wiltshire fire service was one of the services that introduced sprinklers into social housing, and a recent fire in one such house—it had spread from outside—did minimal damage. The fire service reported to me how glad it was that sprinklers were there, because otherwise there could have been extensive damage and, for all we know, loss of life.

**Phil Hope:** Each fire and rescue authority is looking at the needs of its own area and determining what priority it should give to home fire safety risk assessments or to spending money on more smoke alarms. I know, for example, that the Merseyside fire service has issued many thousands of free smoke alarms, so its priority might be in another area. Whether a fire suppression method might be something that an individual fire and rescue authority wants to look at is a matter for that authority.

I will be speaking about sprinklers as a prevention method later. Obviously, the issue of cost and how many sprinklers could fit into a particular household with the money we are making available would be matters for those local authorities.

In addition to those funding streams, the Government's National Community Fire Safety Centre's national campaigns raise the profile of fire safety through the media to highlight our core message of prevention, detection and escape. This year, the centre will run its regular smoke alarm maintenance campaign, which focuses on that simple message about checking batteries once a week and replacing them once a year.

Another example of the fire safety message reaching the public was a recent partnership between Tyne and Wear fire and rescue service and Metro Radio and

*[Phil Hope]*

Magic 1152. The "Dying for Chips" fire safety advertisement brought home the importance of safe cooking. I am sure that hon. Members will have seen the fire and rescue services taking around their demonstration van about how a chip pan fire can start and how it can quickly be dealt with. Such messages are important in reducing the risk of death and injuries and preventing fires in the first place. The advert won the London International Advertising Award for "Best Station-Produced Radio and Public Service Commercial", beating off competition from the United States and Germany.

I turn now to arson. Our target is to reduce the number of deliberate fires by 10 per cent. by 2010. More than half of the primary fires attended by the fire and rescue services are started deliberately and many of them involve abandoned vehicles. Deliberate fire setting represents a significant drain on fire and rescue authority resources. Many local authorities now have good measures in place to tackle abandoned vehicles. I am pleased to say that the number of deliberate vehicle fires attended by the fire and rescue service in England in the year ending March 2004 fell by 13 per cent., after a long and frightening upward trend.

The Government have introduced new regulations enabling vehicles of no value, which comprise the majority of abandoned vehicles, to be removed by local councils after 24 hours. Other new powers enable local authorities to clamp and to remove unlicensed vehicles and to tighten vehicle registration procedures, so that those who dump cars can be tracked down and prosecuted.

The recent publication of the fire and rescue service national framework enhances our commitment to fire prevention, and it will be the subject of a further debate in the House next week. It sets out the Government's priorities and objectives for the fire and rescue service and what fire and rescue authorities should do to achieve them.

The national framework also sets out the support that the Government will provide. We will provide strategic direction while ensuring that authorities continue to make local decisions. The framework gives details about integrated risk management plans, which fire and rescue services are required to produce and to maintain. As part of their IRMP, they must include details for enforcing fire safety legislation in their area, making use of the risk-based inspection guidance that we have issued to them.

**Mr. David Drew** (Stroud) (Lab/Co-op): My hon. Friend the Minister is making a good case for the importance of prevention. Some of us who debated the Fire and Rescue Services Bill know that the regionalisation of some services, particularly fire control, had implications. Before we go any further, can we possibly have the publication of the full business case behind the view that it is cheaper and better to provide fire control services at a regional rather than a local level? He knows that that debate is taking place in my own authority in Gloucestershire. We are somewhat hamstrung by not knowing the full figures, because they will impact on how the fire service is organised.

**Phil Hope:** My right hon. Friend the Minister for Local and Regional Government recently held a seminar in the House for Members who are concerned about the future of control centres.

**Mr. Drew:** I was not invited.

**Phil Hope:** My hon. Friend is more than welcome to access all the material presented. Unfortunately, he cannot have the material that for commercial reasons must remain confidential. The outline business case has been made available to the chairs of fire and rescue authorities, in order that people can understand the whole case. I will make sure that my hon. Friend gets the full seminar presentation, because it made clear how having regional control centres will make for a more effective service. Any resources saved can be put back into fire safety in the way that he and I would like to see.

The case made by my right hon. Friend the Minister of State is irrefutable. We are going forward with a clear timetable and by full consultation with all relevant bodies. The delivery of regional call centres will improve response and effectiveness, while saving resources that can then be redeployed. I assure my hon. Friend the Member for Stroud (Mr. Drew) that we are well aware of the concerns voiced by him and others who have made representations, but the case is strong—I will not repeat the history of it now—for moving in the direction that we are taking.

I emphasise that the fire and rescue services must include in their integrated risk management plans details for enforcing fire safety legislation in their areas, making use of the risk-based inspection guidance that we have issued to them. Taken together, all of that can be used to advance the prevention and risk-based approach introduced by the 2004 Act.

The Audit Commission is implementing comprehensive performance assessment plans for English fire and rescue authorities. The assessment will test the progress and capability of each authority in delivering a modern fire and rescue service and in meeting local community needs.

It is not only legislation that is directly related to the fire service that has an impact on fire safety. Early in 2004, the Government began a fundamental review of the fire safety aspects of the building regulations and the supporting document, approved document B. The review is considering fire safety in all types of buildings, including residential premises, schools and warehouses, and will draw on the findings of recent research and experiences. We expect to publish a revised draft of the document for consultation in the spring. I say to my hon. Friend the Member for South Swindon (Ms Drown) that the part B regulations in particular will consider the role that sprinklers might play in a package of measures for prevention and risk reduction.

**Jim Knight** (South Dorset) (Lab): While he is on the subject, will the Minister clarify the role of the Department for Education and Skills in respect of

sprinklers in schools, and tell us how any announcements that it may make will relate to the announcement that he will make in the spring?

**Phil Hope:** I am grateful to my hon. Friend. I know that he has a personal interest in this subject as the chair of the Fire Protection Association.

**Jim Knight:** I will declare my interest if I am called to speak.

**Phil Hope:** Indeed. My hon. Friend has pressed me and other colleagues hard on this matter. He is right that the installation of sprinklers in schools is being considered by the DFES, which has the lead on that issue. We understand that it will shortly issue new guidance—building bulletin 100, for the insiders who need to know the technical details—which will specifically address the issue of designing against and managing the risk of fire in schools. The part B document that we will publish later this year, hopefully in spring, will be cross-referenced with that guidance, so that the two go hand in glove.

**Ms Drown:** On the issue of schools, it has been interesting to get feedback from the fire service in Wiltshire. When it approaches schools that are being built under the private finance initiative in the county and asks, "What are your responsibilities if part or all of the school burns down? You need to replace the school, or parts of it, don't you?", the debate quickly moves on to sprinklers. Straight away, all PFI schools in Wiltshire install them. They are doing the risk assessment. I hope that those lessons might be learned by the non-PFI schools.

**Phil Hope:** That is helpful. Wiltshire fire and rescue service does an excellent job with fire safety measures, and I am delighted to hear about the initiatives that my hon. Friend describes. All that evidence and experience is being fed into the part B review and the DFES guidance, which will be issued shortly. We want to draw on best practice.

As well as the areas that I have described, the Government are, where appropriate, regulating to deal with fire risk in residential premises. The Housing Act 2004, which was given Royal Assent in November, replaces the housing fitness standard and the houses in multiple occupation fire safety legislation with the new housing health and safety rating system.

The last piece of the jigsaw that I will describe—my hon. Friend the Member for Burnley (Mr. Pike) will be glad to hear me get to this—is the regulatory reform order, which focuses mainly on non-domestic premises, and covers the common parts of purpose-built flats and houses in multiple occupation. Existing fire safety law covering non-domestic premises has developed over many years, often in response to tragic fires in which large numbers of people lost their lives.

Most general fire safety legislation addresses the consequences of fire by requiring fire precautions, mainly making provision for safe escape in case of fire. However, the existing regimes do not generally address the problem of fire itself, or seek to prevent fires from occurring. The approach that we have taken in the regulatory reform order has been to seek ways to address the problem of fire at source. Prevention of fire reduces the likelihood of people being harmed and has a beneficial effect in other areas, such as the damage caused. We are carrying through the old adage that "Prevention is better than cure". I think that hon. Members will agree that that is appropriate.

Numerous pieces of legislation currently place fire safety requirements on the owners and occupiers of premises. Those legislative measures overlap and cause confusion to many businesses. For that reason, we believe that the regulatory reform order presents a good opportunity to bring as much fire safety law as possible into one piece of legislation. It has been a huge task. We appreciate the frustration from some quarters that the order is not yet in force. However, it is our duty to ensure that the legislation is workable and correct and that the guidance to support the order is ready.

Subject to the ironing out of several technical points, the order will shortly go back before the Regulatory Reform Committee and the equivalent Committee in another place for its second period of parliamentary scrutiny.

**Dr. Alan Whitehead** (Southampton, Test) (Lab): On the issue of the technical aspects of the regulatory reform order, I am sure that my hon. Friend is aware that, in article 31, entitled "Prohibition notices", the definition of houses in multiple occupation refers to the Housing Act 1985. Of course, the Housing Act 2004 has been passed. I assume that he will wish to have a look at how the order relates to the Housing Acts when he takes it back to the House. As I am sure he is aware, the 2004 Act expands the definition of a house in multiple occupation. Indeed, it allows local authorities to engage in licensing activities.

**Phil Hope:** My hon. Friend has put his finger on an important point. That is one of the technical points that we have had to take account of during the passage of the regulatory reform order. I am glad to be able to tell him that it has been amended to take account of the Housing Act 2004. That is the kind of technical point that we need to keep in our sights, so that the order is as accurate, up to date and useful as possible.

**Mr. Hammond:** Will the Minister clarify the procedure for an order under the Regulatory Reform Act 2001? He said that the order would now go back to the Select Committee for a second period of scrutiny. Will it then be reviewed by a Committee of the House, in the way that any other statutory instrument would be? In other words, will the rest of us have any further opportunity to scrutinise it?

**Phil Hope:** The hon. Gentleman asks me about parliamentary procedure. He will be glad to know that, unlike him, I have been focusing on the substance of the debate about regulatory reform orders rather than the processes. However, I will ensure that he gets a full answer to the question that he has raised.

**Mr. Peter Pike** (Burnley) (Lab) *rose*

**Phil Hope:** I was going to ask my hon. Friend the Member for Burnley. My understanding is that the

*[Phil Hope]*

order will go back to the Committee that he chairs, will be given a thorough review on the second scrutiny by members of all parties and will come back to the House.

**Mr. Pike:** It will be considered by my Committee and we will issue a report. The order will not be debatable on the Floor of the House unless my Committee divides. It will be decided forthwith. I will explain why my Committee recommended that we have this debate when I make my speech, assuming that I will be called.

**Mr. Deputy Speaker:** I can guarantee that.

**Phil Hope:** I am grateful to my hon. Friend for that clarification. I am sure that the hon. Member for Runnymede and Weybridge (Mr. Hammond) is, too.

We believe that it is right that the person in control of a premises where people go to work or visit should accept responsibility for the safety of those people. It is right that we should seek to prevent fires from occurring, and to minimise the effect of those that do occur. Fire prevention should be of equal importance to ensuring safe escape. We are seeking not to detract from the role that fire precautions play, but to enhance the role of fire prevention.

The flexibility of the new regime will allow fire safety solutions to be tailored to the circumstances of each business. Through that and through the reduction in the burden of overlapping and conflicting legislation, we can reduce red tape and costs for business, as well as reduce the cost of fire and the deaths, damage and injury that it causes. We can not just maintain existing protections but, through reducing the risk of fire, enhance them. That is a high aspiration. I believe that it is achievable, as I am sure my hon. Friends do, but it is taking time and I hope that it is worth the time and effort.

The Committee's initial report on the order expressed concern that the regime of IRMPs required by the national framework might be simply an administrative tool, and insufficient to ensure that the fire and rescue services enforced the regulatory reform order properly. I assure hon. Members that the national framework has sufficient legislative back-up to ensure that the new fire safety regime works better than the current arrangements.

The RRO will place duties on businesses and fire and rescue authorities to enforce its provisions for inspection and appropriate action where shortcomings are found. The Fire and Rescue Service Act 2004 gives the Secretary of State the powers to ensure that the local service is in no doubt about what is required of it. We have used those powers to require a local authority to include a risk-based inspection regime in its IRMP. Such a regime must form an integral part of the overall strategy for the protection of the community. If inspection or evidence showed that an authority was putting lives at risk by failing to establish a proper enforcement regime, the Act gives us the power to direct it, although it would only be as a last resort.

The measures I have mentioned, together wi recognition of the wider role of the fire service in dealin with accidents and emergencies that are not fire-relate go a long way to creating a modern prevention-bas fire service.

**Andrew Bennett:** I have listened carefully to my ho Friend. I hoped he might say something about candle When the Select Committee on Office of the Depu Prime Minister looked at the fire services, I w surprised to hear from one of the chief fire officers th he believed that candles were a growing threat. They a used in a lot of religious festivities and, increasingly, the home. A candle coming into contact with someon clothes can cause serious problems.

**Phil Hope:** My hon. Friend is right to emphas candles as a cause of deaths and injuries from fire many homes. The fire and rescue authorities I ha visited have shown me many examples of that. F instance, leaving those little tea-lights lit on top of television can cause it to melt, or even explode. Anyo who has been through a demonstration of a "flash-ove will know that it is terrifying. Within seconds, wh seems to be a small fire in the corner can engulf a wh room in an inferno of flame.

My hon. Friend is right to draw attention to the ri from candles at celebratory events. I was pleased to in north London at Diwali to emphasise the importan of the safe use of candles at a time of religio celebration. The same is true at Christmas, when ma people have candles in their home. People buy candl to put in children's bedrooms. We should ensure th ordinary safety activities such as blowing out a cand before going to sleep, and not leaving a lit candle in room unattended, are understood. Many of the fi safety messages that children are now being taught school focus specifically on those activities.

**Jim Knight:** To add to my hon. Friend's list, there w a tragic fatal fire in my constituency followi Halloween, after night-lights were left burning insi pumpkins overnight. The details of the cause are yet come through, but it is clear that Halloween is anoth festival we should watch out for.

**Phil Hope:** Absolutely. That is why we do not ju come out with the fire safety messages at one time of t year. The message needs to come out repeatedl because we need to heighten awareness. I have been many classrooms and watched some of the excelle work that the fire and rescue authority staff do the The children fully understand their message and home as little fire safety ambassadors. As a result, n only they but their older brothers and sisters, th parents and their grandparents will behave more safel

**Andrew Bennett:** Would it not be useful for those wh sell candles to have to include a warning or some advi with them?

**Phil Hope:** That might be a helpful contribution. I a sure that candle manufacturers are aware of the ris that their products might pose for people who misu them and that they are always mindful of the issue safety advice.

To conclude, our reform of fire safety legislation represents the biggest change in 30 years, and the transformation of the fire and rescue service is the biggest such change for more than half a century. We are convinced that the way to save lives is to embed the risk-based approach in all activities, be it the use of candles or the use of smoke alarms. We can do that by requiring businesses to undertake and to act on risk assessments and by ensuring that our fire services have enough resources, share good practice and use the best practice available. We have introduced a comprehensive package of reforms, which is designed to drive down fire deaths and injuries and to create a modern, prevention-based fire and rescue service fit for the 21st century.

3.16 pm

**Mr. Peter Pike** (Burnley) (Lab): I am glad to have the opportunity to speak in the debate. It may be helpful if I first outline the responsibilities of the Regulatory Reform Committee, because I am sure that most hon. Members do not know how it functions.

I have served on the Committee since it was established in 1994 in accordance with the Deregulation and Contracting Out Act 1994, which was passed by the Conservative Government. At first, the Deregulation Committee, as it was, had a Conservative Chairman. It carried on after the 1997 election, but after the passing of the Regulatory Reform Act 2001, which was completed just before the 2001 general election, it changed its name to the Regulatory Reform Committee.

There are two elements to the Committee's procedure. One applies when the Government lay a proposal before us. In that case, we have longer to look at the proposal. We can take evidence and have the Minister before us. It all depends how simple or complex the proposal is. The other element applies where the Government have considered a report by the Committee; they can then introduce a proposal.

The hon. Member for Runnymede and Weybridge (Mr. Hammond) asked about debate in the House. The proposal can be debated in the House only if the Committee divides on it, although there has been a Division on only one occasion, and that was on the check-off provisions. In such cases, there can be a debate in the House for half an hour. If the Committee says no and the Government still go ahead, there can be a debate in the House for an hour and a half. However, that has never happened. In fact, in such cases, the Government have withdrawn their proposal as a result of the evidence taken by the Committee.

**Mr. Hammond:** I am grateful to the hon. Gentleman for his clarification of how the system works, but is he not just a little concerned that when the statutory instrument goes down the regulatory reform route, rather than the conventional route, the usual suspects — those of us who deal regularly with issues relating to fire, and who will be in Standing Committee next week debating the national framework — do not have an opportunity to look at these weighty and important matters? The Committee has done an excellent job, as I shall say in a moment, but it seems that that arrangement has slightly disjoined this particular regulation from the overall framework.

**Mr. Pike:** There was considerable opposition when the Conservative Government passed the original Act, and the Labour Government amended it. However, the arrangement is not a fast track; it is a second track, and there is full scrutiny. In all fairness, however, I must say that the participation of Conservative members of the Committee is almost negligible. I have raised the point in the House on one or two occasions and expressed concern that hon. Members who have been appointed to the Committee have not come along. That is not my responsibility. It is not the most exciting Committee for the purposes of attracting hon. Members to serve on it, as you know, Mr. Deputy Speaker, having heard me say so on other Committees on which we have served. The procedure, however, exists, it is agreed by Act of Parliament and we must work with it. I must recognise that my role is to take an objective view as the Committee works within the powers laid down by the Act.

**Dr. Naysmith:** This is an interesting area. Certain matters sometimes receive more scrutiny in the Regulatory Reform Committee than they do in the House.

**Mr. Pike:** I thank my hon. Friend for that comment, which is true. If some of the items that we deal with were tagged on to a Bill in a clause, they would receive no consideration, but we can take evidence and consider them in detail. They are given greater scrutiny by a limited number of people, which I think is the point that the hon. Member for Runnymede and Weybridge (Mr. Hammond) was making. It was not in my power to determine that; we must work within the Act of Parliament.

**Richard Younger-Ross:** I tend rather to concur with the hon. Member for Runnymede and Weybridge. If the Committee should divide on the matter it might find, because a lot of work has been done on fire and rescue in recent months, and because we debate the framework next week, that its response was well received by hon. Members who wanted further to examine the provision in the House.

**Mr. Pike:** It is not for me to decide whether the Committee should artificially divide to permit such a debate, but I hear what the hon. Gentleman says. We have considered that on one or two occasions, although we have never done so. The option exists; if we wanted to provide for a half-hour debate in the House we could, in theory, do that.

The only time in my 22 years in the House that I ever drew a high place in the private Member's Bill ballot I introduced a Bill on fire prevention, which unfortunately was prevented from making progress by the usual suspects on the Conservative Benches, who traditionally used to block private Member's Bills on a Friday. I am sure that I do not have to name them, because everyone knows who I mean.

The Committee called for this debate, in paragraph 58 of our report, because the proposal was the biggest that we had ever had before us, whether as the Deregulation Committee or under our present title. The Government proposal contains 52 articles and five schedules, so it is quite substantial. It would amend or repeal 79 separate items of legislation.

*[Mr. Pike]*

We held two evidence sessions in June 2004 with experts including the Fire Brigades Union; the Minister was our final witness and that evidence session was very useful. The Committee thought it appropriate to deal with the proposal under the regulatory reform order procedure—and recommended that—but because of its scale we thought that there should be an opportunity for more Members of the House to debate it. We therefore suggested that it should be debated in Westminster Hall, which we thought the most appropriate venue, or in the Chamber, because that would in theory provide every hon. Member with the opportunity to take part in a debate, time permitting. The Government responded positively to that suggestion, which is why we are here this afternoon. We should commend the Minister for that.

The order is intended to bring about a thoroughgoing consolidation of existing legislation on fire safety, thereby reducing the regulatory burdens on business caused by the overlap of current multiple fire-safety ratings and their related enforcement authorities. The order will replace the existing legislation in England and Wales and, for the first time, establish a single regulatory regime for fire safety in all non-domestic premises, based on the principle of risk assessment and with a single enforcement authority in each area with responsibility for fire safety. The Committee also said that Scotland should, if possible, be dealt with according to a similar timetable and with a parallel arrangement. That way we can have the same arrangements at the same time—as near as possible—in England, Scotland and Wales.

Article 9 of the order introduces the principle of risk assessment which underlies the Government's intended future approach to fire safety legislation. That requires that in respect of all premises covered by the order:

"The responsible person must make a suitable and sufficient assessment of the risks to which relevant persons are exposed."

That is intended to enable the "responsible person" to take such fire precautions as may be necessary to comply with specific requirement and prohibitions provided by the order.

The order defines the terms in the following ways. We raise the question of "premises", which is to say any place, including any workplace, any vehicle, vessel, aircraft or hovercraft; any installation on land, including the foreshore and other land intermittently covered by water, and any other installation; and any tent or moveable structure. Obviously we believe that the Government need to address those points, and it has to be clearly understood exactly what is being covered there.

"Responsible persons" means any employer with a control of a workplace, any other person with that responsibility or in any other case the owner of the premises. Again, the order is making an important point. "Relevant persons" is any person who is lawfully on the premises or any person in the vicinity who is at risk from a fire on the premises.

**Ms Drown:** My hon. Friend is emphasising, I believe, the need for further guidance on some of these issues. An issue that has been raised with me is large, single-storey premises. New premises of that sort have to have sprinklers, but existing ones do not, and the responsible person might have to make a judgment about that. Guidance to encourage the use of sprinklers in those large buildings would be appreciated by the fire service. Firefighters are relevant persons, so this may be an issue of protecting them in the event of a fire.

**Mr. Pike:** My hon. Friend makes a valid point. It is indeed the reason we wanted to have this debate today. The Government and the Secretary of State will be able to consider the points made today before they make their proposals. My Committee will also consider any points raised; hopefully the Government will have addressed them. I am going to list the particular points that the Committee said we needed guidance on. My hon. Friend will find that the point she just raised is covered there. Her query is perfectly valid because these issues are important.

Everybody in this Room has the same objective: we want to reduce the risk of fire, and the risk of injury and loss of life as a result of fire as far as possible by taking necessary steps for protection. We have no difference with the Government, and this is not a political issue; we all have the same objective. It is just a matter of making sure that we get it right.

What are we asking of the Government? First, that the Secretary of State should be required to provide guidance to responsible persons and to enforcing authorities as to what the words "where necessary" mean in articles 13 and 14 of the draft order. That was one of the items. Secondly, that the draft order should be amended to provide that firefighters receive the protection provided by the order when they are on premises carrying out fire authority duties other than firefighting. That touches on one of the issues that my hon. Friend the Member for South Swindon (Ms Drown) was making. It is not just when they are dealing with a fire that they need protection; they must also be protected when they are doing other work.

**Mr. Hammond:** Will the hon. Gentleman clarify what he just said about when firefighters are doing other work? My understanding is that the Committee recommends that protection should be extended to firefighters when they are not fighting fires, but that it accepts that they should be excluded from the definition of relevant persons when they are fighting fires. Have I misunderstood that?

3.30 pm

*Sitting suspended for a Division in the House.*

3.40 pm

*On resuming—*

**Mr. Pike:** A firefighter present at a fire is a relevant person, because a relevant person is any person who is lawfully on the premises or any person in the vicinity who is at risk from a fire. Therefore, if the firefighter is there fighting a fire, he is a relevant person; if he is there at any other time, doing fire prevention work or any other work, he is not covered. We believed that that was a loophole and that the protection should be extended. Certainly fire officers go into premises on many occasions when there is no fire. We do not want there to be a fire every time they are on a premises.

We also believed that the draft order should be amended to give a clearer definition of a place of safety. In the interests of clarity and to ensure that the underlying intention was properly carried into effect, we agreed that the draft order should be amended to place a duty on the Secretary of State to issue guidance to fire authorities on their enforcement of the order's provisions and to monitor their enforcement activity, allowing the Secretary of State to direct them in that activity.

I know that my hon. Friend the Member for Hayes and Harlington (John McDonnell) would have liked to take part in this debate, but he is involved in the Third Reading debate on the Railways Bill and cannot be with us. He submitted a great deal of evidence to the Committee and was particularly concerned that the Fire Precautions (Sub-surface Railway Stations) Regulations 1989, which implemented the recommendations of the Fennell report on the King's Cross fire disaster, should be retained in the order. I understand that the Government will respond to that concern positively, to ensure that no loophole exists that would allow a recommendation following that appalling tragedy not to be taken into account.

We also said that the application of the order to fire protection systems in houses in multiple occupation should be clarified. One of my hon. Friends asked about the latest legislation. As the Minister said, that point has already been taken into account. We also felt that the power to amend the principal provisions of the order by a subordinate provisions order should be subject to the affirmative procedure. That falls into line with one of the first points made in intervention by the hon. Member for Runnymede and Weybridge, who said that we should have an opportunity to debate these matters. The negative procedure means that there is sometimes a chance that amendments to an order will not even be spotted or considered. However, that is for the Government to determine. Finally, the Committee thought that the Secretary of State should be placed under a statutory duty to issue guidance on the implementation and interpretation of the order.

I know that many hon. Members want to speak, so I shall bring my remarks to a close. These are important issues, and my Committee has no great argument with what the Government want to do because we all want to achieve the same objective. We gave the proposal thorough scrutiny and paid it a great deal of attention, and we made our proposals in a positive way. This debate is helping my Committee and the Government to come to a final decision on the proposals. There is concern that these proposals are not being implemented. At the end of the day, they would enhance people's safety. We would not want any tragic deaths or injuries to arise from undue delay in parliamentary procedure. Having said that, we have to scrutinise these issues properly and fairly.

**Mr. Deputy Speaker:** Before I call the hon. Member for Runnymede and Weybridge (Mr. Hammond), I must respond to the concern expressed about how the House considers draft regulatory reform orders. I refer those hon. Members who are interested to Standing Order No. 18, which describes in detail the way that the House considers these matters. The House is grateful to the hon. Member for Burnley (Mr. Pike) for giving direction earlier in his speech.

3.46 pm

**Mr. Philip Hammond** (Runnymede and Weybridge) (Con): Thank you, Mr. Deputy Speaker. I shall look forward to reading that this evening.

I welcome this debate, because it gives us an opportunity to review both the order and the Committee's report on it, as well as the wider issues of the Government's fire safety agenda. I congratulate the hon. Member for Burnley (Mr. Pike) and, through him, the Committee on their excellent job. The report highlights the areas of a weighty, complicated draft order on which we need to focus.

We had a little exchange about the procedure earlier, and I am somewhat concerned by what I have heard. The hon. Member for Teignbridge (Richard Younger-Ross) suggested that there should be an artificial division in the Regulatory Reform Committee, but the solution is exactly the one that the Committee has adopted where a matter is complex and would bear some additional scrutiny by people who are particularly interested. Apart from myself and the hon. Gentleman, as Opposition spokesmen, we have other people in the Room who have specialist knowledge of, and interest in, aspects of fire safety. The Committee can ask the Government for a debate and ensure that, with a three-hour debate, we get more scrutiny by the House than we would have managed had this been an ordinary statutory instrument, when we would have got just 90 minutes. We may have ended up, via a tortuous route, with a rather elegant solution.

I intend to raise a few salient points about the Committee's report and the draft order, and then look more widely at the Government's approach to the broader issues of fire safety—always bearing it in mind that some of us will be in Standing Committee next week, covering the same ground again when we consider the draft national framework.

The draft order is entirely consistent with the Government's wider approach, moving from a prescriptive to a risk assessment-based approach. That is clearly focused on the safety of people rather than the protection of buildings, which is the traditional way of drafting fire regulations in this country. In scrapping fire certificates and imposing a general duty on responsible individuals to carry out risk assessments and act on them to ensure the safety of relevant persons, it is undoubtedly opening the way to ending an unnecessarily bureaucratic approach to fire safety, where things are done simply because they are in the rule book, even when they have no particular relevance to the situation in question. This will allow a more flexible and tailored response. I welcome that—it is the right way to go.

Reading the Committee's report, I detected that, in some cases, it is precisely the Government's more flexible approach that gives the Committee cause for concern. Broadly speaking, we support this move to a goal-based system. I note that it shifts the burden from one of inspection, which was a tick-box approach for building occupiers, to one of judgment, which is a much more onerous burden on occupiers. Looking at the burden that this imposes on business, we must be cognisant of the fact that calling the fire brigade to do a fire inspection and issue a certificate is an easy way to

*[Mr. Philip Hammond]*

discharge a responsibility. The responsibility that is being imposed on building occupiers will be much more complex and continuous.

I suspect that, in practice, insurers will play a large part in the regime. They will obviously want to ensure that building occupiers are acting appropriately, both in terms of their liability should there be any deaths or injuries and in protecting the buildings themselves. Can the Minister tell us whether there has been any discussion with the insurance industry about its role and how it expects to interface proactively with building occupiers?

I will make two other points in passing. The first is that the measure is a centralising one. The order sweeps away many local Acts that impose local solutions, some of which are admittedly outdated, and imposes instead a uniform regime across the country. I will say nothing more on that point. The second is that I want to draw the Committee's attention to regulation 45, which requires local authorities to consult—

**Mr. Deputy Speaker:** Order. This is not a Committee. It is the complementary Chamber. It is "the House".

**Mr. Hammond:** I stand corrected, Mr. Deputy Speaker. When I am in Westminster Hall, I find it difficult to remember that it is the House. I find it even more difficult when we are at two removes from the main Chamber. However, I will do my best.

I draw the House's attention to regulation 45, which requires local authorities to consult fire and rescue authorities on building regulation applications. If the Minister speaks again, I would be interested to hear his comments on the issue. The regulation seems to cut across the thrust of the order, in that it is a form of certification, inviting the fire authority to consider the plans and tick the box to say that they comply. There is a danger that occupiers will feel that, having had that input from the fire authority as a statutory consultee, they are not required to go any further, the consultation having discharged their obligations. I am not a lawyer, but I suspect that, if a case came to court where the question was whether the building occupier had properly provided safety measures or precautions, the fact that the fire and rescue authority had signed off the safety measures as part of the local authority's procedure for building regulations might weigh heavily in the equation.

**Jim Knight:** I am trying to think through the hon. Gentleman's argument and ask him to dwell for a second on the difference between the fire authority approving the building regulations and its being consulted on them. As I understand it, the fire authority will be consulted by the local authority, not asked to approve the regulations.

**Mr. Hammond:** The hon. Gentleman is right, of course, but I suspect that many occupiers will take the view that, if the fire authority has been consulted and has no objection to the plans, that is tantamount to approval of those plans. I raise the issue because, reading the document for the first time, it struck me that that regulation went in the opposite direction to the Government's general thrust.

**Richard Younger-Ross:** I understand where the hon. Gentleman is coming from. There is an apparent contradiction, but is there not a difference between the construction regulation, which exists under building regulations, which are not being repealed as part of the order—and the professional advice and approval that is given to the person constructing that building to ensure that they comply with the regulations—and the running of that building on a day-to-day basis, including the assurance that staff can evacuate it safely? That would include the position of furniture, the closing of doors and so on.

**Mr. Hammond:** The hon. Gentleman is right. The point is that the regime should assess the risk and respond to it. This leftover from the existing regime goes the other way and is bound to be treated, as such things are, as meaning that a set of rules should be applied and that a set of drawings should be examined to see whether there are a certain number of exits and to check the distance from the furthest point to the stairwell.

**Richard Younger-Ross:** Is the hon. Gentleman suggesting that the part B building regulations should be repealed?

**Mr. Hammond:** No, I am not suggesting that at all, but I understand that it is proposed that fire authorities should be consulted by local authorities. I simply make the point that, with the certification regime having been abolished, it is slightly odd for the fire authorities to have to comment on individual applications. That is not a point on which I wish to dwell, but something to which I wanted to draw the Committee's attention, to see whether anyone would pick up on it—and indeed they have.

Paragraph 104 of the Committee's report mounts quite a serious challenge to the Government's view that integrated risk management planning will deliver an effective enforcement regime. The Minister referred to that in his speech and the Committee will want to consider the issue when it deliberates on the order again. However, it is important to note that there are doubts about the effectiveness of IRMP in delivering the required enforcement regime.

The Committee suggests that the Secretary of State should be required to issue guidance and to monitor enforcement regimes. However, I would not advocate that route. We must be clear who is responsible for the discharge of a fire authority's statutory duties. Is it the fire authority or is it the Secretary of State? The Fire and Rescue Services Act 2004 already gives the Secretary of State pretty substantial powers of intervention. On many matters it is debatable whether the balance of responsibility for the discharge of functions has already gone too far. I would much prefer a regime in which legal responsibility and public accountability were clearly with the fire authorities. Authorities would be left to do what they have to do and would be held to account if they failed to discharge their duties.

I should also like to draw the Committee's attention to paragraph 77 of the report. The hon. Member for Burnley has already talked about provisions being made where necessary under articles 13 and 14. The Committee was concerned about a possible dilution of existing safety standards for equipment and buildings. Things that must currently be provided in every case would have to be provided only where necessary as a result of the risk assessment to provide the appropriate levels of safety.

I understand entirely where the Committee is coming from, but without the discretion that is being introduced we might as well have a prescriptive rule-based system, rather than a goal-based system. If there were a move to overlay the risk assessment-based system with a set of prescriptive rules that applied in every case, the balance of regulatory. burdens would change considerably. Occupiers of buildings would not only face many of the burdens that they already face—sometimes they are required to make provisions that are not necessary on a proper judgment of the risk—but would have to make and continually revise risk assessments, and do what they required.

**Ms Drown:** I appreciate the hon. Gentleman's point. We want to make things as easy as possible for people who are charged with making establishments safe. Does he appreciate the point that people look to further guidance on these issues; otherwise, we have people up and down the country reinventing the wheel because they do not know exactly what some of the terms mean? Sometimes, that additional guidance is helpful.

**Mr. Hammond:** Yes, my next sentence was going to be that if there is guidance, it needs to have a very light touch. I am concerned to draw attention to the danger that starts with saying that we should scrap the prescriptive regime and introduce a case-sensitive, responsive regime. Then, we say, "Hang on a minute, we do not really want people not putting these fire doors in, or leaving these fire extinguishers out, so let us require them in be put in anyway—in every case". We will have piled burden upon burden, instead of stripping some of them away. It is very important that we do not fall into that trap.

**Mr. Pike:** Surely the hon. Gentleman realises, having read that section of the report—which he obviously has done—that it was based on the evidence of the chief fire officers and the FBU. I understand his concern, but the danger is not a lowering of standards which puts things at risk. This is a difficult place in which to draw the line.

**Mr. Hammond:** I am sure that the hon. Gentleman is right, but with the greatest respect to the FBU and the Chief and Assistant Chief Fire Officers Association, I point out that their position is to say that they do not really care about a bit more of a burden on business—quite rightly, as their job is to look at these matters from a fire safety perspective. The FBU has a campaign for a target of zero fire deaths. If one were seriously to pursue such a target, huge additional burdens would need to be imposed. This is about balance. As is obvious from its very name, the hon. Gentleman's Committee must, when considering any legislation, have in the forefront of its mind the balance between the good that will come from it and the additional burdens that it will impose. In this case, the fact that a raft of prescriptive burdens is being removed is encouraging It may allow the new duties to be imposed with a reduction in the overall burden. However, if we go back and start reapplying some of those prescriptive rules, we will squander some of that benefit.

I would like the Minister to clarify firefighters' status as relevant persons. The hon. Member for Burnley gave an explanation in response to an intervention which, I have to say, was diametrically different from my understanding that firefighters are generally excluded from being relevant persons. The Committee's concern was that in certain circumstances, where firefighters are not fighting fires, they ought to have the same protection as any other relevant person in the building. However, the Committee accepted that the responsible person could not have the same duties to firefighters who were actively tackling a fire as to people who were in the building for other purposes. Could the Minister clarify that point?

**Phil Hope:** The hon. Gentleman is absolutely right; the draft order was defective, in that firefighters were excluded whatever they were doing. The revised order has ensured that a firefighter will be protected as a relevant person, except when there to fight the fire. The draft order will be amended to remove that anomaly, and a firefighter will be treated as a relevant person when not engaged in emergency duties. They might be engaged in giving information, or something of that kind. I hope that helps the hon. Gentleman.

**Mr. Hammond:** I am very grateful to the Minister. That does clarify the point and I thank him for it.

**Ms Drown:** Does the hon. Gentleman share my concern that this sends out a message that not everything could be done? Fleur Lombard was a firefighter who died in the Avon area, in a large single-storey premises. It was as a result of that fire that regulations were introduced to ensure that there were sprinklers in large retail premises. That will save firefighters' lives. They are worthy of us doing everything that we can to save them, as well as other people, including when they are fighting fires. Does he agree that we should do everything possible to protect their lives too?

**Mr. Hammond:** Of course, the hon. Lady is right. We should do everything that we can to protect firefighters' lives. The obligations of fire authorities under health and safety legislation are clearly directed at doing just that. It may be that such obligations would dictate that firefighters did not go into a building to try to extinguish a fire where lives were not at risk but property was, precisely because the building was not deemed safe to enter. However, it would be impossibly onerous to impose on occupiers of buildings a duty to ensure the safety of a person who had deliberately gone into a burning building to try to extinguish a fire. The regulation as the Minister has explained it is right. This outbreak of consensus is very disconcerting, and I cannot quite get used to it, but I am sure that we will find something to disagree on later.

*[Mr. Hammond]*

The Committee was concerned about the scrapping of the Fire Precautions (Sub-surface Railway Stations) Regulations 1989. The hon. Member for Burnley said that he understood that the Government were going to respond positively to that concern. That gives me slight cause for concern. I share concerns about sub-surface railway station safety, and I will say more about that. The regulations were introduced in response to a specific fire in a specific location, and sub-surface stations, like factories and offices, all have different characteristics. I hope that the Minister will assure us that, although the Government will retain some of the prescriptive regime, they will ensure that risk assessment overarches it, so that the different characteristics of different stations are taken into account.

Will the Minister also tell us what the Government are doing about firefighting in sub-surface stations during a chemical or biological situation? I understand that the chemical suits that the London fire brigade has are not compatible with its breathing apparatus, so the duration underground would be extremely short—20 minutes. If there were the unfortunate coincidence of a fire and a chemical or biological incident in an underground station, firefighters would be unlikely to get down to the scene, bearing it in mind that they would have to rely on non-mechanical means of transport, have any useful dwell-time down there and get back up again within that 20-minute resilience period. I am sure that the Minister is aware of that, and I know that the problem has arisen due to the incompatibility of equipment in the incident response units, but will he tell us what the Government are doing to ensure that the problem is resolved and firefighters are capable of dwelling at the scene of an underground fire with biological or chemical aspects?

I want to touch on an area that the hon. Member for Burnley did not mention directly: the extension of duties and obligations beyond responsible persons to third parties. The Committee concluded in paragraph 119 of its report that it was appropriate that third parties should be capable of prosecution if they failed to secure safety, and that raises a few questions. Under the existing regime, a court can order, for example, that the terms of a lease be varied to allow alterations to a building for fire safety purposes. The proposal under discussion states that without any intervention by the court, a third party could be vulnerable to prosecution for having failed to do something that another person requires to discharge their duties as a responsible person. I am sure that the example that the Committee and the Government have in mind is the landlord of a building. As I understand it, both the report and the order are silent on the question of cost.

How is the third party to recover the cost of complying with the requirements of the responsible person? In the case of a landlord, it might be thought that that was something he had to take on the chin—after all, he gets the rent. However, there could be cases in which the third party burdened with a requirement is not the landlord in receipt of rent. For example, many escape routes in buildings that were built in the 1950s and 1960s—I can think of one not too far away, just across the river—exit via escape routes in other buildings, or perhaps across roofs. I can envisage a situation where a responsible person, having carried out his risk assessment, determines that he needs works done on an adjoining building over which he has no control, and notifies the owner of those premises that such works must be carried out. Will the Minister confirm that such a situation is properly provided for with some kind of formal procedure, and that there is a means by which the third party can recover the cost of complying, or indeed any loss that he suffers if compliance with the requirements disadvantages his building? We will need that reassurance if we are to accept such a wide extension of the scope of the regulations.

The hon. Member for Burnley rightly anticipated the Opposition's support for the Committee's recommendation that the articles designated as so-called subordinate provisions, in which future changes can be made by delegated legislation, should be subject to the affirmative procedure rather than the negative one—although not, as he suggested, because we might miss them if they were negative resolutions. I assure him that we trawl the negative resolutions assiduously, but it is not always possible to secure a debate on matters subject to negative resolution. The affirmative procedure guarantees that there will be a debate.

In the Department's own explanatory memorandum, the power is mainly seen as enabling the Government to respond to changes coming from Brussels in the form of EU directives. Anything that weakened the power of Parliament to scrutinise measures affecting the lives and the safety of British people would be strongly resisted by hon. Members on this side of the House. The Minister shakes his head, but he will find that that is the view of many Members on both sides of the House, and of many people outside this place.

I was going to touch on sprinklers, Mr. Deputy Speaker, but I see that there is greater knowledge on the subject among Labour Members, and I defer to that. If any issues remain outstanding when the hon. Members for South Dorset (Jim Knight) and for South Swindon (Ms Drown) have finished their contributions, I will try to raise them.

I have a specific question for the Minister regarding the order. I note that article 58 amends the Caravan Sites Act 1960. I do not have a copy of the Act to hand, but the amendment may be intended to remove the statutory separation distances between caravans which were originally imposed for fire protection purposes but have come to have a secondary purpose, in that they affect the way that residential caravan parks are laid out. I have a rather large number of residential caravans in my constituency, which may surprise some Members, and I would be interested if the Minister clarified that point.

I have set out the reasons why we support the order, in broad terms. It is a sensible measure, in line with the less prescriptive and more risk assessment-based approach. As long as policy is moving in that direction, and it is safety-driven, the Government will have our broad support on such matters, as they have had our broad support on the modernisation agenda. However, the Minister opened the debate by talking about issues well outside the regulatory reform order, such as the broader issues of the Government's fire safety agenda. He touched on some areas about which

I am concerned and to which I shall return, as it is not obvious that the Government are moving in the right direction to improve fire safety.

Concerns have been expressed about IRMPs. I remind the House that they were at the heart of the modernisation approach that the Government espoused after the Bain report, during the firefighters' dispute of 2002–03. Modernisation was presented as the way to save money to meet the firefighters' pay settlement without reducing fire safety; indeed, fire safety was to be improved. On the face of it, that was a sensible proposal, but we are now in the second round of draft IRMPs, and I understand from the Minister for Local and Regional Government's response to parliamentary questions that, so far, no fire authorities have dropped the two, two, four shift pattern, although that was one of the economy measures at the heart of the modernisation programme, which was to deliver improvements.

I understand also that no fire authority has proposed in its draft IRMP 2, or in its IRMP 1 for that matter, the redeployment of fire appliances from one fire station to another at night. In the debates in the Chamber during the firefighters' dispute, an example given of a way to save money and improve services was that fire appliances based in business districts in the day would decamp with their crews at night to the outer suburbs where the risk is greater, but no such proposal has been made, according to the Minister for Local and Regional Government's answer to my parliamentary question.

I understand also that no beds have been removed from night-time manned fire stations, although one of the issues at the heart of the reorganisation of the fire service was to get away from the culture in which the night shift is all about sleeping rather than doing a normal turn of duty focused on community safety.

The public will need to be reassured that the modernisation proposals that will deliver the savings to pay for the firefighters' pay settlement will be delivered, because in many areas there is no sign of that happening yet. The Minister is well aware that in the absence of those savings there will be financial pressure on fire and rescue authorities. Clearly, when those authorities are working under serious financial pressures, they are not best placed to respond as they would like to Government exhortations to focus on improving safety and reducing deaths.

**Phil Hope:** The hon. Gentleman mentioned the funding of fire and rescue authorities. Does his party's proposal for £35 billion of cuts include an increase in funding for fire and rescue services?

**Mr. Hammond:** It certainly will not include any cuts in funding for fire and rescue services. I think that the Minister is referring to the James report. He will know that the savings that it identified could be made in local government, and we will encourage and assist local government in making them. Some of them were identified by Gershon and are definitely not double counted—the James report figures include the Gershon savings—and they will remain within local government for the improvement of front-end services, not sequestered by central Government. That is at the heart of the Minister's misunderstanding of how James went about his work.

**Jim Knight:** Is the hon. Gentleman saying that, in this case, the savings would be generated not by central Government, but within local government? In the context of IRMPs and asking fire authorities to make savings, the Government—and I think that the hon. Gentleman would support them in this—are not issuing a direction that fire authorities must do x, y or z. There may be guidance or examples of thinking that they want to move towards. He is not suggesting that there should be direction about exactly what should happen, so I am a bit confused about what he is proposing.

**Mr. Hammond:** I am simply noting that the key pillars of the modernisation policy have not been delivered yet—perhaps they will come. That may say something about management, unions or the way that the Government have managed and partially financed the process. However, if the hon. Gentleman reads the statements made in the House during the firefighters dispute, if he listens to what the Deputy Prime Minister and the Minister for Local and Regional Government said about modernisation and how it would change the operation of the fire service both to make firefighters' better paid and to improve fire safety, and if he checks the answers to parliamentary questions that I have received over the past couple of weeks, he will see that as yet those benefits have not been delivered.

It is for the Minister, not me, to say why that is the case. Hopefully, he can reassure us that in the next round—IRMP 3—we will start to see some of those savings coming through. Fire authorities will then be able to repay their transitional money, which they have no idea how they will repay at the moment because they are not getting any savings to enable them to do that.

In his opening remarks the Minister mentioned domestic accidental fire death targets with a great fanfare. He said that the target of a 20 per cent. reduction in fire deaths over the 11 years to 2010 will form the basis of a new public service agreement with the Treasury. That is good, but unfortunately the old public service agreement that the ODPM had with the Treasury had a target of reducing accidental fire deaths in the home by 20 per cent. over the five years to 2004—a target that the Government have lamentably failed to achieve. The Minister told me previously that the original target was being changed because it proved too difficult to meet. The Minister for Local and Regional Government told me on another occasion that changing a 20 per cent. reduction to be achieved by 2004 to a 20 per cent. reduction to be achieved by 2010 was not a relaxation of the target.

I will leave hon. Members to draw their own conclusions, but I would say to the Minister that the situation is difficult because the target lies at the heart of the debate. Everything that the Government are doing—moving to a people-centred rather than a building-centred system, and having a risk assessment-based system—is geared to saving lives. To have the Government at the same time significantly lower the target that they set themselves for reducing accidental fire deaths in dwellings sends out a very mixed signal.

The Minister mentioned arson. Those targets have been downgraded, too. The target in the 2005–06 draft framework was originally to achieve a 30 per cent. reduction in deliberately set fires by March 2009. That target has now become a 10 per cent. reduction in

*[Mr. Hammond]*

deliberately set fires by March 2010. That is relaxation on a pretty massive scale. I have had an exchange about that with this Minister and with the Minister for Local and Regional Government. The latter told me quite clearly that the reason for the reduction in the target was

"the huge increase in the number of abandoned vehicles, which is the main factor behind the rise in the number of arson incidents."—[*Official Report*, 26 January 2004; Vol. 417, c. 49.]

However, the Government's own arson control forum document says that in 2003 there was a 9 per cent. fall in the number of deliberate vehicle fires. It is not clear to me that an increase in deliberate vehicle fires is the reason that the Government have had to relax their arson targets. I would be grateful if the Minister tried to square what his colleague told me last January with what the ODPM arson control document says.

**Jim Knight:** I hesitate to interrupt the hon. Gentleman again, because I would love to hear his conclusion, but does he think that the target should be tightened and made tougher or, like his colleagues in the shadow health team, does he not believe in targets?

**Mr. Hammond:** I am happy to set targets, if that is the way that the Government assess it is best to work. However, there is no point them setting a target if they say to the House a couple of years later that it is too difficult to achieve so they have downgraded or dropped it. To change the target that is at the heart of the fire reform modernisation programme seems to send a mixed message about the Government's commitment to fire safety as the key driver in that agenda.

I also want to say something about regional management boards and regional fire control rooms, which were raised by the hon. Member for Stroud (Mr. Drew). There is a considerable degree of scepticism among members of fire and rescue authorities and among the public at large about whether reducing the number of fire control rooms from 49 to just nine to cover England is about improving safety. That project is progressing under great secrecy. The Minister has said again today that he cannot give details about the procurement project because it is commercially confidential.

**Phil Hope:** That is true.

**Mr. Hammond:** Well, the Minister says it is true, but on the one hand we have the Freedom of Information Act, while on the other we have the increased use of public-private partnerships, in which everything that happens is commercially confidential, so we cannot find out what is going on. Fire and rescue authorities cannot find out what the project is going to cost and they do not know what their ongoing revenue costs will be. There is a blight on their ability to plan, a blight on staff morale, and a real danger that between now and 2007 some authorities will find it very difficult to recruit or retain the staff that they need.

The Government have been told in no uncertain terms in the only place where they have asked the question that there is no appetite for regional government in this country. They should now abandon the plan to reorganise the fire service on the lines of the Government offices for the regions. We have no objection at all to fire authorities co-operating and working together collaboratively, but that must be in units that make sense in operational terms, not in arbitrary Government office regions.

I end by asking the Minister a specific question about dual fuel vehicles. I was sent some information about an incident that occurred in Norfolk—I am sure that he is aware of this case—where firefighters arrived at the scene of a vehicle fire and, fortunately, were advised by the driver, who was present and conscious, that the vehicle was fitted with dual fuel. They retired just in time to be at a safe distance when it exploded. No markings are required on dual fuel vehicles, of which the Government now operate a fleet.

Will the Minister give the Committee two assurances? First, will he see whether there is a need for visible marking on dual fuel vehicles to protect firefighters at the scene of a fire? Secondly, if there is such a need, will the Government lead by example in the interim before such marking can be mandated and ensure that their fleet of dual fuel vehicles is appropriately marked?

**Mr. Deputy Speaker:** Before I call the next speaker, I point out that we have approximately an hour and a quarter left in this debate. I believe that the House would wish the Minister to have 10 minutes to reply to the debate. We have not even run out, as it were, of Front Benchers at this stage. Hon. Members should bear that in mind when they address the House.

4.30 pm

**Ms Oona King** (Bethnal Green and Bow) (Lab): This debate is extremely important and I am pleased that the Government have chosen to initiate it. In fact, it is such an important issue, I am surprised that it is only Labour Back-Bench MPs who have bothered to turn up to debate it.

I must report to the Minister that my constituents in Tower Hamlets are extremely concerned about fire safety. Those fears are the result of proposals to move one of two fire engines from Bethnal Green to outer London. It is natural that many residents have concluded that their protection from fire risk has been halved. For a variety of reasons, that is not the case, not least because in Tower Hamlets we have the best response times of any borough in London. None the less, there is the risk that fire protection may be reduced, and that is what I am here to talk about.

I place my remarks in the context of the Government's key proposal for fire safety, which is to move towards a risk-based approach. That means that fire resources must take account of communities that are most at risk, and it means moving away from using resources for the protection of buildings, for example, if those same resources could protect people instead. Most people would think that that is common sense, and I do not disagree. What I disagree with, and what my constituents are wholly opposed to, is the idea that fire safety in one residential part of London—Bethnal Green—might be reduced to increase fire safety in another residential part of London—Surbiton.

I shall use this opportunity to explain to the Minister the grave concerns of my constituents, and add some more general comments about the new measures the

Government are implementing nationally to make people safer in their homes and to raise the protection of firefighters.

I begin with the new requirement for authorities to draw up community safety plans based on risk assessment. I understand the need for the London Fire and Emergency Planning Authority to review fire risks in London. I understand that it wishes to redeploy its available resources as efficiently as possible to give greatest protection to the greatest number of people. However, I strongly disagree that redeployment—removal—of a fire engine from Bethnal Green will secure that aim. The draft London safety plan states:

"We believe one of the most important things for us to do is to identify more accurately where people are most at risk and use this information as a basis to plan our work".

Everything the authority has done and all the information it has gathered showing where people are most at risk builds up a profile of a constituency that almost exactly fits the description of Bethnal Green specifically, and Tower Hamlets more generally.

Tower Hamlets has more fires than any other borough. Bethnal Green station is one of the borough's busiest and Tower Hamlets fire station responds to more emergency calls than any other borough in London. Of all deaths in fires, 62 per cent. occur in flats and Tower Hamlets has a high number of high-rise flats. My hon. Friend the Member for Southampton, Test (Dr. Whitehead) will outline some of the statistics relating to disadvantaged communities, but the LFEPA recognises that deprived communities and those with high levels of social housing are exposed to the greatest fire risk.

Tower Hamlets has a larger proportion of residents living in social housing than any other London borough, and it is also the most deprived borough in London. I am delighted that the Government committed themselves to spend so much money when they announced £25 million in capital grants to English fire and rescue authorities to target disadvantaged homes to ensure that they have fire alarms and better protection from fire.

However, the aspect of the plan that concerns me most is that fighting fire in high-rise blocks is very different from firefighting in ground floor properties. One only has to ask the firefighters to learn that. It requires an element of common sense. When people arrive at the scene of the fire, they can obtain water immediately to tackle the fire at ground level. It stands to reason that that will be easier and quicker than trying to access someone on the 17th floor of a tower block. Given the extra staffing levels required to reach a fire in a high-rise block, the arrival of the first fire engine does not necessarily mean that firefighters can reach the point of entry and deal with the fire.

The draft London safety plan states that it is possible to improve the attendance time of the second fire engine in some areas by slowing it down in others, but information is lacking about the fact that people in high-rise blocks already have to wait longer for fire crews to arrive at their front doors. That is the specific point that I make in my submission responding to the LFEPA's consultation. It hinges on the levels of fire and risk in Tower Hamlets associated with the density of the population and the extra fire risk of living in high-rise blocks. It is also difficult to gain access to high-rise blocks. As anyone who has tried to find their way into an estate in Tower Hamlets will know, it is incredibly difficult to get there. Ordinary road layouts do not present the same problems for firefighters.

I understand that the Minister must delegate safety plans to local authorities, which know their local areas. I am sure that it is recognised that the people who know the local area best are local residents and local firefighters. Those people need to be satisfied that their legitimate and genuine concerns, which I share, have been fully considered.

I therefore request, as I did in my submission, detailed work on the risks associated with fire in flats and high-rise flats in particular. That should cover engine-to-fire response times for high-rise flats and the effect of increased response times for the second engine on whether enough firefighters can reach fires on high floors with the right equipment. The point is to assess the subsequent impact on risk to life.

In my view, the full impact of the proposal to remove the second pump from Bethnal Green cannot be quantified without more detailed research. I therefore ask that no decision to remove the engine should be taken before the research findings are known, analysed and made available to local residents and firefighters. I ask the Minister to give that serious consideration, because nothing could be more serious to local residents.

I want to mention the protection of firefighters and to raise their inclusion in the definition of persons protected under the draft order. The issue has been raised already, so I shall not go into it in any detail. I welcome the Government's positive response to the request of the Fire Brigades Union and others. However, firefighters risk their lives whenever they go into a burning building. As my hon. Friend the Member for South Swindon (Ms Drown) pointed out, there is a need to consider legal protection for firefighters whether they are at work in a firefighting role or not.

As to wider fire safety measures, among other things, the Fire and Rescue Services Act 2004 puts community safety at the heart of what the fire brigade does. I welcome the fact that local fire authorities are receiving new money and extra money from the Government to promote fire prevention measures, whether they bring about an increase in the use of smoke alarms in disadvantaged households or improve community education, so that communities can increase their protection.

Arson is an important issue in areas such as Bethnal Green. The Government's target of reducing deliberate fires by 10 per cent. by 2010 is welcome, as are the new powers that they are discussing to permit the removal of cars with no value. Most cars that are set on fire fall into that category.

My final comment is that nowhere is the fire services' wider role as the guardians of community safety better illustrated than in Tower Hamlets. They do a fantastic job and deserve our thanks. One way to thank them would be to consider my request seriously.

4.40 pm

**Richard Younger-Ross** (Teignbridge) (LD): It is appropriate that I should follow the hon. Member for Bethnal Green and Bow (Ms King), because my father was an auxiliary fireman between 1939 and 1945, and I understand that he was based at the Bethnal Green fire station. I was brought up with stories of Bethnal Green and east London, as well as of firefighters' hard work and the risks that they took, particularly during the war and the blitz. That always gave me a respect for the fire and rescue service. The service is of a very high standard and has a very good record.

The hon. Member for Runnymede and Weybridge (Mr. Hammond) spoke about who was in charge at fires and about the risks faced by property owners in terms of their duty towards firefighters. There are two reasons why there are very few deaths on the job among British firefighters. First, we have some of the highest fire safety standards in the world; indeed, in the past, we have had the highest standard in the world. Secondly, there is the level of training in the fire service and the skill of the officer in command in determining whether a firefighter can go into a building. I understand that the injury rate for firemen in the UK is second to none.

I note the point that you made earlier, Mr. Deputy Speaker, about time, and I can assure you that I shall be briefer than the official Opposition spokesman. Of course, some of those who sat on the Committee that considered the Fire and Rescue Services Bill might say that that does not necessarily mean a lot, but I shall try to keep my remarks fairly brief. I am aware, of course, that there is a chance of a vote before or at 5 o'clock.

I want to start by going in the reverse direction from the hon. Member for Runnymede and Weybridge and making some general comments before tackling the nub—the reform of existing legislation. Fire safety awareness starts at a young age, because it starts with education. When we were small children, most of us will have had some fascination with fire. It might have been a fascination with candles—perhaps with shaping the tops of them—or with seeing what burns in a corner of the garden.

When I was 14, we made Airfix models of fighter planes from the second world war. We would set fire to the tip of one wing, put a string on the other and whirl the plane round, with bits of black plastic flying off in all directions. We never managed to set fire to anything, but we made a black mess in quite a few places. Children have a fascination with fire, so it is important that, in talking about fire safety, we should also talk about education.

The Government have a number of very good initiatives, which the Minister outlined earlier. The ODPM website is full of fascinating facts and details—

**Mr. Hammond:** If you can get on to it.

**Richard Younger-Ross:** I had no difficulty getting on to it; the computers in the Library work wonderfully. I did not manage to explore all of it, because life is short and I have other duties. However, I wanted to look at the design and engineering section. I thought that it would be fascinating and that I could look at sprinklers and stuff about design and fire engineering. Sadly, there was only one entry—the national anthropometry survey of female firefighters. I suspect that the design, safety and engineering section needs a little adding to it, although I am not saying that the survey is not important. It is an issue and it is good to know that the ODPM is taking seriously the need for appropriate equipment for female firefighters.

A number of pages on the site give good safety tips. As time is short, I will not go through all of them. There is a list of the top 10 safety tips. All the different sections about fire safety need to be made widely available. I hope that there will be a programme and that the Government will consider how to spread the good word on fire safety.

I talked about children. When searching the internet, I came across one site called "Kids Fire Safety Tips". When I first looked at it, I thought that it would be a very interesting and exciting site. It could be developed and give some thought to the Minister. It is a website that kids log on to. It has wonderful things on it—Buzzy the Smoke Detector, Reddy the Fire Extinguisher, Squirt the Water Drop and others. It goes on for a number of pages. It is, in part, interactive. If we are to engage young children, we need to find things that they can relate to. The internet is one thing on which they can interact with issues to do with fire safety and which could be used as a tool for parents and teachers of younger children in schools.

Continuing that theme, I also found that in the US—perhaps there are some here, although I am not sure; the Minister may correct me—they do fire demonstrations on portable homes. One site from Dubuque—wherever that is—in the US says:

"Many children have a fascination with fire. A lot of adults do, too. But firefighters say that children need to be taught at an early age about fire safety, and parents should learn along with them."

Another site is about Rosenberg city council's fire marshal, Robert Brown. It says that

"his dream is expected to become a reality. Rosenberg City Council recently authorised building and buying a portable fire safety house, which is used to teach young people about home and fire safety."

I am not asking the Minister to respond to that point today, but perhaps at another time he could consider whether we could explore that sort of education programme to ensure that children's fascination does not lead to fire.

I also looked at internet sites on the south-west. One would expect that one of the greatest educators about fire safety would be the experience of fire. I was horrified to find that that is not always the case. That highlights the task that may lie ahead. One internet site dealt with

"Incidence and Perceived Risk of Fire"

It said that respondents in the south-west brigade district

"were the most likely to have ever experienced fire when compared to all other Brigade Districts, with some 23 per cent. of respondents ever having experienced a fire".

That is compared to 15 per cent. of the total national sample. It continues:

"Perhaps unsurprisingly, perception of possible risk of fire in the future was also slightly higher than average . . . Whilst claimed knowledge levels of possible causes of all types of fire was comparable to the total sample, respondents in the SWBD were considerably less likely than the total sample to carry out any action to reduce the risk of fire at night."

It is worrying that those people, nearly one in four of whom had experienced a fire, should take less care to ensure that they are safe at night. That issue needs to be addressed.

I will touch on an issue that the hon. Member for Runnymede and Weybridge mentioned—fire trends. Sadly, the ODPM website does not have the same amount of data that the Minister has at his fingertips. The campaigns are working. We have talked about the reduction in arson over a period in the past year. However, although a lot of work has been done on accidental fires, the figures on the ODPM website on malicious fires for road vehicles show that, between 1991 and 2001, their number doubled. Indeed, the doubling has occurred almost since 1997: the figures rose from 39,000 in 1991 to 79,000 in 2001, but they were only at 42,000 in 1997.

That chart shows an increase in the number of malicious fires in dwellings, in other buildings and outdoors. That could partially be explained by what the Strathclyde fire authority told me when I visited. Youths are not only setting fires but setting them deliberately to ambush the fire engine when it arrives. They will set them up in a narrow place and then physically attack the fire engine. We can talk about fire safety and review all the regulation in the world but, unless we can tackle that increase in crime, much of it will be to no avail. Unless we are able to tackle attacks on fire crews, the recruitment of firefighters will not be sustained.

**Jim Knight:** There is a point that I am compelled to make. I accept what the hon. Gentleman says about Strathclyde, but firefighters are generally highly trusted public servants, particularly in areas of deprivation and among disaffected people. I commend to him the work of the Cheshire fire authority, which has an active young people's organisation delivering messages not only about fire, but antisocial behaviour. That work is positive and it has a positive potential for fire authorities, particularly given the change in emphasis towards community fire safety.

**Richard Younger-Ross:** I take the point, and I am sure that the work of the Cheshire fire authority is as the hon. Gentleman says. Many other fire authorities are the same. Devon has cut arson successfully. Having been able to secure funding, it would like more funding. Hint—please continue that funding, so that it can continue that work.

If we consider the consequences of arson, we are looking at 100,000 fires a year, 100 deaths a year, 2,500 injuries and a total cost to society, according to the reports that we have been given, of £2 billion. I appreciate that the Government are tackling that problem and we would support them to reduce it further.

We have heard about the general aims of regulatory reform. I will not repeat what the Deputy Prime Minister said, because it has been well laid out by the hon. Member for Burnley (Mr. Pike). My background is in architecture, and I used to have to wade through a plethora of different fire regulations, depending on which building I was working on, to find the right set of regulations for the design of that building. The regulations did not all marry up: the standards for some buildings could be slightly different from those for others.

Therefore, we welcome the work to reduce some of those regulations to one document, which will be a reference point. However, I am not sure that we go far enough and I urge the Select Committee to do more in the regulatory review. Perhaps at a later date, if it can bear to come back to fire again, it will consider what other regulations we can bring together.

The order deals mainly with non-domestic regulation, but domestic regulation should also be considered. We have passed regulations in respect of the Housing Act 2004, there are the building regulations and there are other regulations relating to the design of buildings, which can be conflicting and confusing to designers. It is partly because of that possible confusion that I disagree fundamentally with what the hon. Member for Runnymede and Weybridge said about consulting the fire brigade on applications under building regulations.

I used to work in an architect's office as an architectural assistant. When I took the drawings into the building control, it would look at the regulations. The matter would then be referred on. For some buildings, there would be another meeting with the fire officer.

It is not, as was described earlier, a question of following rigid rules. Fire officers have rules, but they also have a lot of common sense and flexibility in applying regulations. One of the curses of architects, particularly in London, was that they would go to see a fire officer one week, the officer would then change and they would be told that the designs that they drew up no longer applied. Fire officers are experts and can help an architect to structure the building to ensure that it is safe when it is inhabited. That is different from the maintenance of the building, which I understand is largely dealt with by the current regulatory review.

I have several concerns. One is the removal of certification. It sounds straightforward and we have been given figures. We are told that, if certification is removed, it will save business £137 million a year, or whatever it may be. I wonder whether the figures stack up and whether we have considered the actual cost to business of the removal of certification.

When the certificate is ready, the fire officer comes and looks at the building and one knows that the building complies. The certificate says that there is the right number of fire doors and the right fire extinguishers in the right place. One can discuss options with the fire officer. Again, as I said, fire officers are flexible. It is not all written down in black and white. On occasions, they will listen to alternatives.

If we want to train or increase the level of training of people in business, particularly small businesses, so that they have a better understanding of the risk of fire and the same level of knowledge of their building as the fire officer, we will put a heavy time and training burden on them. Small and medium-sized businesses have the greatest difficulty in undertaking risk assessment on health and safety and other aspects. Often they can achieve that only by bringing in experts to advise them, and such people often cost a great deal of money, in many cases more than the fire certificate would have cost in the first place.

*[Richard Younger-Ross]*

Therefore, I ask the Select Committee, in its second tranche, to talk to small businesses again and to ascertain whether the removal of certification is a saving or could be a burden. It sounds good, but I wonder whether the Committee has considered it fully.

**Mr. Hammond:** Just to be clear, are the Liberal Democrats opposed to moving to a goal-based system rather than the present prescriptive set of rules?

**Mr. Deputy Speaker:** Order. The hon. Member for Teignbridge (Richard Younger-Ross) will have some time to think of an answer to that intervention, as there is another Division in the House.

5.1 pm

*Sitting suspended for Divisions in the House.*

5.24 pm

*On resuming—*

**Mr. Pike** *rose—*

**Richard Younger-Ross:** I give way to the hon. Gentleman.

**Mr. Pike:** Before the suspension, we were looking at whether my Committee would look closely at one or two points at the second stage. There are two things that I have to make clear. The Government must decide what to do with the order, taking into account any last-minute thoughts that they might have arising from this debate. We can take into account what has been said and anything else, but we have only one decision to make. Either we approve it, or reject it. We cannot amend it. I would like the hon. Gentleman to be clear on that.

I need to correct something I said earlier. I am a supporter of the programming of legislation in this House, and I inadvertently gave the wrong time. If the Committee divides on a proposal, the debate is an hour and a half. If the Committee rejects, and the Government go ahead, it is three hours.

**Richard Younger-Ross:** To save time, I accepted the second intervention. I shall answer both points at the same time.

The hon. Member for Runnymede and Weybridge asked about onus-based legislation. On general principle, I accept that we should move to onus-based legislation. I was briefly trying to test whether the onus-based approach is entirely the right way forward—whether the whole onus should be on the employers, rather than having a system where there is a certificate that still places an onus on businesses to take charge of the evacuation of their buildings under the Fire Precautions (Workplace) Regulations 1997. The European legislation referred to earlier is also onus-based and puts responsibility on the employers. I am not saying that that responsibility and onus on employers should not be there.

I need to correct my own figures on cost savings. I had two wildly different figures in front of me and the Minister might, with some prompting, be able to say which one is correct. The figure I gave was a third, entirely spurious, figure. The business savings are estimated, according to the debate note that we were given, at £1.7 billion. However, the previous note I read, which comes from the *Health and Safety Bulletin*, estimates it at £1.65 million. Whether it is the million or the billion, however, I come back to whether the cost saving is adequate. It is a large factor, and if it is the billion, it is far easier to justify. The figure I originally saw was the million, and it was that which led me to question whether the saving would not actually be outdone by the extra burden of the onus-based regulation.

I thank the hon. Member for Burnley for his clarification in the second intervention. It is obviously sad that we do not have in this debate an opportunity to amend the legislation. Perhaps the Minister will take note of that, look at what is being said today, and ask the Department and the civil servants responsible for this legislation to research those figures, so that he is sure in his own mind that the measure will achieve what it says. That is the main purpose of my questioning.

I promised that I would be brief, and I will not go into a lot of detail on the other issues I was going to address. I make a brief point about sprinklers, however. The Minister referred to building bulletin 100 earlier and he used the term "best practice" in respect of sprinklers in schools. I hope—perhaps this is the prescriptive part of me—that we could legislate through the building regulations to ensure that there were sprinklers in schools. Not only does that have the potential to save life, but it will save property. From what the hon. Member for South Swindon (Ms Drown) was saying earlier, it is seen by the private finance initiatives as a way of saving money, because of the insurance costs saved by putting sprinklers in.

I would go further than schools, though. We have to look at houses in multiple occupation, residential care homes and new build, and we should consider the practicality and costs being borne for retrospective fitting in some circumstances.

**Mr. Deputy Speaker:** I advise the House that two further Members are seeking to catch my eye, and I will seek to call them both prior to the Minister winding up.

5.30 pm

**Dr. Alan Whitehead** (Southampton, Test) (Lab): I will attempt to be brief. I welcome the regulatory reform order for the way it pulls together so much earlier legislation, which, in many instances, pointed in different directions depending on which part of what legislation one read. The Fire Safety Advisory Board, the Regulatory Reform Committee and the ODPM should all be congratulated on the work that they did in pulling all those Acts together. As memory serves, the proposal did not surface during the course of the firefighters' dispute; there has been a suggestion that it did, but that is not borne out by the facts.

During my brief but astounding period as fire services' Minister, there was substantial debate about whether there should be a fire services Act, or whether it

was possible to pull together all the legislation through regulatory reform orders. A number of people believed that it was not possible to move forward without primary legislation, and that the regulatory reform route would not work. What we see before us today demonstrates that that honestly held belief was not well founded. Not only does the regulatory reform method appear to have worked well, but it has had the added benefit of delivering succinct and compact new legislation. Fire legislation ought to be as much about fire prevention as about putting out fires. It is important that both the fire service and the legislation are moving in that direction.

With regard to the principle of risk assessment embodied in the order, I was enlightened a little while ago by the fact that, although the exact locations of accidental fires are not predictable, one can predict roughly where they will occur and, sadly, the groups of people who will be affected. For example, the likelihood of dying in a domestic fire is five times higher for those who are 80 years or older than for those in the 30–59 age group. One might say it is also a class issue because children in the lower social classes have a death rate no less than 16 times higher than those from the higher social classes. People in the poorest 10 per cent. of electoral wards are five times more likely to be injured by fires than those in the richest 10 per cent. It is therefore possible not only generally to assess risk, but to say what we ought to do significantly to increase protection for those groups whom we know to be at a greater risk from fire.

I shall quote one or two reports that have appeared in a paper in my part of the world over recent months and years. One headline says "House Blaze Kills Pensioner", and goes on to explain that the incident occurred

"after the smoke alarm failed to go off."

Another headline reads "Garment on heater sparks fire in flat", and tells of how a family had to evacuate a Gosport flat. Another article reports that a pensioner from West End, near Southampton, "took a bedtime sedative" and did not hear the smoke alarm going off. Yet another report says that two wheelchair-bound pensioners—a 91-year-old man and an 89-year-old man—died in a fire at a nursing home. Another relates how a housebound person receiving meals on wheels died in a house fire. Another headline reads "Pensioner's body blocked out rescuers". That person, also wheelchair-bound, collapsed in the back door of her blazing home in Woolston in Southampton, meaning that rescuers were unable to open her door.

I do not mention those terrible accidents with any sense of pleasure. Each was an individual tragedy, but each demonstrates the veracity of the fact that risk assessment can show where fire services should be engaged and what they should be doing in addition to putting out fires, in terms of the new roles set out in the order.

In that context, it is particularly important to consider homes where a number of people are living together, whether they be residential homes, care homes or houses in multiple occupation, of which Southampton has a substantial number. I draw hon. Members' attention to the read-across that the order has with the Housing Act 2004. In an earlier intervention I mentioned the definitions in that Act, and the need to ensure that the read-across was as accurate as possible.

That read-across, which can be used increasingly to ensure that a proactive fire safety regime for HMOs is in place, will deal with a high-risk group of people. We all know from experience how vulnerable such people are, either because of the way they live or, unfortunately, because the houses are not fully safe for such numbers. On HMOs, section 10(2) of the Act says:

"Before taking the enforcement action in question, the authority must consult the fire and rescue authority".

Conversely, assuming that the definition is absolutely right, the order requires that the fire authority consult the local authority. That will be important when we come to move forward.

The other point related to the Act is that the definition of an HMO has been expanded to include houses where students live, which were previously defined as single households. Given the conditions in which many students live, they are, I am afraid, another high-risk group. The Act also requires local authorities to set out licensing for HMOs with more than two storeys and five or more people living in them. In areas of high housing pressure local authorities may undertake full licensing of all HMOs, even if they fall outside that definition.

Those two definitions cover precisely the categories that I mentioned as having a high fire risk. It is important that, as local authorities introduce their licensing, the read-across of the new regulatory reform order into the implementation of the Housing Act is carried out, and proactive fire safety for HMOs can be undertaken as part of that. Since a number of local authorities will, for the first time, have a full and accurate picture of HMOs, it would be an omission not to follow that up by ensuring that the fire and safety regulations in those HMOs are applied in full.

Finally, I add that if a landlord consistently failed in their proper duty—running an HMO in a reasonable manner—the local authority could use its power to remove their licence to run such a house. I would include in "a reasonable manner" the risk at which some landlords are putting their tenants—of being injured or, in some tragic cases, dying—as a result of the way that a house is maintained.

I welcome the regulatory reform order, which marks an important new stage in the way that the fire service operates. I look forward to this positive way of saving an appreciable and increasing number of lives, as a result of fires not breaking out at all, rather than because firefighters are rushing to rescue people who have been engulfed in fires after a failure to take preventive action—once it is too late.

5.43 pm

**Jim Knight** (South Dorset) (Lab): I draw the House's attention to my entry in the register as a director of the Fire Protection Association. I have various other non-registrable interests in fire safety which can be accessed via my website at www.jimknightmp.com, since I have been interested in this subject for a considerable time. Principally, this was after learning—a number of years before I came into Parliament—that most fire deaths were preventable through the use of fire sprinklers. My interest in sprinklers has largely drawn me into what I fear many colleagues in the House regard as a slightly dry cul-de-sac.

*[Jim Knight]*

I welcome the regulatory reform order; despite the reluctance of the hon. Member for Runnymede and Weybridge (Mr. Hammond) to praise it, the debate has shown that we all agree that this is a good move. Something that replaces 60 separate pieces of legislation with a single document must be welcome. I note that the debate pack that the Library, with its usual assiduousness, produced for us, describes that legislation as being the result of the piecemeal response to tragic accidents. In many ways it is my desire to move away from what I would describe as stable-door legislation—that which responds to tragedies—which makes this debate important to me.

My interest had, happily, not been informed by personal tragedy, or even constituents' tragedy, but that changed at the end of October last year when Laura Meadows, aged six, and her aunt Mary Meadows, aged 13, died in a house fire in my constituency. Four days later another constituent died as the result of an accident with an electric blanket. The previous year, Dorset had had only four fire deaths, and suddenly within a week there were three in my constituency.

I saw the effect that those deaths had not only on the families but on the communities involved. It raised a number of additional questions, which I will touch on if I have time. In essence, none of those three deaths would have occurred had the houses in question had sprinklers. I am working with housing providers in my constituency to see how we can encourage the greater use of sprinklers in domestic premises. Smoke alarms are very important, and I agree that it is important that they are hard-wired, and that people check their batteries where they are not hard-wired. In some cases, they give people more time than sprinklers. However, in most cases having an automated firefighter on the premises is the most effective way of dealing with a fire.

I do not want to say that passive fire protection such as fire doors and fire walls does not have its place; it certainly does. However, we should be focusing on sprinklers when it comes to fire safety. My hon. Friend the Member for Southampton, Test (Dr. Whitehead) read out a series of press stories about the tragedies caused by fire. I occasionally come across a press story that talks about the success of sprinklers. There was one such story in Swansea in autumn last year, where lives were saved as a result of sprinklers being installed by a housing provider.

**Richard Younger-Ross:** The hon. Gentleman said that he did not want to pass over the role of passive protection. However, one of the problems with passive fire protection such as fire doors in houses is that home owners prop them open. As soon as the kitchen door is propped open, a fire, once started, will spread rapidly through the house. Education can help to alleviate that, but such actions will always be human nature.

**Jim Knight:** The hon. Gentleman is right. We have to try to understand human nature in such cases. That was certainly the case in the tragic Rhode Island nightclub fire a year or two ago: many of the deaths were caused by the crush of people trying to get out of the premises by the way that they had come in rather than by the fire exits. Again, human behaviour had not been properly accounted for.

The Government have an increasingly good record in this area. I was a member of the Standing Committee on the Fire Services Bill; I supported that, and I support the approach of integrated risk management plans. Moving to a risk-based system will result in a better deployment of resources, and it appears to be developing new roles for firefighters.

In Weymouth, firefighters are now knocking door to door to talk to residents about fire safety and to check whether they have alarms installed. I know of one circumstance in which a firefighter refused to leave an elderly person's premises until the housing association, which was the landlord, had come to the house and sorted out the problem with the smoke alarm which so alarmed him. That is positive and I hope that we will further develop that risk-based approach in the revision of part B of the building regulations by insisting on sprinklers where possible in high-risk properties such as high-rise flats, residential homes and so on. I look forward to being delighted when that is published in the spring.

My hon. Friend the Member for South Swindon (Ms Drown) mentioned the requirement for sprinklers to be installed in retail premises over 2,000 sq ft, which was included in the building regulations in 2000. That was to be commended. I was also pleased that the Secretary of State for Culture, Media and Sport, as part of the Labour party's national policy forum, agreed that we should encourage the use of sprinklers in heritage buildings. The need was pointed out last weekend by the Northumberland fire, which took place largely in the roof. It is possible to put in sprinkler systems to prevent that sort of thing happening and to protect our national heritage.

It is time to go further. A number of myths about sprinklers exist. I have entertained the House before by talking about those: they cause water damage; they accidentally go off; they all go off at once; they are obtrusive; and they leak. Recently, an issue was made out of whether the piping might leak. An issue was also made out of the idea that the water pressure would not be right, but we managed to resolve that matter with the water industry. I will not further delay the House by dealing with those myths individually, but I will say that the debate pack includes a useful rebuttal.

One of the key problems is cost. The ODPM's analysis says clearly that the cost-benefit analysis has been done, which means that many domestic premises do not pass the test. For that reason a challenge has been issued—led by the broadcaster Nick Ross—to the industry to produce cheaper sprinkler systems, and I am optimistic that it will produce a better response. We already have one installer in Rochdale who can do new premises for under £1,000. I think that we can halve that if we take an imaginative approach to the British standard which is used in this case.

**Ms Drown:** Does my hon. Friend think it strange that people might consider spending £1,000 extra on carpets for their new-build home but they would not consider spending that on sprinklers? This is part of the challenge that we need to address. There may be a case for piloting different schemes and perhaps having sprinklers only in the key at-risk rooms. Will my hon. Friend join me in pressing the Minister to consider getting more people to think about the issue so that more sprinklers are installed?

Perhaps the situation will be similar to that with digital hearing aids, which initially cost the NHS thousands of pounds, until it said that it would provide them in every area. The use then went up by so much that the cost dropped right down, and the product became something that was available to everyone.

**Jim Knight:** I agree with my hon. Friend. There is a place for piloting, particularly in respect of retro-fitting. It is a difficult area. Few people would argue that all domestic properties should be retro-fitted at a stroke—that would fall on the wrong side of any cost-benefit analysis—but there may be ways of piloting measures in order to accelerate the roll-out.

There are economic savings to be made, on rebuild costs and on insurance, if the insurance industry wants to go there. There are also environmental savings from fire prevention which are not measured. There are design freedoms that can be gained from the installation of sprinklers to make buildings more practical and enjoyable for those who use them.

**Richard Younger-Ross** *rose—*

**Jim Knight:** I am mindful of the time so I will resist the temptation to give way again.

What is the Department doing to continue to assess the efficacy of sprinklers and the cost-benefit analysis of their use? I say to others—the water industry, housing providers, householders, the fire safety industry and insurance companies—that we can come together, as indeed many do, in the National Fire Sprinkler Network. If we know that there is a will on the part of Government to move on this matter, we can accelerate the welcome trend in the reduction of fire deaths.

5.53 pm

**Phil Hope:** I am not sure whether time permits me to complete my winding-up speech before a possible vote in the main Chamber but I do not wish to diminish all of the contributions by rushing through. We have had a wide-ranging debate, covering many aspects of fire safety, which I am pleased about.

It is good to see so many Labour Members interested in this important issue. Many have spoken with a great deal of passion and commitment, citing examples from their constituencies of individuals or families who have been touched by the tragedy of a death or injury from fire. I am reminded of the conversations that I have had with leading members of the fire rescue services across the country that fire is one of the most devastating types of injury. It is not possible to recover from a fire injury in the way that it is possible to get over something like a broken leg. The injury is so profound that it lasts a lifetime, and if one gets burnt when one is young a series of skin grafts looms ahead over the years.

This is an issue that the whole House is keen to get right and it is important that the partnerships that we are creating to take forward fire safety measures are strengthened and improved.

I thank my hon. Friend the Member for Burnley (Mr. Pike) and his Committee for all the work that they have done so far—the job is not finished yet—on the regulatory reform order. We are grateful to him and his Committee and I hope that he will relay our thanks. It is sometimes not the most glamorous of jobs. The fact that he and his Committee have worked so assiduously on the detail has without doubt contributed to a much more thorough-going and useful change to the legislation. I am glad that between us we have clarified the procedure for what happens to the order as it emerges from the Committee.

One point that my hon. Friend raised that I wanted to mention was the production of guidance. It is important that once the order comes into place those affected—the responsible persons—have a clear idea of what is required of them. We shall produce guidance to that effect. We are committed to producing that guidance for the public at least 12 weeks, or three months, before the order comes into being. That will give those affected by it sufficient time to know what is expected of them and how to go about complying with those regulations.

My hon. Friend also mentioned, as did my hon. Friend the Member for Southampton, Test (Dr. Whitehead), the question of houses in multiple occupation and how the order relates to them. My hon. Friend the Member for Southampton, Test was right to point out the issues connected with the wider group of people involved. He mentioned students and others who are in accommodation of that kind. We have accepted the principle of the argument that, where a common fire precaution extends beyond the common parts of domestic premises in multiple occupation, the maintenance requirements should cover the precaution as a whole and not just the parts in common areas.

We take the view that that principle should apply to all types of premises that contain shared dwellings. It should apply not solely to HMOs, but to purpose-built flats and so on. We have not limited amendments in the draft order solely to HMOs, which is the point that my hon. Friend pressed. I am pleased to be able to respond so positively to his experience. As he represents a university town, I am sure that that is of particular interest to him as a constituency Member.

I want to put on the record my hon. Friend's record as fire services Minister. I have been privileged to carry that role forward since his time in office. In a way, we are seeing the fruits of much hard digging and labour some time ago. It is my privilege to present those results to the House.

**Mr. Hammond:** Will the Minister clarify the point that he has just made about obligations relating to shared or common detection and firefighting equipment? Who will be the responsible person? Will the responsible person for the common parts have a duty that extends into the individual dwellings, or will the occupants of those dwellings be responsible people in their own right?

**Phil Hope:** The hon. Gentleman made a similar point earlier in regard to third parties. I was going to come to that in a moment. It is true to say that third parties will be responsible. To some extent, they will not be in a position to reclaim costs. He mentioned an adjoining building which somebody has to use to escape. It will be up to the person responsible for that building to ensure that it is maintained in a way that enables that to happen. Any costs to that effect may be claimed against tax relief in the usual way, but a third party would certainly be a responsible person were they responsible for the egress or exit route of somebody in the neighbouring building.

**Mr. Hammond:** The problem with that is that, as I understand it, under the present system, the court would become involved in such a situation. To take an extreme example, what is to happen if the responsible person in a building determines—as a private citizen—that, as a result of his risk assessment and his analysis, he needs the next-door building to be demolished. Surely the Minister is not saying that the person who owns that building is obliged to comply without any possibility of compensation?

**Phil Hope:** The private householder will have a duty to co-operate, although they will not be the responsible person. If such measures are required, that person will have a duty to co-operate with measures to ensure that the responsible person—the second party, as it were—was able to comply with the regulations.

My hon. Friend the Member for Bethnal Green and Bow (Ms King) made an impassioned speech about the future of fire safety in her constituency. She spoke powerfully on behalf of her constituents. I want to assure her that the London fire safety plan is about increasing fire safety, not reducing it. That is the essence of the IRMP approach. She is right that local people, including herself as constituency MP, need to know that their concerns about a variety of risks can be satisfied in the current consultation.

My hon. Friend has made strong representations on behalf of her constituents. Being a Member who enters into active and constructive dialogue in the way that she does makes that task a lot easier when we consider the issues. She is a powerful champion for the people of Tower Hamlets whom she represents. *[Interruption.]* The hon. Member for Runnymede and Weybridge (Mr. Hammond) makes a remark from a sedentary position. My hon. Friend's contributions on behalf of her constituents make a genuine and real difference to their future and quality of life, including the services that provide and ensure safety in her constituency.

I know that my hon. Friend the Member for South Dorset (Jim Knight) has a high reputation, not just in Committee, but in the Tea Room and everywhere else he can buttonhole me, for his knowledge of sprinklers. I promise that I shall visit his website, if he promises that he will visit mine—www.philhope.org.uk. I thought that I should get that on the record.

My hon. Friend is absolutely right to say that sprinklers are an important part of a package of measures to bring about fire safety. The part B review is under way, dealing with such matters as the role played by sprinklers. He has helpfully dispelled myths this evening, as he has done in other forums and venues. The challenge to reduce costs is a key part of the considerations and the cost-benefit analysis, which, as he mentioned, is critical to our judgment of the way forward in making building regulations.

**Ms Drown:** On the business of visiting websites, I extend an invitation to the Minister—and anyone else—to visit a demonstration house in west Swindon that has sprinklers in it. A fire can be lit within it without the sprinklers operating, and with the sprinklers. It is remarkable. If anyone has any doubts about the effects of sprinklers, they are most welcome to visit it.

**Phil Hope:** I am grateful to my hon. Friend for that invitation. If I can, I shall certainly take her up on it.

My hon. Friend the Member for South Dorset asked whether I will be reassessing any of the situation. He may be glad to learn that we are trying to ensure that we learn the lessons of the Rose Park tragedy in Scotland to see whether we can prevent similar tragedies . The Scottish Executive commissioned the Building Research Establishment, which has the sort of facility mentioned by my hon. Friend the Member for South Swindon (Ms Drown), to study a replica fire under laboratory conditions and to examine the impact of potential improvements in fire safety measures for similar premises. We are on the case, with practical research and investigation, to ensure that we learn all the lessons and understand what works. We shall examine the outcomes of that work and consider what changes need to be made to part B of the regulations. In particular, the supporting guidance in the approved documents that accompany the regulations might be appropriate.

The hon. Member for Teignbridge (Richard Younger-Ross) mentioned a number of interesting points, particularly about the role that young people sometimes play in fire-setting. A strategy is emerging and there is a number of examples of very good practice, where fire and rescue services are dedicating activities to young people. I mentioned before the work done with children in schools and the curriculum packs that have been produced, but specific individual fire-setters have been targeted. If one imagines a pyramid of young people, most do not commit offences and can be educated at school, but at the top, there are a very few who carry out serious criminal activity. Can we intervene? Why do they get into that behaviour? What can we do to stop them?

There are some very good examples of interventions, such as the Phoenix project in Newcastle, and there is another example in the south-west. I know of firefighters who no longer play a role on a fire engine fighting fires, but have decided to work with young people. They have the ability to establish relationships. They are a uniformed organisation that is not the police, so young people are responsive to interaction with them. Because the firefighters' advice is rooted in their experience of fire and the impact of fire, it has a profound impact on some of those young people. Therefore, there is good practice out there, which I want to see promoted and developed throughout the service.

There was a small debate between the hon. Gentleman and the hon. Member for Runnymede and Weybridge on cost and whether this was the right direction to travel. There is clearly consensus that it is the right approach. Just for the record, the net saving of £1.65 million a year cited in the regulatory impact assessment is the calculation derived in the Regulatory Reform Act 2001 from not having to produce a fire certificate. The actual savings are from £47 million to £137 million, but I was trying to distinguish between the package of savings and the specific item of not having to produce a fire certificate and the component of that that is a saving. Costs in there are low as well, but I wanted to be clear about the figures that the hon. Member for Teignbridge was quoting and tell him what saving is what.

**Mr. Hammond:** The Minister will know that the Select Committee said in paragraph 219 that, once the start-up costs were added in,

"businesses may find they suffer a net economic loss in the first year of the Order's operation, and could take several years before they break even."

I think that the Committee was concerned that that might taint some people's compliance with the new regime. Has the Minister made an assessment of that?

**Phil Hope:** In our view, the potential short-term new burden costs vary from a saving of £49 million to a net cost of £19 million. Those are the figures in the regulatory impact assessment. *[Interruption.]* I have two minutes left.

I have not addressed all the issues raised by the hon. Member for Runnymede and Weybridge. He knows that we will have another debate next week on the statutory instrument, so I hope that we will have a chance then to address the questions that I do not manage to answer now. I assure him, however, that the IRMPs are an effective regime to deliver enforcement. Although I understand the Select Committee's concerns about it, we believe that it is the right way forward. I believe that the hon. Gentleman agreed.

I have answered the hon. Gentleman's point about third parties.

**Mr. Hammond:** As we will not get through the remaining points, perhaps I can press the Minister again on the third party compliance issue. It is an important point that is simply being brushed aside.

There is a big difference between compliance with a court-ordered action and compliance at one's own cost with the demand of a third party. Is the Minister saying that every person will be under an obligation to comply with the demand of any responsible person placed on them at their own cost? Can he answer yes or no?

**Phil Hope:** Clearly, third parties have a duty to co-operate. A third party would be a responsible person to the extent that they are responsible for the safety of persons generally and would be treated as any other responsible person. The hon. Gentleman may not welcome that reply, but there it is.

I have run out of time, so I thank the Committee for its contributions. I think that we have had a good debate, which will take the agenda forward.

*It being nine minutes past Six o'clock, the motion for the Adjournment of the sitting lapsed, without Question put.*

# Westminster Hall

*Tuesday 1 February 2005*

[MR. JOHN MCWILLIAM *in the Chair*]

## Agriculture (South-West)

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[Vernon Coaker.]*

9.30 am

**Mr. David Heath** (Somerton and Frome) (LD): It is a great pleasure to have another opportunity to talk about agriculture in the south-west. This is the second such debate that I have introduced in Westminster Hall and it is a great disappointment that we do not often debate what is still a key industry. I am delighted to see the Lord Commissioner of Her Majesty's Treasury, the hon. Member for West Carmarthen and South Pembrokeshire (Mr. Ainger), here to respond to the debate in his capacity as a Government Whip, but I am disappointed that his ministerial colleagues could not find a space in their no doubt busy engagement list to discuss an issue that, for many people in my part of the world, is hugely important. Although I accept that they have engagements elsewhere, many people will interpret their absence as symptomatic of the Government's indifference, and to some extent that of Parliament, to agricultural issues nowadays.

There was a time when we had a Ministry of Agriculture, Fisheries and Food, Agriculture questions and regular debates on the subject—sometimes too regular during the foot and mouth disease crisis and, previous to that, the BSE epidemic. It is incredible that agriculture has virtually been airbrushed out of the political agenda. When we have had the opportunity to tackle Ministers, the attitude that is so often evinced is one of apparent complacency in the face of what I regard as a crisis in the industry.

Let me stress first the importance of farming to the west country. It is often said that farming no longer employs that many people directly and that it is no longer a major economic factor in the region, or indeed any region in the country, so why should we bother about it? We must remember that 80 per cent. of the landscape in the south-west is under agricultural production. Without that production, we would not have the landscape that people visit and which swells the coffers of the tourism industry in the west country.

Let us remember the scale of agriculture in the south-west: our production is three times that of Wales and equal to that of Scotland. Agricultural issues seem to receive much closer attention in the National Assembly for Wales and the Scottish Parliament than in this Parliament, where one has to struggle to have one's voice heard. In answer to a question on the general public's biggest worry about the landscape of the south-west, which people were asked last year in a Campaign to Protect Rural England survey, 38 per cent. of respondents said the loss of working farms. This is a serious issue.

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): The hon. Gentleman is speaking cogently on a subject that he is very knowledgeable about. Will he bear it in mind that the loss of agricultural businesses also means a loss of valuable employment in the south-west, especially in remote rural areas, where it is often difficult to find alternative jobs?

**Mr. Heath:** The hon. Gentleman is absolutely right. In some ways, his constituency is not dissimilar to mine and it has high dependence on such jobs. The assumption that somehow everything will turn out all right and that new opportunities will appear through a magical process of diversification is wrong. The further demise of the agriculture industry will bring serious structural problems in the south-west.

Recently published figures show that income from farming has been reduced by 5.4 per cent., which Lord Whitty described as disappointing. Disappointing is not the word that I would use in that context. He then tried to put a gloss on that loss by saying that diversification is increasing. Let us be clear about diversification: we all support it and want new opportunities in the rural economy, but diversification per se is no substitute for productive agriculture. We still need the core business. We can diversify as much as we like, but if the core business falls through the floor, we will no longer have working farms.

Within diversification programmes, a lot of farmers in my area are actively examining alternative uses of their land for production in novel areas, yet the Government's response has been feeble at best in terms of, for example, encouraging crops for energy, introducing plant to treat grain for ethanol production or using miscanthus for combined heat and power schemes. Even in terms of productive diversification, we have a serious problem of attitude.

**Andrew George** (St. Ives) (LD): Ministers and others blithely recommend that farmers pursue a policy of diversification instead of continuing in their traditional manner. Does my hon. Friend agree that in the Government's south-west zone, which includes a large number of tourism areas, over the past generation, if not before, farmers have been at the forefront of diversification, particularly with farm holidays and many visitor facilities on farms? Ministers need to go out and see the initiative that farmers have been showing for decades.

**Mr. Heath:** My hon. Friend is right. I do not wish to point the finger at the hon. Member for West Carmarthen and South Pembrokeshire, because I know the sort of constituency he represents, but there is an urban mentality that does not see beyond the city limits in terms of what is happening and what could be encouraged. My fundamental point is that all the diversification in the world will not help if we lose the core business and do not have farms on which people can stay and enjoy their summer holidays. That is crucial to our understanding of the situation.

I intend to concentrate on dairy farming, because it is a key element of agriculture in my constituency. Other hon. Members whose constituencies are more given over to arable crops or to rearing sheep on upland areas may have differing views. My constituency is essentially a lowland constituency with some of the best dairy farms in the country. I have always argued—no one has yet

*[Mr. Heath]*

satisfactorily argued against me—that there are more dairy cows in my constituency than anywhere else in this country, given that it is geographically large with a high concentration of dairy farms. Sadly, that number is reducing almost daily, which is why it was so important to secure this debate.

Before I move on to dairy farming, I shall make a few general points. There is a great deal of concern about the transitional arrangements for the revised common agricultural policy. I understand all the arguments and why the emerging programme looks like it does—to some extent it is a compromise proposal. What I cannot accept is the shambles in the Rural Payments Agency that will result in delays in payments for farmers. It is not good enough that sufficiently robust arrangements were not put in place early enough. That will have drastic effects on some farm businesses. If farmers cannot rely on their cash flow and have to renegotiate arrangements with their banks, that will be sufficient to cause huge financial difficulties.

I would like the hon. Member for West Carmarthen and South Pembrokeshire, if he can, to give a clear commitment that interim payments will be made when there are delays and there is a prospective difficulty for farmers. It has not yet been made clear whether that is the proposal, but I strongly recommend it to him.

The hon. Gentleman might have anticipated me raising the position of traditional cider orchards, which are a key element, although not a major factor, in my constituency. He will know that I have raised the issue consistently during the past year; I had an Adjournment debate on the subject. I have to say that I am extremely pleased at the progress that the Government appear to be making. The scientific report that sought a satisfactory definition of traditional orchards was well argued and came to the right conclusions. I cannot honestly see the difference between traditional and commercial orchards in the context of the environmental payments scheme, because all orchards make an extremely benign use of land, which should be encouraged.

I was particularly worried about losing a key part of the Somerset landscape—our traditional cider orchards. As I have said, the Department has done good work on the matter and said that it was going to Brussels to try to secure acceptance, but I have never had a definitive answer on whether that acceptance has been forthcoming from the Commission, and therefore on whether the saga of orchard definitions for the purpose of bringing orchards within the single farm payments scheme has come to an end. Will the hon. Gentleman put my mind at rest? If he can do so, I shall be delighted, as I will have won a small but significant battle on behalf of my constituents.

I move on to the issue of regulatory burden, which is key for many farmers. They are looking ahead at what inspection will result from the ghastly, enormously complex regime of cross-compliance. A simple argument has been put forward: farmers ought to know what the inspectors will inspect. In other words, the guidelines, when published, should be clear and understandable to everyone involved. I would go further and say that a single inspection regime and co-operation between the various regulatory bodies, whenever possible, would be extraordinarily helpful, as the man from the Ministry would not be tramping over farms regularly and unexpectedly, but the inspection regimes would have coherence of some sort.

The issue of agricultural waste regulations is looming. I do not think that we yet have any concept of the likely consequence of what is proposed for many farmers. I accept that the regulations come from Europe and that the Government are consulting on how they will be implemented, but I say to the hon. Member for West Carmarthen and South Pembrokeshire that if the impact is anything like we fear, it will put a colossal cost on to farm businesses—even more so if farmers are to be responsible for the cost of disposing of material that is fly-tipped on farms.

Fly-tipping is a big issue in many rural areas and it is estimated that anything up to 600,000 tonnes of extraneous material is tipped on farms. If farmers are to be responsible for getting rid of that through high-cost methods, it will be a very significant burden on them.

Over the years, I have continually raised the one-sided nature of regulation. The inspectors, the Ministry and the payments agency decide what is right and wrong; the farmer pays the penalty and is in the process often made to feel like a criminal for what is essentially administrative error. Yet there is no arbitration on whether a mistake has been made in good faith or whether the regulators, rather than the farmer, are wrong. I have long argued that there should be an agricultural ombudsman. We still need such a process—perhaps more so under the new arrangements.

My last point, which relates to dairying but has more general implications, is the problem of animal disease. Effectively combating animal disease could be a significant cost to the Exchequer, but also a significant issue in animal welfare. The compensation proposals are fine in some ways. There ought to be recognition of the differential value of different animals. For example, a cow is not a cow by definition, as there are many different breeds and different values according to circumstance. If we want the compensation scheme, and if we want the disease control measures to be effective, we must recognise the intrinsic value of the beast in question.

It is impossible not to mention bovine tuberculosis in a debate of this kind, but, to be frank, I do not know where we go from here. I have long argued that we need the scientific background, which the Krebs trials were supposed to produce, but we do not have it. However, we have the Irish study, a mushrooming problem of bovine tuberculosis and prima facie evidence of links with the badger population.

I do not want the eradication of the badger species—nobody does, or I hope nobody does. Equally, I want robust disease precautions to be applied to protect our domestic animal population. Laissez-faire, which is the attitude of the Department, is not sustainable even in the short term, let alone the longer term.

We all want an effective vaccination programme, which will prevent the spread of the disease from the badger population, but that seems to be like nuclear fusion power—something that is always 10, 15 or 20 years ahead and which we never quite reach. That is unfortunate. I can only urge that we redouble our efforts

to find something effective. I do not believe that the answer is beyond the wit of the scientific community, if provided with sufficient resources and encouragement.

Let me move on to the key issue, which is that of dairying. We know from the Milk Development Council report and every other bit of evidence that we are losing a massive number of dairy farms across the country. Indications are that the number is 40 every week, and we have lost a third of them since 2000. We know that dairy farming, which has always been extremely hard work in respect of keeping holdings going, is now hard work for very little reward. The estimate is that the average dairy farmer receives less than £3 an hour for a 70-hour week, which would be illegal were that person to be an employee.

In the south-west, an estimated 1,000 dairy farms have disappeared over three years. The estimate is that we will lose a further 30 per cent. of those remaining over the next two years. That is a colossal reduction in the number of dairy holdings.

The noises from the Government and those associated with the Government appear to be based on platitudes. At Environment questions recently, the Minister for Rural Affairs and Local Environmental Quality was very keen to say that milk production is level and that there has not been a marked reduction. That is true—the market is seeing to that for the time being. He was keen to point out that there are big differences in profitability between different dairy farm businesses. That is true, and has always been true. Some have been able to invest since the BSE and foot and mouth crises and some have not. Those who have not find themselves less profitable than those who have.

Others have pointed out that land prices in the south-west are level or rising and that that indicates that we have a prosperous farming industry. I think the reverse is true, because the people who are buying the land are not the farmers but, in most cases, big business or those who want a bit of landscape for their ponies and are using City money to buy it.

The concept that small farms are of necessity less efficient is transparently not the case. Many small dairy farms are just as efficient as big farms. The issue is not whether they are more efficient, as Lord Haskins would have us believe. He seems strongly to recommend large holdings, which perhaps fit into his style of business better than the traditional family farm. The issue is that small farms cannot afford to suffer losses in the same way.

Some people are dealing with small farms that are making a loss and that require them to go out at all times and in all weathers to make an inadequate wage for themselves and their family. They are sitting on an asset that has huge capital value and eventually they succumb, whatever their personal feelings, to the view that this is not sustainable for them and their family. The result is that we are losing small and medium-sized farms and family farm businesses. Amalgamations are happening, and big agribusiness is taking up the slack and taking up the dairy farms.

That might be okay—I would argue that it is not—but there is an argument that it makes for a profitable and sustainable dairy sector, except for one thing. If farm-gate prices are inadequate to provide a return on the investment, there is no commitment from the big businesses to the sector as there is from the family farmer who has kept dairy cattle on the holding for many years. There is no commitment to stay with the undertaking—agribusiness will follow the bottom line.

Unless we do something about the profitability of the dairy sector, we will be in an intensely vulnerable situation where milk production will not stay level, but will fall through the floor because business will take its investment elsewhere. We are in dire danger of losing our dairy farming industry.

This is very serious issue. On the farm-gate price for milk, we know that farmers get a 40 per cent. share and that they got 60 per cent. 10 years ago. That is an unreasonable drop in profit share and it has been made up by an increase in the share of the big supermarkets. We know that is the case and that it has an effect on primary producers and on the processors.

There is a contraction of the domestic dairy processing industry. The processors are not the wicked elements in the chain and they are contracting in exactly the same way. The Diary Crest Yoplait plant in Yeovil recently closed down, which is a straw in the wind for what could be a major collapse on the dairy processing side.

If we are not careful, the remaining 4,000 or so dairy farms in this country will disappear. Effectively, we will be exporting our industry to our European competitors. I cannot for the life of me see the sense in that or why it is sensible not to produce milk on the finest dairy lands in Europe—in the west country—and to import it.

The key is the transparency of the supply chain in the dairy industry, the position of the supermarkets and the inadequacy of the supermarket code of conduct to do anything to moderate the attitude or performance of the big supermarkets. The market is distorted: between them, the large retailers form a classic oligopoly and they do not act in the interests of the whole supply chain. They may act in the temporary interests of the consumer, but I argue that, in the long term, it is very much to the detriment of the consumer to lose British milk, cheese and other dairy products.

Unless we have a system that strengthens the supermarket code of conduct and allows binding intervention, there will be no genuine market in milk. That is not to argue against free enterprise and the operation of the market; it is to argue for the operation of a fair market, rather than one that is distorted by the supermarket oligopoly.

It is extraordinary that the Competition Commission and the Office of Fair Trading, supported by the Government, argue against the vertical integration that was so crucial in this country. Wherever else we look in the world where there is a thriving dairy industry working within the constraints of a free market, we see effective vertical integration without the constraint that I have described. It is perverse that Tesco has a bigger hold on the market than Milk Marque ever did. I cannot understand how that was allowed to come about.

My plea to the hon. Member for West Carmarthen and South Pembrokeshire is familiar, as, like others, I have pursued the issue doggedly over the past few years: until we get the farm-gate price of milk up to a sustainable level, there will be no fair market for milk. Without a fair market, there will be no effective future

*[Mr. Heath]*

for dairy farming. If there is no future for dairy farming, we shall lose the industry and it will move towards extinction.

I take no pleasure in saying that and I do not believe that I am being unnecessarily pessimistic or, as the Minister for Rural Affairs and Local Environmental Quality accused me of being a week or so ago, hyperbolic. I simply believe that we must do something now to save an industry that is a crucial part of the economy of my part of the world and of the whole United Kingdom.

I want the hon. Member for West Carmarthen and South Pembrokeshire to advise Ministers, as they are so busy in Exeter or elsewhere, that we need effective intervention now. The Department for Environment, Food and Rural Affairs must stand up to colleagues in the Department of Trade and Industry and make them see what damage is being done to the industry. We need an effective supermarket code of conduct that is not just a pious intention, but a reality that is enforced to provide a transparent and fair supply chain for milk. Only by providing that will we give farmers the security they need to plan their businesses and to ensure both the safety of their undertakings and a future for them and their families. To me, that is still important. It is also important in the context of the west country and Somerset, and I urge Ministers to take action.

9.59 am

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): Thank you, Mr. Deputy Speaker, for allowing me to catch your eye. I start by declaring my entry in the Register of Members' Interests as a farmer and chartered surveyor. I congratulate the hon. Member for Somerton and Frome (Mr. Heath) on securing the debate. Agriculture is an extremely important sector in the south-west economy, and he is right to say that we want it to flourish as far as possible. Many of our constituents and those of other hon. Members in the Chamber depend, directly or indirectly, on a profitable agricultural sector. I welcome the Lord Commissioner of Her Majesty's Treasury, the hon. Member for West Carmarthen and South Pembrokeshire (Mr. Ainger), who will respond to the debate on behalf of the Government. I am sure that it cannot be long before he is elevated to a speaking, rather than a silent, job. I am delighted to see him here this morning.

The speech of the hon. Member for Somerton and Frome ranged widely, and rightly so. In the short time available to me, I want to deal with a few issues affecting agriculture. As he says, the latest Government statistics show that agricultural profitability has dropped by 5.4 per cent. It is almost as though that came as a surprise to the Government; I could have told them almost for a certainty that there would be a drop in profitability.

There is an awful lot of gloom and doom about in the industry at the moment, as everyone knows. I was talking to a constituent of my hon. Friend the Member for South-East Cambridgeshire (Mr. Paice) yesterday—a major agricultural adviser whom my hon. Friend will know well. In his 30 years of advising farmers, he has never known there to be such dismal prospects for the future. He told me of one very large East Anglian business that had made a profit for the past 20 years. Last year, for the first time, it made a loss. That is the trend in agriculture. Some of the responsibility for that malaise has to be laid at the Government's door. I do not want to make this into a political debate, but there are certain things that the Government can do.

First, the Government could try to help those sectors with great balance-of-payments deficits. The hon. Member for Somerton and Frome has gone into the dairy industry in great depth, and we basically know the causes of the problem in that industry. It seems strange that although the Government talk about wanting to establish strong co-operatives to market agricultural products properly, one of their first acts was to dismantle vertical integration in Milk Marque.

One of the problems in the dairy industry is that we export the cheap dairy products—liquid milk and milk powder—and import the expensive value-added products, such as cheese and yoghurt. That is crazy; we ought to be doing exactly the opposite. We are not only contributing to the balance-of-payments deficit, which is almost at a record in this country, but are, as the hon. Gentleman said, exporting jobs to our continental neighbours. That seems utterly crazy. We could well do with the jobs here. We in the south-west, along with those in the north-west, have some of the best temperate climates and soils for producing dairy products in the whole world. It seems absolutely crazy to set that land aside and do nothing with it when it could be producing perfectly profitable dairy products.

The hon. Gentleman did not like me mentioning Waitrose the last time I did so, but it has some very good contracts with dairy farmers, and I praise it for that. It has direct contracts with farmers and can offer them a slightly higher price. It knows precisely where its milk is sourced, so if there is any problem, it can rapidly identify the farmer and rectify the problem quickly. However, if the milk comes from goodness knows where, it is much more difficult to isolate the problem.

I would like to talk about one or two specific problems that my farmers have raised with me. One of the most important is tuberculosis. I see that the hon. Member for Stroud (Mr. Drew) is present and I do not know whether he will catch your eye, Mr. Deputy Speaker, but he and I have a major problem with TB. I took a delegation to see the former Minister of Agriculture, Fisheries and Food eight years ago when this Government were first elected—of course, that was before the foot and mouth disease crisis—and he said that TB was the single most important animal health issue that we had to face. I regret to say that, in those seven years, it seems that very little has been done—in fact, worse than very little.

I do not particularly blame the Government for this but, throughout the foot and mouth crisis, all staff dealing with tuberculosis were taken away, so the eye was completely taken off the ball in relation to TB. I have to tell the hon. Member for West Carmarthen and South Pembrokeshire—who is in loco parentis, as it were, the Minister today—that the problem is getting worse, whether we like it or not. The disease is getting into the deer and hare populations, and that is extremely serious. Whereas badgers have a normal roving pattern of about 5 to 10 miles, deer rove for up to 30 to 40 miles, so the risk of spreading the disease is far greater.

We need to put much more emphasis on trying to find a satisfactory vaccine and trying to improve diagnostics so that we can differentiate between a vaccinated animal and one that has caught TB in the wild. There would be great benefit to all of us if the Government would put more emphasis on, and resources into trying to solve, that problem; they would not only improve the profitability of those farmers in my area who face that problem, but would reduce the huge compensation bill that they have to pay as a result of the disease.

I have a problem with registration under the so-called Countryside and Rights of Way Act 2000. It is particularly unfair. I had a case in Wotton-under-Edge, where two sites were registered. The farmer appealed on those two sites, and suddenly found that a third site had been posted on the internet. It may also have been posted at the local council, but he did not know about it until after the date of appeal, so he could not appeal. That seems unfair. I have taken the matter up with the planning inspectorate and the Countryside Agency, but have had very unsatisfactory treatment. The Minister looks puzzled. After the debate, I will let him have the details and should be grateful if he were to look into that matter.

There is also concern about dogs in relation to the countryside and rights of way. Like the hon. Member for Somerton and Frome, I have a lot of stock in my constituency area—sheep, dairy cattle and beef cattle—and there is concern about dogs. There is also concern about gates being left open so that cattle stray on to roads and cause problems. Those issues should be carefully examined.

I also want to talk about the paperwork. We raised that matter at great length in the last debate on agriculture in the Chamber on 19 January 2005. I would like the Minister to inculcate a new way of doing business in his Department. It should impose the least amount of paperwork on farmers concurrent with preventing fraud. The whole ethos in the Department should be to produce the least amount of paper and to keep things as simple as possible.

I have enormous sympathy with my poor farmers at the moment, who, at a time when they are trying to sow their spring crops, are having to deal with hugely complicated paperwork related to the single payments. As was mentioned in the previous debate, it is almost impossible for ordinary farmers to administer the paperwork themselves; they may have to get outside advisers, which is expensive. Even if they can administer the paperwork themselves, the time taken in administration is a cost. We should inculcate a new ethos in the Department for Environment, Food and Rural Affairs: keep the paperwork simple and keep it to the minimum commensurate with dealing with fraud.

I also want to deal with the whole business of the ban on hunting with hounds from 19 February, and the issue of cattle disposal. In certain areas of the country, that will be a real problem. We want to encourage farmers to take part in the national cattle disposal scheme, and I am sure that the Government will do more in that respect. However, there will be problems in individual areas, and I should like to know what the Government intend to do about them. We do not want a system in which farmers feel so pressurised that they simply go out and bury the stock or, worse still, leave it lying about somewhere, because that would be a real haven for disease.

I am grateful to you, Mr. Deputy Speaker, for allowing me to speak in this debate. I am concerned that the pressure on certain sectors—the dairy sector and the arable sector in the Cotswolds—could mean that more people will put land down to grass that will be grazed extensively by sheep and beef cattle. I am then concerned that pressure will also occur in those sectors.

The Government need to take a long, hard look at agriculture. It is no good just saying, "Well, the farmers will have to look after themselves, and if they lose jobs, they lose jobs, and if they are not profitable, they are not profitable." Such an attitude is not acceptable. We want jobs to be maintained in rural areas, and we want agriculture to be profitable, because the glue that holds the rural area together depends on the profitability of agriculture. If agriculture is not profitable, the whole rural area suffers from a great depression and malaise.

We look to the hon. Member for West Carmarthen and South Pembrokeshire to give us some positive hope this morning and to tell us how he thinks things might improve. My goodness, the industry desperately needs positive good cheer from him today.

10.9 am

**Mr. David Drew** (Stroud) (Lab/Co-op): I, like my near neighbour the hon. Member for Cotswold (Mr. Clifton-Brown), welcome the debate, and I congratulate the hon. Member for Somerton and Frome (Mr. Heath) on securing it. I apologise for missing the first couple of minutes of the debate. Like the Lord Commissioner of Her Majesty's Treasury, my hon. Friend the Member for West Carmarthen and South Pembrokeshire (Mr. Ainger), I am on a Standing Committee considering a Bill, which causes some problems with double-booking.

I concur with what the hon. Members for Somerton and Frome and for Cotswold said. My starting point is that we have the figures for the total income from farming, and this year they are down. There was some optimism last year because the figures rose, which was promising, although they did not rise dramatically. The fact that they are down this year is affecting profitability. That brings starkly into play the amount of money that the state puts into agriculture every year, because without that £3 billion or more the industry would be in a worse than parlous state. However, I want to dwell not on that but on what the debate has been about. In the south-west, it is understandably about dairying, and it is also about diversification—the two d's.

I make no apology for starting with the problem of how farmers are paid. The Environment, Food and Rural Affairs Committee, of which I am proud to be a member, has in the past examined the Rural Payments Agency, and I think it is fair to say that we have, in our various guises, given it quite a hard time. Sadly, if a Soviet-style system for making payments to people is created, it is no wonder that it is bureaucratic and subject to all the problems that we know about which result in failure. As we enter this brave new world, I

*[Mr. David Drew]*

would like us to search for greater finesse and for a system that actually rewards, rather than relying on a highly bureaucratic system of payments.

**Mr. Clifton-Brown:** I am grateful to the hon. Gentleman for giving way, and I am sorry to intervene on his speech, but I want to say something that I meant to mention in my speech. Does he agree that there will be a problem in moving from the old integrated administration and control scheme to the new single farm payment system? The IACS payments were mostly paid before Christmas, but the new payments will be made several months after Christmas. Does he also agree that if those payments are not made on time, there will be an opportunity cost, even if the farmer does not have an overdraft, which most farmers do? If the Government do not pay by the statutory date, they should add interest for late payments.

**Mr. Drew:** I hope that we would always pay as promptly and as fairly as possible, but I am just making the point that this is an incredibly complicated system, and we have made it more so.

Let us understand why. During the build-up to the changes, I was lobbied by three groups of farmers. I was initially lobbied by those who wanted to break away entirely from the production-based system, because they had farmed without subsidy throughout their history and they felt that if we were moving towards environmental payments it was appropriate that they were able to access that system. I also met those farmers, largely in the arable sector, who welcomed the area-based payments, because they saw it as a more straightforward method of payment and hoped that it would earn them additional rewards. Of course, I also met dairy farmers in the south-west who fought hard to maintain the historic payment system. The fact that all three groups were members of the National Farmers Union meant that the organisation was wearing many hats, which made things difficult.

The hon. Member for South-East Cambridgeshire (Mr. Paice) picked up on my description of the system as a spatchcock. That is an appropriate definition. This is not an ideal system. We do not want a system in which, inevitably, there are some real losers—essentially in dairying—until other ways in which farmers can build up income have been looked at, and it would be utterly unfair if we immediately went over to a system of area-based payments.

There is also, dare I say it, an interesting British experiment going on. There are different methods of payment in different areas of the colonial parts of Britain. That may give us an opportunity to measure the effectiveness of the different systems, but I hope that we will eventually agree that it is right to pay farmers for what we want them to do, rather than to pay them a production subsidy to build up excess supplies, which is utterly unacceptable nowadays.

That takes me directly to dairying, an unhappy area which the Select Committee looked into—in fact, I chaired the Sub-Committee. Of all the sectors it is the one losing out most, something that obviously started a long time ago, rather than starting or ending with the current Government. That trend is due to the system of linking to currency fluctuations through the intervention milk price equivalent, which is fine when the currency moves in the right direction, but results in heavy penalties when it moves in the wrong direction. Anything that can lessen that impact is vital, as we will see when the new system of payments comes in. Like the hon. Member for St. Ives (Andrew George), who has been valiant in his attempts to achieve greater fairness in the sector, I support the idea of a statutory code. We, like him, want to see that fully evaluated—and, I dare say, we want more research on it—because if the threats that keep being made to the supermarkets are to have any meaning at all, we must be able to assess the benefits of having such a code.

In our last report, we found out that when the 3p was offered, as a result of farmers' protests, it did find its way into their pockets, yet there is still the missing 18p. In a sense it is not missing, because we know that it is shared between the supermarkets and the processors, although, as the hon. Member for Somerton and Frome said, the processors are under enormous pressure at the moment. As I have said many times before, the Severnside plant is at the bottom of my garden, and I know some of the pressures that it has to endure. The only answer, besides trying to get the system right, is to secure greater co-operation. Contrary to what my near neighbour the hon. Member for Cotswold said, Milk Marque was not destroyed by the Government; it was kicked to death over a long period. The level of confrontation surrounding Milk Marque—and the price levels that were fixed—meant that it was set up to fail. It should have been set up to encourage greater collaboration, and I should like to see that co-operation throughout the sector.

I would not mind if there was another OFT inquiry into the matter. It would highlight many of the problems, although such inquiries often do not find the solutions. The problem is that the OFT, if it reported, would, I suspect, consider calling for even greater rationalisation at the producer end. Like other Members, I do not want that.

**Mr. Clifton-Brown:** Normally I agree with most of what the hon. Gentleman says about agriculture, but I disagree with his remarks about Milk Marque. Will he answer a simple question? Is the dairy industry more or less profitable since the break-up of Milk Marque?

**Mr. Drew:** I know who is profitable—the supermarkets. They would argue that that is because they do their work well. Processor profits may go up and down, but the fact is that producers have done very badly, inevitably because of the way that confrontation rules the sector. Confrontation has served no one but those at the end of the process. It is about time the sector recognised the need for greater co-operation, not just through vertical integration, which may allow us to compete internationally, but more particularly among farmers. We must encourage them to co-operate.

The simple fact, which has been alluded to on numerous occasions, is that if the normal supply and demand mechanism operated we would expect the supply to decrease as the price fell. That does not happen because there is always someone coming in, trying to pick up surplus cows and milk them more efficiently. I dare say that the way that milk, certainly liquid milk, now moves around means that we do not face a shortage. The point is that we have to recognise that the normal market does not apply to milk, and we have to look at ways of bolstering the supply by supporting farmers in other ways.

**Mr. Heath:** The hon. Gentleman said that there was a crying need for co-operation both between primary producers and between producers and processors. Every year I go to the south-west dairy industry dinner at the Bath and West showground in my constituency and there is talk of little else but how to encourage co-operation. None of that will work unless the big supermarkets' stranglehold on the bottom line is broken. Co-operation on its own is not enough.

**Mr. Drew:** It may not be enough, but it is a good start. The Select Committee report highlights the lack of co-operation as the biggest weakness in the sector. There are no magic wands. It is down to people trying to get on with one another. It is not just about farmers co-operating; it is about processors learning to co-operate with each other and to give up their cut-throat policies. They must face up to the supermarkets and ensure that we, as parliamentarians, and the Government put pressure on them. That is no easy thing, but it has to happen. That is another reason for my supporting a statutory code.

Bovine TB is an enormous problem, and I agree with the hon. Member for Cotswold that there are no easy solutions. *The Veterinary Record* this week carries the results of an interesting survey. I do not know whether it was carried out because of the Irish results. Although those were apparently conclusive the Irish have announced that it is impossible to contemplate the level of culling that would be needed to deal with the problem of the wildlife reservoir. Contrary to what the hon. Gentleman says, the facts about other wildlife reservoirs have been known for a long time. Whether the problem is down to politics or lack of resources, it is only since we have begun to look more carefully at where bovine TB occurs that we know rather more. That obviously arouses fears and makes policies that much more difficult to develop.

In the survey farmers were asked what policies they would suggest to the Government. Surprisingly, their top three were a cattle vaccine, continuing the current testing and cull policy, and, in only third place, a proactive cull of badgers. Even more surprising was the fact that the idea of localised action was seen as completely unacceptable. If farmers themselves are asking for that, it is incumbent on the Government to respond and to invest resources in the search for a vaccine. It is not easy; we know that the current work on the BCG vaccine has been fraught with problems, but we have to find one. We should all be united in that search.

On diversification, I get a slightly different picture in my constituency, where there are many holdings through the County Farms Estate. I met some new tenants just before Christmas. The quality of people who still want to come into farming is gratifying. They know what they are coming into and realise that they will encounter problems. Again, the numbers for dairying are down. It is difficult to invest in an updated milk parlour. However, people are coming into the industry to farm and to do a range of things. Sadly, they are not always helped by the way others in the countryside try to prevent diversification. All hon. Members will know what I am talking about here. If we are serious about farmers earning income in other ways we have to encourage them to diversify.

Some time ago in Gloucestershire we set up a group called the Rural Issues Task Force. That was mainly on the back of foot and mouth money, although the organisation slightly pre-empted that. We were able to see at first hand the invaluable work of the farm business advisory service, which advises farmers on the best way forward, including, sometimes, passing on the hard message that they are in the wrong vocation. That is difficult, but it sometimes needs to be said. However, the service tries to help other farmers to move forward.

I congratulate the RITF on its work under Henry Robinson, its chairman, who is well known to the hon. Member for Cotswold, and Robin Grist, its secretary. We would like to keep it going. If another Government came in and made alterations to the Small Business Service, of which the farm business advisory service is part, that would threaten it. The most important point is that we are keen to consider methods of diversifying, including growing non-food crops and making more effective use of environmental payments. That can be done only by collaborative work, as well as work at the level of the individual farmer.

I shall leave it at that. I could say some things about the fallen stock scheme, which has been a little slow to get off the ground, but in recent times has shown good signs of making progress. There are many problems, and there is a great deal of work to do. I look forward to hearing my hon. Friend the Member for West Carmarthen and South Pembrokeshire talk about those matters. We have to pull together to ensure that the countryside functions properly.

**Several hon. Members** *rose*—

**Mr. Deputy Speaker:** Order. Mr. Speaker has ruled that as long as all the local Members are in, the Front-Bench spokesman can have 10 minutes each to wind up, so we do not have to restrict the speeches.

10.26 am

**Andrew George** (St. Ives) (LD): Thank you, Mr. Deputy Speaker. May I begin, as have others, by congratulating my hon. Friend the Member for Somerton and Frome (Mr. Heath), not only on securing the debate, but on highlighting the seriousness of the problems facing farmers, particularly dairy farmers—in fact, farmers across a number of other sectors as well—in the Government's south-west zone? A recent Milk Development Council report highlighted the fact that 1,000 dairy farmers had gone out of business in the

*[Andrew George]*

region in the past three years and it is anticipated that a further 30 per cent. will go out of business in the next two. Those devastating figures demonstrate the seriousness of the circumstances that farming faces.

My hon. Friend highlighted the role of supermarkets and the impact on farm-gate prices as well as the challenge of the introduction of the single farm payment system, which is already creating tremendous challenges in the Rural Payments Agency and DEFRA. He also referred to the break-up of Milk Marque, as did the hon. Member for Cotswold (Mr. Clifton-Brown), whose analysis was spot on. The Government were prepared to intervene to break up Milk Marque. If it required improvement in its internal practices, that could have been addressed rather than breaking up the organisation, particularly when it was no longer felt by the Competition Commission to be monopolistic.

**Mr. Clifton-Brown:** May I make this observation to the hon. Gentleman, who is entirely on the right point? We have weakened and broken up Milk Marque, but co-operatives on the continent, particularly in Holland, are growing bigger and stronger, so we are competing on an unequal playing field.

**Andrew George:** I agree with the hon. Gentleman. All speakers so far have highlighted the importance of farmers in this country getting back to the negotiating table between themselves and establishing a basis for greater co-operation to balance the negotiating muscle within the food supply chain.

**Mr. Heath:** Another example of highly developed vertical integration is New Zealand, where processing is intimately linked to production. A much larger entity is selling to our market than would ever have been the case with Milk Marque.

**Andrew George:** I am grateful for my hon. Friend's intervention. There are many international examples that can, I hope, be taken off the peg and applied more effectively and speedily to help to provide agriculture in this country with greater strength in the marketplace.

All political parties seem to be struggling with the knotty issue of bovine TB, as hon. Members on both sides of the House have mentioned it in the debate. It has been a challenge for many years, and it was perhaps made worse following foot and mouth disease, largely as a result of restocking policies at the time and the need to ensure that pre and post-movement tests were put in place. Perhaps they should have been in place, because problems were created in parts of the country that previously had not had such difficulties.

The political parties will have to face up to some difficult political decisions in due course. The fourth report from the independent scientific group will be out in the next week or so—it should have been published by now—and we are anxious to see it because it will give us further information about the progress of the trials. The Irish study, which I hope the ISG report will comment on, shows that there could be a solution, or a partial solution, to the problem of rampaging bovine TB if any Government were prepared to consider a policy of widespread extermination of the badger. As far as I am aware, however, no party is proposing that. Reactive culling clearly does not work, and although that is disputed in some circles, it is one helpful outcome from the work done by Professor John Bourne and others. There is much still to be debated on the issue and many dairy farmers in the south-west, as well as elsewhere, will watch developments very closely.

The hon. Member for Stroud (Mr. Drew) rightly referred to complications created by the introduction of the single farm payment system, the purpose of which was to create a more straightforward system that ironed out the complexities of the scheme in place until December last year. That leads me to the first of my two substantive points: the competence of DEFRA and farmers' lack of confidence in its ability to cope with the challenges ahead.

The Department failed to introduce an amendment to the Animal By-Products Order 1999 in time to be able to implement a fallen-stock collection scheme in May 2003. The order was introduced in July and there was a further debate on the subject in September 2003, when we were promised such a scheme in January 2004. After many questions and debates, it was eventually established a year later. What confidence does that give farmers that DEFRA, first, gives them priority and, secondly, has the competence to act?

Another product of last year's debates on the fallout from the foot and mouth inquiry was the emergence of the report by Jim Dring, which was devastating on the role of MAFF and DEFRA and their competence to cope with what was going on in Northumberland. It highlighted some serious questions that the Department has failed to answer.

The single farm payment scheme is the most significant change in agriculture in more than a generation. There was a decent amount of lead time before it was introduced in January, but information is still percolating out. Booklets were distributed late, farmers were informed late and there is a lot of confusion out there. From talking to farmers, I know that they are worried about the future because they are uncertain.

The Department has made it clear that it is not really competent to make payments in December this year, but the Rural Payments Agency is likely make payments towards the end of the payment window, which will end in June 2006. I hope that the Lord Commissioner of Her Majesty's Treasury, the hon. Member for West Carmarthen and South Pembrokeshire (Mr. Ainger) will address the need to ensure that farmers are properly compensated if the agency does not pay in the early part of the payment window, particularly farmers who are struggling on the margins.

The Department must be prepared to intervene in the market, just as it did with Milk Marque, to protect farmers from the overwhelming strength of supermarkets. If the competition authorities have acknowledged that convenience stores are a discrete market, surely supermarkets are a discrete market too. For example, Tesco holds about 40 per cent. of the market. Why are the Government not prepared to intervene?

Of course, it is an entirely rational decision of supermarkets to use their muscle in the market. No one complains about that, and one understands that if they do not do it, their competitors will and they will lose their place in the market. However, is what is happening through the food supply chain a proper use or an abuse of power through that chain? The Government need to address those questions.

The real Secretary of State for Agriculture, Lord Haskins, predicted only this week in the *Farmers Guardian* that the average size of dairy farms in the south-west will have to be 250 milking cows. Unless we are to go down that route, if that is Government policy, we shall end up with ranches across the countryside. That will not help either rural communities or the future of our farmed landscapes. It is time the Department got a grip.

**Mr. Clifton-Brown** *rose—*

**Andrew George:** I must sit down now.

**Mr. Deputy Speaker:** Order. Unless the hon. Gentleman resumes his seat very quickly, he is not going to hear what the Government have to say.

**Andrew George:** I have just resumed my seat, Mr. Deputy Speaker.

10.38 am

**Mr. James Paice** (South-East Cambridgeshire) (Con): I, too, congratulate the hon. Member for Somerton and Frome (Mr. Heath) on securing the debate. I shall not repeat his comments on the absence of a Minister, but I sympathise with the position in which the Lord Commissioner of Her Majesty's Treasury, the hon. Member for West Carmarthen and South Pembrokeshire (Mr. Ainger), finds himself. He has already been given some material, but clearly he will be circumscribed in what he can say in reply to the debate.

It is also important to make the point that despite the cataclysmic changes to agriculture in the last few years and the advent of the single farm payment system, we have not had a debate in Government time on agriculture either in this Chamber or in the main Chamber for at least two years. I have established that with a little research, although the period is probably a lot longer. That underlines the Government's attitude to farming and the countryside.

Underlying all the concerns and the situation in the south-west, as well as the dramatic reduction in the number of dairy farmers, is the question of what we want, and what the Government expect, from our farmers in the next couple of decades or so, now that the single farm payment system is in place. Are the Government relaxed about having a situation such as that to which the hon. Member for St. Ives (Andrew George) just referred—a massive number of dairy farmers going out of business and a few others getting bigger, including the impact that that will have on rural communities—or do they want an effort to maintain the rural community structures that have served our countryside for so long?

If one considers the bald statistics of dairying, there seems to be little doubt that milk production has hardly declined at all, and there is no doubt that many dairy producers around the country are expanding production. That is a logical business decision based on how they see and cost their own enterprises. However, that somehow obscures the point that the hon. Member for Somerton and Frome was making, which is that when there is a dramatic diminution in the number of small and smaller farms, there is a fundamental impact on the fabric of the community. They have been the mainstay of our rural communities—particularly relating to dairying in the south-west—for many generations and the country has not really asked itself whether it wants to allow this deterioration to continue.

A number of hon. Members have rightly raised the issue of the single farm payment. I, too, take the view that the delays announced by the Rural Payments Agency are a direct consequence of the complexity of the scheme that the Government have introduced, coupled with the inevitable bureaucracy and the difficulty that this Government have in introducing any computer-based system, as we have seen. However, they have not fully understood the delay's impact on farmers.

Farmers were already facing an unusually extended period between their last integrated administration and control scheme—or IACS—payment, most of which was made in November 2004, and the single farm payment, which could be made in December 2005, leading to a wait that might be slightly longer than 12 months. However, that payment is now be to made in February 2006, although we all think it will be made in April, May or even June 2006. We are looking at anything up to an 18-month gap, which has serious cash-flow implications.

As a side issue, the tax implications are also serious, because farmers could end up with one year in which they have no receipts from the Government and another with two lots. The Government have not yet made any pronouncement on that, either. I have already called on them to make an interim payment of perhaps 30 to 40 per cent. of their single farm payment and I maintain that view. At that level, the payment would be well inside any margin for error and it could help farmers through that period.

The issue of bovine TB is central to the south-west and a few other parts of the country. I do not take such a sanguine approach as the Government, or even as the hon. Member for St. Ives, because there are big question marks over the integrity of the trials that are taking place. The case against reactive culling has not been properly made. With culling rates of 30 or 40 per cent., which is all that was being achieved in a number of the areas, there is not much validity to any conclusion. Let us compare that situation with the Irish trials, in which virtually 100 per cent. elimination of badgers was achieved and the validity of the conclusions is right.

I agree with the hon. Gentleman that we cannot have a policy involving the long-term elimination of badgers from large sections of the British countryside. I want a healthy cattle population to live alongside healthy wildlife; it is in the interests of cattle producers and of

*[Mr. James Paice]*

everybody concerned with wildlife that that be so. The Government are almost paralysed in respect of doing anything about badgers, yet they refuse to accept the evidence that there is a reservoir of TB that needs to be eliminated. We need a way to take out badgers in infected areas—I mean not just cattle infection, but badger infection—and somehow ensure that those are repopulated only with uninfected badgers. That is similar to what used to be described as the clean ring strategy, and we need to move much more quickly towards it.

The holy grail is a live test for badgers, which could be caught, tested for TB and, if they did not have it, let go. We are not there yet, but that is more likely to become reality than the vaccines, which, as we have all been told, have always been 10 years away. We are still no closer.

I endorse what my hon. Friend the Member for Cotswold (Mr. Clifton-Brown) rightly said about co-operation. It is odd that we are facing the merging of Arla and Camina, two of the biggest dairy co-operatives in Europe. Arla, the Danish co-op, has 80 per cent. of Danish milk supplies and a huge chunk of English milk supplies too, being the sole supplier of liquid milk to Asda supermarkets. In England, Arla operates as a commercial company. We cannot generate a co-operative operation on anything like that scale. Arla on its own—certainly Arla combined with Camina—will be a dominant force throughout Europe. That is an important issue.

I want to touch on the hill farm allowance scheme, which has not been raised. It terminates at the end of 2006 and applies to bits of the south-west and to many parts of the country. The Government have made no pronouncements on what will happen after the end of the HFA scheme. The sum involved is not large, but, given the perilous state of farming's economics, particularly in those disadvantaged areas, even it is important. We should expect a statement from the Government on their intentions.

The fallen stock scheme is clearly causing a number of problems. The Government should look much more carefully at extending the concept of exemptions. They should also look urgently at ways of licensing biodigestion systems as an alternative to the fallen stock scheme. That can take place on farm or in some local, centrally located sealed biodigestion system.

The situation in the south-west, as the hon. Member for Somerton and Frome described, is extremely serious. Farmers look to the Government, as they have for the past 57 years, for some guidance as to the future, but, sadly, they do not seem to be getting it. We have an excellent opportunity, however, due to the fact that someone who is, I hope, a would-be Minister, the hon. Member for West Carmarthen and South Pembrokeshire, is replying to the debate. With similar problems in his constituency, he perhaps has more understanding of these issues than any Minister in the Department.

Perhaps the hon. Gentleman can take the messages that have been sent out during the debate back to the Government. There is genuine concern out there in the farming community and in the wider countryside. Those communities look to the Government for an answer of some sort—not necessarily solutions, but guidance on how answers can be achieved.

10.47 am

**Lord Commissioner of Her Majesty's Treasury (Mr. Nick Ainger):** First, I congratulate the hon. Member for Somerton and Frome (Mr. Heath) on securing an important and interesting debate. As the hon. Member for South-East Cambridgeshire (Mr. Paice) said, due to the constituency that I represent, I am well versed with the message and the information. Although I do not want to get into a competition with the hon. Member for Somerton and Frome, I might have almost as many dairy cattle in my constituency as he has in his. South-west Dyfed, as the area used to be called, or south-west Wales is one of the major dairy areas of Europe. I do not think that I can cover every issue raised in debate. I will concentrate on the dairy sector and TB while trying to respond to a few points made in the hon. Gentleman's opening speech.

I hope that the hon. Gentleman has not already had this further information on progress made in relation to traditional orchards. DEFRA, in consultation with English Nature, has developed the criteria, which are being submitted to the European Commission. Those criteria clearly define traditional orchards of particular environmental value, so that they will be eligible for the single farm payment. I hope that that gives him some reassurance.

Turning to the dairy industry and its problems and to the issues involving the power of the supermarkets, the Government are well aware of producer concerns about the power of supermarkets and that the market is unfairly balanced. As Members will probably recall, the supermarket sector was subject to a major investigation by the Competition Commission in 1999–2000 and was investigated again in 2003 when bids were being made for Safeway. The commission report of October 2002 concluded that the industry was broadly competitive. However, it recommended the establishment of a code of practice that would put relations between the major supermarkets and their suppliers on a clearer and more predictable basis.

The code of practice was set up and then reviewed by the Office of Fair Trading in 2003. The OFT report on that review found a widespread belief among suppliers that the code was not working, but no hard evidence to support that. Given the reluctance of suppliers to provide specific evidence of alleged breaches of the code, the OFT commissioned a focus compliance audit of the four supermarkets bound by the code to establish hard facts as a basis for any further action. The OFT hopes to publish the auditor's report in the next few weeks. Neither I nor the Department can pre-empt those findings, but I hope that firm evidence will come forward and action can then be taken.

On the dairy sector and the farm-gate price, as the hon. Member for Somerton and Frome identified, the south-west is a, if not the, major supplier of raw milk to the British market. The reasons for the current UK farm-gate price of milk are complex, as hon. Members have already mentioned, with different variations and combinations applying at different times. Factors such as exchange rates, the price on the world community

markets, domestic supply and demand, the low value of the product mix, the low level of product innovation and the structure of the UK dairy industry and co-operatives, have all led to the current situation. The average price for milk deliveries in November 2004 was 19.6p per litre.

Members have understandably asked what the Government are doing and can do. It should be made clear that price negotiations between producers and processors or between processors and the supermarkets are private commercial matters in which the Government cannot get involved while current competition rules apply. However, because most problems with the farm-gate price are matters for the industry to address, the Government have taken action, in line with our strategy for sustainable farming and food, to facilitate industry action and get people working together. That is why we have established the dairy supply chain forum, under the chairmanship of my noble Friend Lord Whitty, to consider, among other things, how the sector can improve efficiency through collaborative action.

The forum was created to increase the efficiency and promote the sustainable development of the dairy supply chain. It is working to identify the challenges facing the industry and to provide effective and innovative approaches to those problems. The forum has had a positive effect in bringing together all sectors of the dairy supply chain, and we hope that trust and openness will increase. We hope also that that will change the culture of the supply chain, which, as my hon. Friend the Member for Stroud (Mr. Drew) pointed out, has been one of confrontation since the abolition of the milk marketing boards.

A number of robust discussions have taken place and I hope that developments will occur, particularly in relation to the comments made by the hon. Member for Cotswold (Mr. Clifton-Brown). It is clear that the British industry is producing too much of a low-value product and importing too much of a high-value product. I hope also that the developments that emerge from the dairy supply chain forum will work. There has been more and more internal vertical integration of co-operatives. I understand that, as a result of the acquisition of processing capacity, Milk Link is processing some 70 per cent. of the milk produced in the south-west.

There is movement, and the industry is responding to the need for vertical integration. Although I understand the comments made about Milk Marque, it was broken up because there was clear evidence that the pricing arrangements were not compatible with a fair market. The developments on greater vertical integration have meant that a number of co-operatives are involved in processing. That, I hope, will encourage innovation and the development of new, higher-value products that will improve the situation for the producers.

All Members who spoke mentioned the TB problem, which is clearly major and which the Government take extremely seriously. We are absolutely determined to tackle it by working in partnership with farmers, vets and those with wildlife interests. We all have an important role to play. The Government have not been standing still on bovine TB. Following consultation last year, the Department announced a range of new measures to improve surveillance and reduce the risk of disease spreading to new areas. Those measures include changes to the frequency of testing and the imposition of movement restrictions immediately a test becomes overdue.

The Department has been working closely with stakeholders on the development of a new TB strategy for publication early this year. We have set up a stakeholder group to develop a detailed proposal for implementing the pre-movement testing of cattle, which addresses a point made by the hon. Member for St. Ives (Andrew George). Members said that the solution is obviously a vaccine. We are carrying out a great deal of research on bovine TB, vaccine development, badger culling trials, the transmission of disease within and between species, and improved diagnosis. That covers the points made about the spread of TB among deer as well.

The Government are prepared to consider badger culling, but only if the scientific evidence available supports that proposal as a cost-effective and sustainable solution. The data from the four-area trial in Ireland will form part of the evidence used to assess potential policy options under the new bovine TB strategy. Work has already begun on the requirements for a field trial for a badger vaccine, while further work is still required on vaccine delivery, monitoring the effective immunisation of badgers and the effect of exposure to non-target species.

The tone of the debate has been that there is a serious crisis within agriculture in the south-west. The Department's policy is still to develop the strategy for sustainable farming and food, which is a comprehensive and long-term plan for the development of the industry. It is designed to support the farming industry through this period of change and leave it well equipped to succeed into the future.

One of the key underlying features of the Government's approach is a readiness to help farmers to make the change. Funding for the strategy of £500 million, which was announced in 2002, has been allocated and some £200 million will be spent on the strategy in 2005–06. We have a clear vision for the future of agriculture and a strong strategy for achieving that vision. We have ensured that all those with a stake in sustainable agriculture are part of the strategy, as a partnership is the only way to deliver what we want for and from farming. At the same time, we continue to address immediate challenges such as TB with robust, evidence-based policies.

# Water Bills (South-West)

11 am

**Matthew Taylor** (Truro and St. Austell) (LD): I am pleased to have an opportunity to raise the subject of the rapidly increasing water bills that are hitting the south-west; indeed, bills going out to South West Water customers in the next week or two will have risen by 17 or 18 per cent. and that is on top of what are already the highest water bills in the UK.

This issue is not new. I have raised it in many Adjournment debates over the years following the privatisation of the water industry by the Conservative party, which soon got us into the issue of unaffordable water bills. Indeed, the increases, going back to the late 1980s and early 1990s, largely finished off much of the Conservative party in the south-west. It was probably the biggest single issue that contributed to the loss of Conservative seats, and rightly so.

The privatisation involved two major errors, which the Conservative Secretary of State for the Environment eventually admitted in the House of Commons and, I understand, in arguing in Cabinet that something needed to be done to create a fairer water-charging system. By the end of the Conservatives' period in office, he had lobbied on and introduced to the Cabinet proposals to invest money in cutting water bills, but was turned down by his Cabinet colleagues.

What we saw instead was a delay in the programme of environmental clean-up, which meant that the increase in bills was delayed for a short period. However, the clean-up costs could not be delayed for ever, and they are at the root of the proposed increases. The Conservatives created the problem and then, rather than offering a solution, merely delayed the costs of the necessary environmental work for a few years. In some ways, I have sympathy for the Minister, because he inherits the legacy of past mistakes as much as he faces a problem that he has to address for the future.

**Andrew George** (St. Ives) (LD): My hon. Friend is making a very good case. The privatisation was so botched that in his constituency, as in mine, many people are fed up with paying through the nose for high water bills, especially given that, when the clean-up comes, they get only primary or secondary treatment. They believe that they should get the best, but they are simply not getting that.

**Matthew Taylor:** My hon. Friend is right. I am sure that his electorate voted for him because of the many excellent qualities that he would bring to the House, but I am sure that they were also voting against his Conservative opponent partly because of this issue, of which we remain extremely aware.

As I said, the Conservatives made two fundamental errors when they privatised the water industry. First, because of the discounts, big profits were made by the water companies and the initial investors in privatisation. A small sum was set aside as the so-called green dowry to tackle environmental clean-up, but the Conservatives massively underestimated what that would cost. Incidentally, at the time the rules were set, the Conservatives boasted that they had led Europe into setting tougher environmental rules than other European countries had wanted. It was the era when the Conservatives suddenly caught the environmental bug; they boasted that the new rules had been set and estimated the cost of implementing them to be £1.5 billion. The actual cost was £6 billion—four times the amount. The green dowry was inadequate, and water bills shot through the roof. The south-west suffered most because only 3 per cent. of the population lives in the South West Water area, but one third of the beach clean-up took place in that area. It is no surprise that water bills in the south-west are now the highest in the country.

**Mr. David Heath** (Somerton and Frome) (LD): I congratulate my hon. Friend on introducing the debate and securing the attendance of a Minister, which I failed to do earlier. Does he agree that one of the perverse factors is that, although the south-west has the longest coastline to clear up, it has the highest proportion of pensioners, so those least able to pay face the highest bills in the country?

**Matthew Taylor:** My hon. Friend is right. Having set out the reason for the bills being so high, it is worth my noting that the south-west is the poorest part of the country—Cornwall more so than the rest. People are on low incomes, so the impact of high bills as a proportion of their income is much greater. In an area where few people are employed by large companies that could establish good pension schemes for employees, many elderly people are on fixed, low incomes and basic state pensions. There are much higher levels of self-employment and small-scale employment than elsewhere in the country. The poverty issue is real. Other Ministers are dealing with that through the objective 1 programme and other work that is being undertaken, but I shall illustrate the scale of the problem that we face with water bills. South West Water bills for unmeasured supplies now average about £420 a year, double the average annual bill in London, which is roughly £204.

When I pressed Ofwat and the director general of water services on the issue, they outlined the increases that we will now face in the present round. The figures tend to be calculated in real terms without taking into account inflation. Given the estimate based on the Government's inflation targets, the cost of an unmeasured supply is due to reach £675 a year by 2009. Average salaries in Cornwall are 20 per cent. below the national average, and many people, not only pensioners, are on incomes of between £10,000 and £15,000 a year, yet they will be hit by a water bill of nearly £700. There is still significant unemployment and deprivation, yet there is no help with high water bills for people on low incomes.

People in London pay just over £200 a year, which is £4 a week—not a significant sum relative to other costs. That reflects the situation throughout most of the country and, thus, the provision that is made in the benefit system nationally. However, my constituents will be asked to pay three times that amount. A £700 bill is a significant cost for pensioners and others on low incomes. Confirmation of the scale of the increase has caused huge concern. When increases were relatively low, such worry died away to some extent, even though we paid the highest bills. There was a feeling of unfairness, but people learned to cope with the bills.

However, the thought of further high increases has now put the issue back up the agenda. Such concerns caused a wipe-out for the Conservatives in the past. They could have the same impact on the Labour Government if they are not seen to be taking action to help people with the problem.

For some people, water meters can provide a measure of relief because the average metered bill will be lower. However, by definition, those who choose the meter system tend to be low users. Families with several children are unlikely to opt for a meter because they may face increased charges. The problem with the shift to metering by people who will benefit from it is that, each time someone cuts their bill by shifting to a meter, the bill is increased for those who are on unmetered supply. Which group of people is most guaranteed to benefit from a metered supply? Those with second homes who do not occupy them for most of the year. They have moved over to meters in droves. That means that people who are fortunate enough to own a second home in the county now pay among the lowest bills, whereas those who live with family and are struggling to meet the costs of that now face the highest bills. That disparity will get worse. The projections of an increase to nearly £700 in the typical unmetered supply does not take account of that trend, so the increase could be higher still.

That is a significant issue, which the Minister may wish to look at. What can we do to ensure that the owners of second homes make a fair contribution to the costs of an environmental clean-up of which they are probably the greatest beneficiaries? After all, why do people buy second homes in Cornwall or Devon? To enjoy the beaches. Why are the water bills so high? To pay for cleaning up the beaches. However, second home owners are paying the lowest bills. That does not add up.

That problem will never be satisfactorily addressed so long as the water bills for 3 per cent. of the population are based on the costs of cleaning up 30 per cent. of the beaches and the natural environment around the country. WaterVoice South West has been very active on that issue, and I agree with it that we need to consider whether there should be such a variation between regions. I tried to persuade Conservative Ministers about that in the past, and I am now trying to persuade a Labour Minister. It might make more sense to have a mechanism for distributing the uneven environmental cost more fairly across the country. After all, many people from other areas enjoy the benefits of the expenditure when they visit our part of the country, but they do not contribute to it.

WaterVoice South West picks up on a crucial issue, which I want to put to the Minister. It investigates the meaning and consequences of the Ofwat director general's statutory duty to

"ensure that no undue preference is shown and that there is no undue discrimination against any class of customer or potential customer".

That has traditionally been interpreted as referring to the old and the young, or to those living in rented accommodation and those in permanent accommodation. However, there is a question about whether it is reasonable to have discrimination such that people in one part of the country pay £200 or so for water and those in another part pay £700 or so. That is undue discrimination, and it needs to be stopped, particularly as that cost is borne by the poorest part of the country. Ofwat has not specified whether that duty is national or local. It has been interpreted in the way that is easiest for Ofwat and the water companies.

**Linda Gilroy** (Plymouth, Sutton) (Lab/Co-op): The hon. Gentleman probably shares my disappointment that the cross-Government review of water affordability does not agree with pooling, which he has mentioned. It looks forward to the possibility of regulatory review, but dismisses the possibility of mergers. However, it refers to some important measures that can be taken now, without a change in legislation. Does the hon. Gentleman agree that, as well as tackling and continuing to press the issues he has referred to, we should urge the Government to implement their recommendations as fast and as far as possible?

**Matthew Taylor:** I agree with the hon. Lady. Frankly, it is a matter of all hands on deck. There is a great measure of cross-party agreement on this issue in our part of the world. We will have differences about some of the detail of the solutions, but there is no doubt that this is a fundamental issue. We are talking about water bills that are going up to nearly the level of council tax. Members who represent areas where water bills are a couple of hundred quid may not understand how big the impact is in the part of the country where they are already more than double that and are set to be triple the amount.

If there is not to be a mechanism for sharing the cost more fairly around the country, the Government must at the very least look hard at how bills are forced up by second home owners and by those who run off without paying, which WaterVoice South West says has substantially increased bills.

If the Government do not want to spread the cost more evenly or cap the differential in rates, perhaps it would be possible to take one of two other measures. The first solution would be to allow some incorporation into benefit payments, possibly though housing benefit, to make at least some reparation for high water bills. There is no doubt that that would cost the Government money, but it would at least mean that those on the lowest incomes who were least able to afford the bills would get some directed relief.

Alternatively, benefit levels could be adjusted by region to take some account of this particular utility cost. The costs of other utilities do not vary by region in such a way, or certainly not to a similar extent. This is a unique issue. It significantly affects people on all income bands, but it particularly affects those on the lowest incomes who are in real hardship. Frankly, so far, Labour's solutions have not been adequate. I do not think that it has really understood the scale of the problem while in government. One suggestion made was that we should experimentally educate 1,000 pensioners on how to save water; that is not really addressing the issue. Nor is recycling the existing help given to pensioners in getting water meters. A big announcement was made about that, a scheme that is already in place. It is great to have some publicity for it, and it is important to make sure that people know about it, but that is not the same as providing a real solution to the problem.

I am fully aware that the Minister cannot possibly come up with a set of proposals now that will address the scale of the need. I am glad that he is here, that he has

*[Matthew Taylor]*

had the chance to hear the concern of Members of Parliament from across the region, and that I have been allowed the chance to set out the scale of the problem, which I have found often comes as a surprise to Ministers. We persuaded at least one former Secretary of State to take the case to Cabinet. He did not win it, and the Conservatives did not take the action needed. I hope that we can persuade this Minister at least to take the case to his colleagues, recognising that it is a serious issue. I hope that this Government may be more willing to deliver than the Conservatives were. This is an urgent issue; bills are rising now, and people will get news of their first set of big increases through the door any minute. I assure the Minister that it will be a very big issue in the election that is likely to take place in just a few months.

11.17 am

**The Minister for Rural Affairs and Local Environmental Quality (Alun Michael):** The hon. Member for Truro and St. Austell (Matthew Taylor), who I congratulate on obtaining this debate, has been generous on two counts: first, he acknowledged that there is no instant answer to the problem, and, secondly, he said that current Ministers have to deal with a legacy of past mistakes. I must say that this is not the only issue on which we have to deal with a legacy of past mistakes, some of which have an impact over many years and cannot be dealt with even in two Parliaments. I will not go on to expand on the opportunities that further Parliaments will offer. The hon. Gentleman has acknowledged two important points that will help us to have a constructive debate on how we deal with the issues.

The hon. Gentleman does not need to persuade a Welsh politician of the potency of the issue of water and water prices. I acknowledge that the problem is currently more acute in the south-west, but over the years it has been an extremely potent political issue in Wales.

Water bills contribute significantly to the outgoings of many householders, so any rise in bills will have an impact on customers. The Government are particularly concerned about the effect on those least able to pay. The problem is particularly serious in areas where water charges are already relatively high. That description certainly fits the south-west, where there are many low-income households. I am aware that the problem of the cost of water bills as a proportion of income is a particular worry in the area. That is why we have set up a local-scale pilot study, which will take place in the south-west, to look into issues of affordability and the impact of benefits, checks, water efficiency measures and metering. I am pleased that, although there was initially some negative reaction, WaterVoice, to which the hon. Gentleman referred, has engaged positively in the development of that work.

**Matthew Taylor:** On that point, WaterVoice South West is very keen to meet the Minister to discuss those issues, and south-west MPs would probably like to take part in that discussion. I hope that he, or his colleagues, are willing to agree to that.

**Alun Michael:** It is more appropriate for my hon. Friend the Minister for the Environment and Agri-environment, to undertake that. I shall convey the request to him. I should not be filling his diary on his behalf, but I shall pass on the request.

Let us start by looking at the realities of the present situation. Water companies must meet their costs, including those of environmental standards, as the hon. Gentleman acknowledged. Ultimately, all those costs are met by customers. Ofwat sets an upper limit on customer prices, but there is a strong and visible link between what the company spends and the customers funding that through their bills. It has been argued that that makes water companies more sensitive to the views of their customers. Strong evidence in the recent periodic review shows that companies' business plans now pay more attention to customers' priorities, and that is no bad thing. However, it is not the whole picture, and there are particular problems in the south-west.

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs, my hon. Friend the Member for Exeter (Mr. Bradshaw), has taken a keen interest in the issue of the rising bills in the south-west, and has met a number of MPs from the region to consider the impact that the new price limits will have. In particular, he has discussed the issue with my hon. Friend the Member for Plymouth, Sutton (Linda Gilroy), who, as hon. Members will be aware, has a particular expertise and background in consumer matters.

It is worth pointing out that we face rising bills in 2005 because charges were cut in 2000. We are facing a rise only compared with five years of lower prices—that can be seen by the dip in the general graph—that were driven by a wish for customers to pay lower prices. However, the regulator Ofwat worked hard through the 2004 periodic review to keep the final price rises as low as possible, ensuring that customers pay no more than is essential to cover the variety of arrangements.

**Mr. Heath** *rose—*

**Alun Michael:** If the hon. Gentleman will forgive me, I will not give way, as this is a very short debate.

Nationally, prices will rise by an average of 8.5 per cent. this April, with South West Water customers paying an average bill increase of £29 in 2005–06. Average household bills for water and sewerage in the region will go up by £87 to £444 before inflation by 2009–10. That compares with the company's proposal in its business plan for an increase of £120 over the period. It is worth pointing out that South West Water customers benefited from the average cut of 10 per cent. to bills in 1999. Although prices will rise between now and this time next year, customers in the south-west will be paying less in real terms than they did in 1999, with the average bill in 2006 being 2 per cent. lower than it was in 1999.

The hon. Member for Truro and St. Austell raised a lot of important points on water charging and the regulatory system, and acknowledged that they are not all new ideas. The Government reviewed the water charging system in 1997–98. That resulted in the Water Industry Act 1999, which includes protection against disconnection and the free meter option. However, we have not shut down the subject for ever, and we remain open to ideas on charging methods and tariffs. I will

show the hon. Gentleman's specific suggestions to those evaluating the current position. Clearly, he has here today a bevy of supporters from his party in the south-west. He put forward a number of ideas for reducing the burden on South West Water customers, but they usually involve shifting the burden on to national taxpayers or water customers in other parts of the country.

We are not convinced that it would be right effectively to subsidise South West Water's investment, either through a national fund drawing money from all water companies, or by public subsidy from taxation to South West Water, as has been suggested. Such solutions would run counter to the present legislative and regulatory framework. I wonder whether Liberal Democrats in other parts of the country would be enthusiastic about a discussion with customers in regions other than the south-west, and with those who would feel the impact of any redistribution of the south-west's costs. If the cost of water companies' plans were met by a national environmental fund that drew its money from customers throughout the country, individual companies would have less need to listen to their customers. There would be a lack of accountability and a weakening of the driver that encourages companies to keep their costs as low as possible. As the hon. Gentleman indicated, I am describing the arrangements that we inherited. In changing them and trying to correct what is clearly a major problem we have to be careful not to destroy their benefits.

All regions, companies and customers have their problems and priorities. Whereas such costs as bathing water improvements have affected the south-west most heavily, other problems, such as nitrate removal, sewer flooding and the replacement of worn-out infrastructure, are at their worst in other parts of the country, including the Anglian region and the north-west.

Another suggestion is that we should change the way in which individual charges are met. I have some sympathy in principle with the view that unmeasured charges based on rateable values are outmoded. We are considering the charging system and seeing how it develops. We have a particular interest in how metering develops and its balance with unmeasured charging. I acknowledge the hon. Gentleman's point that a meter benefits small families or individuals rather than large families.

We acknowledge that there is an issue about water affordability. The Environment, Food and Rural Affairs Committee pointed to that issue, and last year a cross-Government steering group reviewed the way that lower income households are helped with their water and sewerage charges. A wide range of stakeholders were involved in discussions with the steering group, and the Government published its report last December. It concluded that there are measures in place to assist lower income households. Suggested ways for the Government, Ofwat and the water industry to tackle the issues include improving existing arrangements in the short term and studying the effect of the charging system in the longer term.

The report made six recommendations to help vulnerable groups. Following the review of affordability measures, the pilot to which I referred earlier has been established in the south-west. We want to operate it alongside the Warm Front scheme, as there are clear links between our proposals for benefit health checks and efficiency measures. We will also be able to tap into the experience that the Warm Front team has built up in reducing the heating costs of vulnerable households.

The pilot study will offer targeted assistance to help 1,000 households in the south-west to access advice on saving water, to install water efficiency appliances, to check for water leakages and so on. It is also worth pointing out that assistance through the tax and benefit system has increased significantly in recent years. As a result of personal tax and benefit measures implemented since 1997, by September this year families with children will be on average £1,350 a year better off in real terms and the poorest third of pensioner households will have gained £1,750 a year.

I fully understand that that does not reduce the impact, or the perception, of the weight of water charges. The hon. Gentleman raised important issues in opening this debate because, in general, the tax credit and benefit systems do not provide targeted support for the costs of a particular service, such as water charges. There are exceptions—he referred to housing benefit and the child care tax credit. However, rents and child care costs typically represent a far larger proportion of household expenditure than do water and sewerage charges.

Like the hon. Gentleman, we are concerned about the burden of water prices, particularly on customers in the south-west. South West Water customers have to pay more for their water and sewerage services than people in other regions. That is one of the features that developed out of privatisation, which required each customer to pay for the costs incurred by their water company. The hon. Gentleman acknowledged that and he was right to do so. Identifying the problems does not mean that there are easy solutions. Again, he acknowledged that.

So far, none of the ideas put forward fully solves the problems faced by customers, but Ministers are engaged in the ongoing search for a solution. Although we have yet to find it—I must acknowledge that—we have not given up. The affordability assistance pilot study will focus our effort on help to the most vulnerable customers, which is where help is most needed. I have no doubt that many lessons will be learned from that work which we can heed when considering long-term solutions to the problem.

11.30 am

*Sitting suspended until Two o'clock.*

## Standards Board

2 pm

**Peter Bradley** (The Wrekin) (Lab): There is no doubt that there has been a decline in confidence in politicians and in our political systems that has accelerated since the 1990s. It is not always justified but we have to take it seriously, because we cannot afford to allow the public to lose faith in our institutions of government, whether at national or local level.

The Government have done a lot in recent years to try to bring government closer to the people through devolution, commitment to town and parish councils, constitutional reform and the incorporation of European legislation on human rights, and in the long-awaited and yet-to-be-completed reform of the House of Lords. But perhaps the two key principles in bringing government closer to people are the promotion of the transparency of our systems of government, through such legislation as the Freedom of Information Act 2000, and the enhanced accountability of those responsible for those systems of government.

Here, we have the Parliamentary Commissioner for Standards, and it is right that there should be a similar body in local government. That is why I support the Local Government Act 2000, and its creation of the Standards Board for England. The board is there to raise and sustain standards and public confidence in local government. I have to say at the outset that I disagree with the Conservative party, which says that it is unnecessary and should be abolished.

A great deal of mischief and nonsense has been talked about the impact of the Standards Board, particularly on parish councils. It has been alleged that there has been a wholesale exodus from that essential form of public service since the introduction of the code. My understanding is that that is simply not the case; the National Association of Local Councils tells me that of some 80,000 men and women who serve on town and parish councils, only about 80 have tendered their resignation because they are not prepared to submit to the code. The challenge is not to abolish the Standards Board; it is to make it work. We should certainly not throw the proverbial baby out with the bath-water, as I believe the Conservatives are proposing to do.

In general, standards are high among local councillors, but as there are 100,000 of them there are likely to be problems with individuals, and sometimes local authorities can have corporate problems and difficulties. Most councillors welcome the Standards Board. They recognise the need for guidance and support. They need the discipline of knowing that they are held to account. Above all, the public need to know that, too.

I have studied with great interest the evidence recently submitted to the Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions Committee, and saw that there was widespread support for the Standards Board from the Local Government Association, NALC, leading councillors and senior officers. However, I have serious concerns about the Standards Board. I accept that its performance is improving, and I welcome the fact that a review of its code is under way. I hope that this debate will contribute to that process. But elements of the code are, in my view, badly flawed and open to exploitation. Also, there are delays in its processes that are themselves the cause of serious injustices.

My first concern is that, for too many, the code has become a licence—indeed, a charter—for complaint. We are all familiar with the serial complainers—the small-minded, small-town curtain-twitchers who are turning some local authorities into battlegrounds on which they can fight out their personal and political vendettas.

Back on 8 June 2000, my right hon. Friend the Member for Stretford and Urmston (Beverley Hughes), then the Minister for Local Government and Housing, said:

"we can expect that the full panoply of the process, leading to the establishment of a tribunal, would be necessary only a few times a year."—[*Official Report, Standing Committee A*, 8 June 2000; c. 427.]

I think that she underestimated. Partly because of the ill-defined breadth of the offences under the code, complaints are currently running at some 300 a month. That is up on the figures for last year, which were themselves 20 per cent. higher than the figures for the previous year. One third of those complaints come from fellow councillors, and no doubt still more come from political activists in the community. It is also noticeable that there is a concentration of complaints in the run-up to elections. Last year, 309 complaints were registered in February, 330 in April, and 257 in May; however, there were 444 in March. I am aware of at least one complaint made in the run-up to an election and dismissed after polling day where the accused lost his seat to the complainant.

In many cases, smaller local councils are paralysed by the length and complications of the Standards Board process. It is noticeable that 73 per cent. of complaints come from the smaller councils—district councils, town councils and parish councils. It is also clear that the Standards Board is too often brought to a standstill by the sheer weight of the complaints that it is required to investigate. Until recently, it had to attach equal weight to all complaints, even though 75 per cent. of them were not referred onwards, and even though in 87 per cent. of those that were referred it was found that there had been no breach of the code or that no action should be taken. I am therefore glad that changes were introduced in November that allow the Standards Board to refer complaints back to local authorities for investigation. I am also pleased about the commitment to review in 12 months' time whether the Standards Board should introduce deterrents to vexatious complainants. However, it is my view that excessive centralisation has led to the injustice of delay, with many cases unresolved for well over a year.

So, more needs to be done to reduce the burden and cost of complaints, the mayhem that they can wreak for local authorities, and the damage to the reputations of those belatedly found to be innocent of the charges against them. Key elements of the code are flawed and misguided. We in Parliament have to take our share of the responsibility for passing such legislation without anticipating some of its implications. Paragraph 3 of the code of conduct established in the Local Authorities (Model Code of Conduct) (England) Order 2001 forbids the disclosure of information given in confidence, and in so doing suppresses the duties of oppositions and the

rights of whistleblowers; they are important rights in any public authority. Paragraph 4 creates an offence described as

"bringing his office or authority into disrepute."

That offence is too broad and a licence for vexatious complaints. Paragraph 7 places on councillors an obligation to report allegations against others and provides a spurious justification for specious complaints.

I am most worried about the disclosure of confidential information—although, oddly, it is the element of the code that has received the least attention. It is a fundamental principle that a councillor's first duty is not to the authority of which he or she is a member, but to his or her constituents. Of course councillors should observe confidentiality when it is clear that the public interest is not served by disclosure, but there is a distinction between secrecy and confidentiality. Where in good faith councillors believe that the public interest overrides the principle of confidentiality, they have a duty to disclose confidential information. If that were not the case, local authorities could simply stamp any document or correspondence "confidential" if they did not want it to see the light of day. That is entirely counter to the Freedom of Information Act, the provisions of which were introduced only last month. It suppresses whistleblowing, and it can be, and is, used to suppress dissent and cloak and protect wrongdoing.

**Mr. Eric Pickles** (Brentwood and Ongar) (Con): Would the hon. Gentleman care to elaborate on how the procedures of Parliament would work under such restraints?

**Peter Bradley:** We have enshrined in our procedures parliamentary privilege, which enables us to refer to information that in any other forum would be regarded as confidential. Unless we can have a free flow of information and debate, there is little point in our being here. I am suggesting that the same principle that applies to us should also apply in other public bodies, and particularly in local government, because as much as we like to think of ourselves as being in the cockpit of power and having tremendous standing and importance, the decisions taken by local authorities often affect the lives of our constituents more regularly and intimately than our decisions. I am happy if I have helped the hon. Gentleman in that regard.

I may not please the hon. Gentleman quite as much in what I am about to say. Had the code been in place in the 1980s and '90s, I would have fallen foul of it frequently, as would my hon. Friends the Members for Hendon (Mr. Dismore) and for—she will have to help me—what used to be known as Westminster, North.

**Ms Karen Buck** (Regent's Park and Kensington, North) (Lab): Regent's Park and Kensington, North.

**Peter Bradley:** The three of us were colleagues and comrades in arms on Westminster city council in its heady days. Had we and colleagues not placed ourselves at variance with the code that has since been adopted, many of the wrongdoings at that council, with which we are all too familiar, would not have been detected and no one would have been brought to justice for them.

The case of our former colleague Councillor Paul Dimoldenberg, who is currently the leader of the Labour group on Westminster city council, as he was for some time in those days, exemplifies the need to reform paragraphs 3 and 4 of the code and to address the delays in process, to which I referred. It is an extraordinary irony, and perhaps an example of the Standards Board at its most confused, that a man of such high integrity, who played so important a role in exposing the worst political corruption in living memory and brought Shirley Porter and her colleagues to justice against all odds and all expectations, should now and over the past 18 months have faced indictment before the Standards Board—not for any political or personal corruption, and not as a result of a complaint from a member of the public, but as a result of a complaint by Westminster city council under paragraphs 3(a) and 4 of the code, which deal with confidential information and bringing a council into dispute. He is arraigned for exercising his judgment and revealing wrongdoing as he and we have done on many previous occasions.

I will not go into great detail about the case, but I want to outline the background to it. Councillor Dimoldenberg was concerned about the commitment of Westminster city council to press for the surcharge imposed on Shirley Porter and her former colleague, David Weeks, by, first, the district auditor and, ultimately, the Law Lords when all legal recourse had been exhausted. He had every right to be suspicious because, after all, many of those in the leadership of the council today are former acolytes of Shirley Porter, and he and we are all too familiar with the culture of secrecy, obfuscation and evasion that has long characterised Westminster city council. More to the point, he had evidence of the lack of progress being made in pursuing Shirley Porter for the surcharge. His concerns were shared by the media, which played a key role in uncovering the wrongdoings at Westminster over the years. It was a "Panorama" programme that gave rise to the objection to the district auditor that set in train the investigative process, and it was the long and honourable tradition of opposition parties working together with the media that shone light on the darkness with which many at Westminster would have preferred their activities to be cloaked.

Councillor Dimoldenberg believed that the council was dragging its feet and, back in May and June 2003, he gave evidence to the BBC to back up his claims. He gave the information not for broadcasting, but on a background briefing basis. On 30 June, "Today" broadcast an item that revealed some of that information. In retrospect, it is clear that Councillor Dimoldenberg's actions were fully justified. I shall cite one piece of information in support of that assertion: in the eight months prior to the broadcast, Westminster city council had been spending about £14,500 a month on legal fees—a large amount, although pocket money by west end lawyers' standards. In the 11 months following the broadcast, Westminster city council had increased its activity to the extent that it was paying its lawyers not £14,500 a month, but £120,000 a month. As a result, some 10 months later, in April 2004, it recovered £12.3 million of the surcharge that was imposed on Shirley Porter. There is an argument that she got off too lightly, given that the surcharge imposed

*[Peter Bradley]*

was £42 million. But there was no adverse outcome to Councillor Dimoldenberg's disclosure other than the embarrassment of Westminster city council.

Despite the evidence of Councillor Dimoldenberg's standing and integrity and the positive outcome of his actions, Westminster city council lodged a complaint and, worse still, the Standards Board is pursuing it. I said "pursuing", but perhaps that is a misnomer because it is now 18 months since that broadcast on 30 June 2003. It took precisely 12 months for the Standards Board to produce a draft report and it will not be until next week that Councillor Dimoldenberg has his preliminary hearing, and there is no knowing how much longer the process will last.

It is hard to quantify the cost to Councillor Dimoldenberg. When I make references to him, he stands for many hundreds of other local councillors who, for different reasons, find themselves in a similar position. His legal costs are already in excess of £6,000, but that is nothing compared with the disruption to his life over 18 months. He has a demanding career. He is still carrying out his duties as a councillor in Westminster. He has a young family, yet he is being obliged to spend much of his time and energy defending his reputation. It is difficult for us to understand the pressure, stress and anxiety that those circumstances create. On top of that, Councillor Dimoldenberg has serious uncertainties about his future and reputation.

I make no apology for going into the case of Councillor Dimoldenberg in some detail because it exemplifies the urgent need for a public interest exemption to the paragraph in the code that otherwise imposes on councillors a duty of confidentiality. Had there been a public interest exemption, there is little doubt that Councillor Dimoldenberg would not be facing a charge that is as unjust as it is serious.

What is to be done about the code? In November 2004, as I said, Parliament allowed the Standards Board to refer back minor cases to local authorities for resolution. I am sure that that was the right thing to do. On 19 January, the Committee on Standards in Public Life published an aptly titled report, "Getting the Balance Right: Implementing Standards in Public Life", on the Standards Board and other issues. It expressed similar concerns to those that I have mentioned today and made not dissimilar recommendations. It said that the Standards Board needs to be "fundamentally transformed". It wants a more locally based system, more independent members on local standards committees, the removal of unnecessary restrictions on councillors representing their constituents and a clearer distinction between private and official conduct.

In its evidence to the Select Committee, the Local Government Association pressed for more local screening of complaints. There is a valid argument on both sides of that issue, but I think that I disagree with the LGA's position. It is very important that there should be no doubt in the public's mind that complaints are dealt with dispassionately at national level, even if they are referred back to the council for further investigation and adjudication. It is also important to remove any question of political bias in making complaints and considering them, even if that is a greater problem in perception than in fact.

We need to discourage trivial and vexatious complaints. The Standards Board has indicated that it may consider a review of the sanctions against vexatious complainants next year, and that is an important step forward. I hope that that will not be necessary and that the very threat of sanctions against such complainants will deter them. However, they must understand that the petty point scoring in which they indulge can have devastating effects on their innocent victims. They must be deterred if they can be.

It is also wrong that Members or political activists can make complaints purely for party political purposes, particularly during the run-up to elections. I hope that the Standards Board can find a way to penalise those who do so simply for the purpose of media exposure and for no legitimate reason. It is also important to remove the obligation on councillors to report allegations of misconduct. That obligation prevents such allegations from being resolved locally and expeditiously, sets in train the full panoply of the Standards Board and acts as an excuse or justification for trivial and personal grievances. The investigation process needs to be further accelerated, although progress is being made. There needs to be a much clearer and narrower definition of what is meant by bringing a local authority into disrepute. Finally, we need to qualify the paragraph on confidentiality with the public interest exemption, to which I referred.

I recognise that these are relatively early days in the life of the Standards Board, and that there have been some positive changes already. The Graham Committee has already come forward with further helpful recommendations and the ODPM Committee may also do so shortly. I welcome the fact that the Standards Board is reviewing its code. However, it is crucial that in seeking to strengthen public confidence in local government we do not undermine it and, in doing so, cause grave injustices when our purpose is to prevent them.

2.23 pm

**Ms Karen Buck** (Regent's Park and Kensington, North) (Lab): I congratulate my hon. Friend the Member for The Wrekin (Peter Bradley) on securing this debate. I, too, will focus on the issue of public interest, the need to protect those who find themselves required to blow the whistle on wrongdoing and the fact that the code needs reform. I make no apologies for the fact that I shall use the same case to illustrate some of the flaws in the system as I see them.

It is no coincidence that three former Westminster city councillors are here; they will hope to catch your eye, Mr. Deputy Speaker. Experience of Westminster council has taught us what can go wrong in local government, and we have more reason than most to believe in the principles underpinning a body such as the Standards Board, and in the necessity for proper structures for holding the locally elected councillors to account.

2.24 pm

*Sitting suspended for a Division in the House.*

2.39 pm

*On resuming—*

**Ms Buck:** I wholly endorse what my hon. Friend said in support of the Standards Board—as an organisation and for its principles and much of its work. Alarm bells should ring if those of us who have been at the coal face of local government corruption should now be concerned about aspects of the code of practice and the organisation that all our instincts tell us to support.

In the helpful Library briefing provided for the debate was a news article from *The Daily Telegraph*, which expressed the view that the words "hammer" and "nut" spring to mind when thinking about the Standards Board. That may or may not be true. The words that spring to my mind are more likely to be "shoot" and "foot".

How can it be that the Standards Board that we needed so much at Westminster council throughout the late 1980s and 1990s is now directing its inquiries against the man who, more than anyone else—with due deference to colleagues here and other key individuals—exposed the institutional corruption: Councillor Paul Dimoldenberg? The investigations are not because of an allegation of an abuse of public funds, taking bribes, downloading porn on a council computer or not signing the register of members' interests. If those were the types of allegations, I would be the first to say—friend or no friend—that such allegations should be fully and properly investigated, because such behaviour has no place in public life. But, as my hon. Friend says, Councillor Dimoldenberg stands accused of bringing local government—his authority—into disrepute because of his whistleblowing actions pursuing Westminster council's recovery of the debt owed to council tax payers by Shirley Porter.

I note that the chairman of the Committee on Standards in Public Life, in presenting the Committee's recent report, told the magazine, *Local Government First*:

"The Standards Board needs to transform itself into a strategic regulator focusing on those most serious allegations that pose a high risk to the reputation of local democracy."

Such changes, he went on, would

"address the frequent, minor, vexatious and politically motivated complaints that cause a backlog of national investigations, leaving many councillors with allegations hanging over their heads".

He did not add what I have had confirmed in a letter from the Standards Board—that such complaints cost an average of £5,000 each to investigate. Of course, as my hon. Friend said, the accused councillor may in some cases build up many thousands of pounds of personal debt in fighting the charge. It has been noted, but should be repeated, that Councillor Dimoldenberg has spent a year and a half with these allegations hanging over him.

I wanted to spend a few minutes on the issue described here as being a politically motivated concern that the Standards Board is anxious to remove. However, we have a substantial inquiry that seems both highly political and yet strangely stripped of the broader context of public interest.

Central to the allegation against Councillor Dimoldenberg is that he passed information to the BBC that he knew to be confidential and that could have caused harm to the interests of the council. We need to remember that this is a man who has devoted two decades of his life to a virtually unremunerated public service, championing the interests of his constituents in some of the poorest neighbourhoods in London. His record in public life is one of disinterested and effective service in opposition, with neither hope nor ambition for higher office.

When first elected, neither Councillor Dimoldenberg nor anyone else could foresee that the council that he had been a member of for several years would be embroiled in the scandal that began with the sale of the cemeteries and then became the homes-for-votes story. Equally, from the late 1980s onwards, as that scandal unfolded, few people could appreciate the extent to which the so-called building stable communities policy—otherwise understood as homes for votes—reached into almost all corners of the council, implicating councillors and officers in actions that were sometimes reminiscent of a cold war thriller.

Councillor Dimoldenberg and his colleagues may well have been suspected of a touch of paranoia—this was before I joined the council—when they alleged that homes for votes extended beyond merely keeping council houses empty for sale into policies that knowingly shifted homeless families into asbestos-ridden tower blocks and, ultimately, led to a campaign of dirty tricks against councillors and against tenants and community organisations perceived as hostile. Inquiry after inquiry, from the district auditor to the Barratt report, subsequently reported that, clearly, if anything, none of us was sufficiently paranoid to comprehend the scale of what was going on.

That is the important context, which explains why we remain sceptical of what we are told about the Porter affair and its legacy—in this case, about Westminster council's commitment to recovering the debt owed to council tax payers, not least when Westminster's current leader, so different in many respects, none the less continues to refer to the woman from whom the council he leads is supposed to be collecting debts as a personal friend and to the vast apparatus of homes for votes as a "mistake".

I passed an e-mail to Councillor Dimoldenberg in May 2003, from a man who told me:

"I have been investigating"

members of the Porter family

"for the past year . . . I am sorry to tell you that I got a lot further than Westminster's lawyers investigating the matter . . . I offered to hand over my entire investigation and continue to develop the leads we had made. Did they want to know? No.

Dame Shirley Porter's money is alive and well and running around London. You need new impetus at Westminster council."

No wonder I was not as dismissive of that e-mail as I might have been under other circumstances, and nor was Councillor Dimoldenberg. Put simply, the trust we should, and normally would, place in the local authority has been comprehensively forfeited over the past 15 years and the road back has been long, slow and hesitant.

Even relatively recent events illustrate how reasonable it is that we should continue to regard with suspicion the council that Paul Dimoldenberg is accused of bringing into disrepute. For example, it continues to operate its own interpretation of the rules when it comes

*[Ms Buck]*

to standards. City solicitor Colin Wilson qualified the concept of confidentiality, when in an e-mail to council colleagues two weeks after the "Today" programme at the heart of the alleged confidentiality story, he said:

"I am not suggesting that you refuse him any and all confidential materials. Where Councillor Dimoldenberg is working constructively with the council, as he is on a number of issues, there may be no harm in giving him the material. On the other hand, where we are aware that he is opposing the City Council on an issue, and harm to the City Council interests could result from publication of the material he has asked for, we may need to refuse him notice".

The issue of confidentiality—the grounds for Councillor Dimoldenberg's referral to the Standards Board—is not the issue at stake at all. The issue at stake is simply determined by asking whose interests are being served. In other words, the situation is, "I inform, you brief and he leaks".

**Peter Bradley:** My hon. Friend has just read out a rather disturbing stream of consciousness from that senior officer. If he is right, who defines what a city council or any other local authority's interests are? Who defines what is in the public interest and what is harm? What is the role of opposition if it is not to oppose the council's policies with which it disagrees?

**Ms Buck:** I completely agree with my hon. Friend. That goes to the heart of the debate that we need to have about changes to the code and the way in which the Standards Board operates in future.

Nor was the instance that I mentioned the only one when representatives of Westminster council acted in such a way as to, at the very least, call into question the true nature of the campaign against Councillor Dimoldenberg. After the original referral to the Standards Board, the council's chief executive offered to withdraw the complaint. However, as an insurance policy, he asked Councillor Dimoldenberg to provide him with a signed, undated letter of resignation from the council, to be used whenever he considered that Councillor Dimoldenberg had breached the code of conduct.

That prompted the local newspaper to argue:

"Effectively, a democratically elected councillor would have been serving at the whim of an unelected and, as far as the public is concerned, largely anonymous official. Such a situation would be a travesty of everything a democracy stands for. Given Councillor Dimoldenberg's reputation for integrity, it is mindboggling that anyone in authority really believed that such a seedy plan could ever succeed . . . This was a crude attempt to interfere with the democratic process".

So this is a council that spawned the largest and costliest gerrymandering exercise in local government history—one which cost the taxpayer many millions of pounds and caused considerable distress and misery. Many officials and councillors were identified as being complicit. They were aware of wrongdoing but not aware of their duty to stop it. Only two individuals were finally found guilty and subject to surcharge. Many of the same councillors involved in the Porter regime remained in office and were responsible for collecting Shirley Porter's £42 million surcharge. A year and half after the case was finally determined in the House of Lords, there were few signs of progress in recovering the debt.

Yet, an opposition councillor who had exposed the wrongdoing and was wholly committed to the recovery of £42 million of taxpayers' money finds himself in the dock for attempting to move that recovery forward, even while senior council officers reveal their own, rather fluid interpretations of both confidentiality and accountability.

Celebrated humorist Tom Lehrer announced on the day Henry Kissinger was awarded the Nobel peace prize that he was giving up satire on the grounds that it was now redundant. While I express complete support for the principles of the Standards Board and for its staff, I am afraid that the referral of Councillor Dimoldenberg makes me feel the same way.

2.49 pm

**Tom Levitt** (High Peak) (Lab): I rise, first, to give the Chamber a short, if temporary, break from the affairs of Westminster city council, and secondly, because I want to congratulate my hon. Friend the Member for The Wrekin (Peter Bradley) on this excellent but necessary example of post-legislative scrutiny—in this case, of the legislation that set up the Standards Board. Before I tell my story, it is important to state that I was a member of the Standards and Privileges Committee for six years. Only one Member of Parliament has a longer record of service on it.

In May 2003, the Labour party lost control of High Peak borough council. Among the councillors who were elected then for the first time were two or three members of the Glossopdale Independent party, one of whom seems to be a fair-weather friend. Almost immediately, those councillors started using the council e-mail system to copy all members of the council and officers into copious amounts of correspondence. Much of it was unprofessional, much was personal and some was libellous and offensive. Some may even have been funny, but the joke soon wore off.

One of those councillors, Leslie Wilcox—I stress that there are two councillors called Wilcox on High Peak borough council; I am talking about the one who represents Whitfield ward—consistently used the council e-mail system to belittle and undermine staff, and was rude to them over the telephone. He included large numbers of councillors and staff in his e-mails, often undermining the work of council officers in front of their juniors, instructing officers to do his bidding, expecting them to behave in an unreasonable manner and routinely accusing them of lying, plotting and secrecy, and copying his offensive and misplaced e-mails to the local press.

Over the months, the chief executive of the council and the reporting officer gave Councillor Wilcox verbal warnings about his offensive behaviour and his disregard for the code of conduct. Much of his attack was aimed at officers in the planning and development departments. It is widely believed that the attacks were a contributory factor in a number of unfortunate incidents. A senior director of one department has announced that he is taking early retirement earlier than originally planned. Another officer has been promoted to a job in another local authority, but the councillor's e-mails have followed him, undermining him in the eyes of his new employers, too. Another senior officer in the same department has had a heart attack, and yet

another is considering legal action against the councillor after he publicly accused her of taking bribes. The level of stress-related absence in those departments has been increasing, and councillors have asked officers to record all examples of harassment and bullying.

So, after less than six months as a councillor, Leslie Wilcox was reported to the Standards Board following several encounters with senior officers who had attempted to alert him to the unacceptable nature of his behaviour and his need to stop. He was reported in late 2003. That action was supported not only by the Labour group—the largest group on the council—but by the ruling alliance of Conservative, Liberal and independent members.

In early 2004, the Standards Board took some 10 statements from councillors and officers in its investigation of some seven separate complaints that had been made against Leslie Wilcox. Then, in spring last year, everything went quiet, or at least it did so from the point of view of the Standards Board. Councillor Wilcox was continuing his campaign of harassment, offensive language and the belittling and undermining of councillors and especially officers.

In June, I wrote privately to the Standards Board, expressing concern about the time that it was taking to deal with the case. I discussed it not only with senior officers of the council, but with the independent chair of the standards committee of the council. My intervention was based on the fact that six months into the investigation, Councillor Wilcox's behaviour was as bad as ever, and no amount of internal warnings was curbing the abuse. I stress that I was not presenting any evidence to the Standards Board myself, or trying to influence the outcome of its deliberations; I was simply trying to get the report published, as the situation was going from bad to worse.

Also in June, the Standards Board chief executive, David Prince, apologised to me in writing for the fact that the investigation had taken so long. In September, the Standards Board told the independent chair of the standards committee of the council that its report was almost complete and would be presented in four weeks' time, at which point it would have to be decided whether to send the case to the national adjudication board for England, or to deal with it at local Standards Board level.

In November, the investigating officer from the Standards Board told High Peak borough council that the board appreciated the urgency of the situation—at last—and that the draft report would be ready by

"the end of December at the latest".

In December, the council withdrew the e-mail facility from Councillor Wilcox and another sometime member of the Glossopdale Independent party, because the level of abuse had grown even more intolerable. Throughout that time, however, the council continued—correctly, I believe—not to refer cases involving the councillor to its own local standards committee, as it did not want that to prejudice the outcome of the Standards Board investigation.

On Boxing day, I was assured that publication of the draft report was imminent. That was more than a month ago, and we still have no report more than a year after the investigation commenced. Meanwhile, Councillor Wilcox has discovered that you do not need to be on the council's e-mail system to send abusive and disruptive e-mails to every council member and officer. Councillors have thick skins; like all politicians, they have to. However, we should not allow public servants—council officers—to be subjected to such unacceptable behaviour by a councillor.

What is also unacceptable is the Standards Board's response to the case. Its tardiness has allowed a bad situation to get worse. By allowing this behaviour to continue for the best part of two years, it has brought itself into disrepute in High Peak. A bully continues their behaviour even when told not to. The way to combat a bully is not to roll over in front of them and pretend that they are not there, which is what the Standards Board gives every impression of having done in this case.

As a new councillor, Councillor Leslie Wilcox does not know and has never learned what it means to be in the privileged and responsible position of representing a ward. He does not know what it is to be a democrat and to work as a partner with other councillors and officers, and he will not be told. I am not asking my hon. Friend the Minister to adjudicate in this case—the facts speak for themselves—but I want her to know that the Standards Board was initially seen by councillors and officers in High Peak as a friend of local democracy and the independent arbiter of what is acceptable behaviour. In this case, it was seen as a solution to an otherwise intractable problem. It is a necessary part of the regulation of public life, but there is a great danger that if it cannot act promptly and effectively in open-and-shut cases such as this one, it will not be seen that way in future. That is not good for democracy.

**Mr. Deputy Speaker (Mr. John McWilliam):** Order. The hon. Gentleman used the word "you", which refers to me. I assure the Chamber that I have never sent abusive or insulting e-mails to any member of High Peak or any other council, although I will not pretend that there have not been occasions when I might have thought about it.

2.57 pm

**Mr. Andrew Dismore** (Hendon) (Lab): I congratulate my hon. Friend the Member for The Wrekin (Peter Bradley) on securing this timely debate. Both he and my hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) referred to our common history over many years of struggle on Westminster council. Our experiences from those days show the need for a better system of investigating complaints of misconduct. Were it not for the persistence of a relatively tight—in the sense of working together—group of Labour councillors, backed by a number of determined people working in the Labour party, combined with the persistence and professionalism of a district auditor second to none, John Magill, I doubt we would have exposed those activities. Almost 20 years later we still have not seen the end of the story in that complaints still remain to be dealt with. I find it bizarre that Dame Shirley Porter, who was awarded her damehood for services to local government, still has that award whereas John Magill goes unrecognised.

After my experiences in Westminster, I was elected to this House and now have the privilege to serve as a member of the Standards and Privileges Committee.

*[Mr. Andrew Dismore]*

Those two factors give me an insight into different methods of dealing with particular problems. We need a system that is proportionate and exercises a degree of common sense, fairness and justice—justice delayed is justice not done. Only that way can we have a system that inspires confidence in the public and the people subject to it. Having seen the regimes of two Parliamentary Commissioners for Standards—Sir Philip Mawer and his predecessor—I have seen how the systems can change and develop for the better. In Sir Philip Mawer, we have a good public servant with a common-sense and fair approach to dealing with matters.

We have an effective way of dealing with mischievous and de minimus complaints, a procedure to correct minor errors, and clear advice and warnings against tit-for-tat allegations. I was the subject of a tit-for-tat allegation in the run-up to the last election. A bogus complaint was timed specifically to screw up my election campaign, but mercifully did not because of delays to the election caused by foot and mouth disease. Therefore, I can speak at first hand in saying that, even if it is a bogus complaint that is dealt with in a matter of two or three weeks, it imposes strain. The intensity of the pressure that it puts one under, the fears for the future and the sheer amount of time that it takes to deal with such complaints are very disconcerting. It does not bear thinking about that some of our councillors are under that pressure, sometimes for years.

We on the Standards and Privileges Committee deal with inquiries very quickly—in weeks, at most, unless the case is very serious, or if the person complained against does not co-operate with the inquiry. That is a better way of doing things. The fact that the work of the commissioner is subject to parliamentary scrutiny, with regular reports to us on progress, is an important check on the system.

We need to be aware of the impact on public life if we do not get those systems right. How can we expect people to devote many hours of service—when I was a councillor it was effectively unpaid service; now people are paid, although not well—to their local communities if the potential shadow of unfounded allegations takes so long to resolve? We need to find a degree of balance. I welcome the Standards Board's involvement.

I do not want to say a great deal about the case of Councillor Paul Dimoldenberg—it has been amply described by my two hon. Friends. However, I will say this about the case. Councillor Dimoldenberg is charged with bringing Westminster council into disrepute, which assumes that it has a reputation to bring into disrepute in the first place. Looking back over those days, I think that the reputation of Westminster council is probably the worst in local government, and rightly so.

I was elected, with Councillor Dimoldenberg, to Westminster council in 1982. I served with him as a councillor for many years, and he has been a personal friend for almost 25 years. I have never come across anyone who is so dedicated to serving his local community, without fear or favour, so determined to stand up for what he believes in, or of such great integrity as Councillor Dimoldenberg. To see him dragged before the Standards Board in that appalling and shameful way, while others go unscathed, is a real blot on our public life.

Councillor Simon Milton and Councillor Robert Davis, two leading lights in the Conservative party on Westminster council, met Dame Shirley Porter for dinner in Israel in June 2001, at a time when the allegations were still being investigated and when the council was trying to get its money back. Even now, Councillor Milton refers to Dame Shirley Porter as a personal friend. I find it utterly appalling that no criticism has been made of them by anyone in authority.

I also find it bizarre that, after all we now know about Westminster council, the Conservative party has still not had the decency to apologise for what occurred under Dame Shirley Porter's regime. That is despite numerous assurances from the then leader of the Conservative party and Prime Minister, John Major, and others, that an apology would be forthcoming if a case was found against her.

I have moved on, and now represent a constituency in Barnet. I should like to give two examples from Barnet. The first was of an unjustified complaint made in September 2002 against the then Councillor Alan Williams, who was leader of the Labour group and former leader of the council. He was reported to the Standards Board by the chief executive, whom he had criticised in the heat of debate in a council meeting. In council meetings, as in the House, we may often get carried away and say things that we regret. On that occasion, the chief executive was perhaps over-sensitive to criticism, and reported Councillor Williams. Some months later, Councillor Williams was interviewed by a junior Standards Board officer in what I can only describe as the star chamber approach; he was given no detail of the complaint against him or the evidence that he had to counter. We have experienced that problem in the House. Under previous regimes, when complaints were brought before the Standards and Privileges Committee, people were interviewed and cross-examined without knowing the case that they had to answer. That is neither fair nor natural justice—it is simply wrong. Councillor Williams was eventually cleared, some 10 months after the complaint was made; the complaint, which was in itself quite trivial, was dismissed.

That example calls into question the relationship between officers and members. My hon. Friend the Member for High Peak (Tom Levitt) referred to one aspect of that relationship. It is important that the right balance between officers and members is preserved. If officers think that they are going to have the whip hand over members, that can unfairly alter that balance. The best example of that was given by my hon. Friend the Member for Regent's Park and Kensington, North, when she described the appalling behaviour of the chief executive of Westminster, in demanding an unsigned resignation letter from Councillor Dimoldenberg to keep in his back pocket as some sort of lever over him for the future. If anybody should be investigated by the Standards Board, it is the chief executive who expects that from an elected member in those circumstances.

The other case to which I want to refer is that of former councillor Alan Sloam. Looking at his case from

the opposite point of view, he was reported—in my opinion, correctly—for very serious misconduct in August 2003 over attempts to fix parking tickets. The evidence was clear and, as far as I can see, uncontested, but it took until June 2004 for his case to be determined and for him to be disqualified. He then appealed to the High Court; the appeal was heard last week and was dismissed. The borough solicitor will not yet call a by-election to replace former councillor Sloam until the time limit for appeal to the Court of Appeal has expired. Going back to the restraints of sub judice mentioned earlier, that case is not sub judice because no appeal has yet been entered. However, from June 2004 to today, the electors of Colindale ward in my constituency have been one councillor light, and that looks as if it will continue for several more weeks. That cannot be fair to the other two councillors in that ward, who are having to carry a substantial extra work load in a large and demanding ward until a replacement can be elected. It is wrong that for nine months, a ward can be unrepresented in such circumstances. We can argue about the reasons for that, but ultimately, one of the arguments is whether the Standards Board is properly resourced in the first place to enable it to conduct inquiries promptly and effectively.

There has to be a procedure to get rid of the silly cases quickly and informally, as Sir Philip Mawer does. Many such cases are simply not reported to the House because they are so trivial: at every Committee meeting, several cases are dismissed because there is nothing in them. However, there must be a clearing of the decks to allow serious cases to be investigated promptly and properly and with a degree of professionalism. I question whether, from what I have seen of it, the Standards Board has the determination to investigate cases such as that of Lady Porter, or whether it has people of the calibre of a senior partner of Touche Ross. John Magill was backed up by the Touche Ross team, which devoted a lot of resources to investigating that case, and it is doubtful whether the Standards Board would ever have got to the bottom of the Lady Porter saga. We must operate with a degree of common sense, which is currently lacking.

The other thing that must be done is to recognise that the role of the Standards Board, as with our own Standards and Privileges Committee, is not just to punish the wrongdoer but to promote good practice. We hear far too little about efforts to promote good practice in local government, to raise standards, and to explain to people what they have to do to avoid getting into a mess in the first place. In this House, we have got much better at advising people what the rules and pitfalls are, and how to avoid getting into trouble. More of that needs to be done in local government.

The Standards Board is a welcome development, but in practice, it has not operated as well as it should. We do not have a system that commands the confidence—

**Mr Deputy Speaker:** Order. I am sorry to interrupt the end of the hon. Gentleman's peroration. There is a Division in the House, so the sitting is suspended for 15 minutes.

3.8 pm

*Sitting suspended for a Division in the House.*

3.24 pm

*On resuming—*

**Mr. Dismore:** I forget where I had got to. I think I was summing up by saying that we need a Standards Board that shows proportionality and common sense, and operates quickly and effectively, because justice delayed is justice denied. It is only through such a process that we can ensure that we have a system that inspires confidence in both those who are subject to its regime and the general public.

**Matthew Green** (Ludlow) (LD): I congratulate the hon. Member for The Wrekin (Peter Bradley), one of my near neighbours in constituency terms, on securing the debate and on his excellent speech. He made good recommendations about changes that should be made to the Standards Board and, more importantly, to the code of conduct that it is working towards. We also heard excellent speeches from the hon. Members for Regent's Park and Kensington, North (Ms Buck), for High Peak (Tom Levitt) and for Hendon (Mr. Dismore). I shall deliberately stay well away from the issue of Westminster. I would not dare to tread on those subjects.

Rather than go over some of the points that have been made, I want to raise a few additional concerns. Some are already being addressed—at least they will be if the Government accept the 10th report of the Committee on Standards in Public Life—and others have yet to be addressed. To put the problem in context, out of all the Members present I probably have the most councillors in my constituency. There are 81 parish and town councils in my constituency, and two district councils and a county council cover the area. Around 750 of my 63,000 constituents are councillors, so there is a councillor for about every 900 constituents. The Standards Board probably affects my constituents disproportionately.

As a result of the setting up of the Standards Board and the way it has operated, despite some improvements, some good councillors have decided not to continue even though its investigations have since found them not guilty. That includes councillors from all parties in my patch, people like Robin Bennett, a Labour town councillor, and Alison Cundall, a Liberal Democrat councillor, who were both subsequently found to have nothing to answer. For them it was pretty near the final straw and they stepped down from the council. They were not alone in doing so.

All political parties have difficulty persuading people to come forward to stand for elections, and this is an added problem. One set of elections that we can be certain will be on 5 May is the council elections. We know from talking to people and asking them whether they will stand for election that the issue of the Standards Board is in the mind of potential candidates. It puts some of them off. The publicity surrounding the Standards Board is driving people away.

Robin Bennett, who was an excellent town councillor in Ludlow, writes:

"I want to convey to you the sense of the appalling sequence of events locally in autumn 2002, facilitated entirely by the presence of the new Standards Code, and something of the emotional

*[Matthew Green]*

upheaval many of us felt at the time, leading to some giving up and others declining to take on council work, and others again learning to be so careful in their current behaviour as councillors that the energy that went into their previous local work has been seriously undermined and restricted. Friends do not believe the stories we have to tell, assuming that 'standards' means big stuff like not running off with the money or getting genuine advantage for yourself rather than doing your best by people and voluntary organisations."

That is typical of the mood of councillors in the dozen or so cases that I have heard about. They are only a small proportion of the councillors in my constituency who have been affected. Third parties can also be damaged by the publicity. The Standards Board can hold hearings in public. In one case, despite the fact that it was found that the two councillors had no case to answer, the private details of a third party were mentioned by one of the solicitors. The Standards Board could not stop the press reporting the details of a proposed financial settlement, and the party in question has no recourse.

The other side of the matter is that often the councillors complained against cannot respond to the press, but the press find out all the details of the case. A letter to me states:

"The press were told about my reporting immediately. Confidential letters sent to me and the person who reported me were in the press immediately and when I protested to SBE I was told that they had no control system. However, the actual complaint letter had the name tippexed out. It is thus clear that anyone may make an allegation, with impunity, and put that accusation in the press. I am aware of the national debate about the famous, but at local level, it is a destructive situation."

That has been the effect. The situation paralysed Ludlow town council for a couple of years, although it no longer does so. Numerous complaints were made, mostly against councillors by other councillors; there was a tit-for-tat element. That paralysing effect on councils goes to the heart of some of the problems, and highlights the need to speed up the process and keep it more local. Some of the reforms may be moving in that direction.

Another Labour town councillor from a different part of my constituency came to me for help. He had declared an interest on a planning application, but wrote letters to his fellow councillors. He was subsequently found not guilty of having breached any code of conduct. I took up his case. Part of the problem was that the legal advice that the town council works from is that of the district council officer. There can be different standards of advice from different officers. I have two district councils in my area, and their officers give two completely different interpretations as to what should be reported. An officer who is overly cautious or overly zealous—depending on one's point of view—about suggesting that things be reported can paralyse a local council.

There are concerns that the quality of the investigations is sometimes lacking. Let me offer another quote:

"The officers of SBE displayed a level of ignorance about the rules and workings on government (especially about the division of duties and responsibilities in an area where there are three tier councils)".

Part of the problem is that the Standards Board has people who investigate on the one hand in, say, Birmingham, where there might be a ward of 24,000 electors and three councillors, and on the other hand in parish councils of 500 people represented by nine councillors, as in my part of the world. There are big differences.

There is also the problem of the cost that councillors face. Let me offer a typical example, not from my constituency but from Salisbury. A councillor incurred £2,250 in legal costs to clear his name, and although he won his case he cannot claim for any of those costs, unlike in the normal legal process.

There are a number of other problems. My part of the country typically has single-member wards. One of the most disturbing things about the process has been the way that local councillors are prevented from speaking on a local issue, because they are deemed to have a prejudicial—not usually a financial—interest. Recommendation R28 in the tenth report of the Committee on Standards in Public Life deals with that, and I hope that the Government tackle it. If that recommendation had been in place, one of the hardest working independent district councillors in my constituency, Madge Shineton, would not have been found by the Standards Board to have wronged when she spoke at a planning meeting on behalf of her constituents who were trying to stop a pub being closed. She was found to be in breach and was barred from the council for six months. The people who really lost out were her constituents because there was no ward councillor for six months. I should add that there are not normally elections in that ward because all the political parties think so highly of Madge Shineton that we would hardly even consider standing against her, and yet she is the only person to have been found to have been in breach. The recommendation would have cleared her.

I am glad that the recommendations have been made, but they should go further. The relaxation in the recommendations of the tenth report will go some way to tackling another issue, which has been touched on—that of officers using the existence of the Standards Board and the code of conduct to pressurise councillors. It happens rarely, but it does happen. I know of cases; I do not particularly want to talk about them. A relaxation of the code and a more effective investigation system would tackle those problems.

I do hope that the Minister will agree to implement the recommendations and relax the rules.

**Peter Bradley:** This case probably pre-dates the introduction of the Standards Board, but the hon. Gentleman will know of, and I hope share my respect for, the former chief executive of Bridgnorth council, who was grievously wronged over an extended period by allegations made against her by elected members. The hon. Gentleman is right: just as elected members need to be protected against officers when they err from the straight and narrow, it is important that the Standards Board also protects the integrity and best interests of officers who do not always have the opportunity to defend themselves.

**Matthew Green:** I agree with the hon. Gentleman. The case that he cites is well known in the area; it slightly pre-dates the Standards Board. There were some tit-for-tat allegations that beset Bridgnorth council for several

years, but they were dealt with effectively because they were dealt with locally. The allegations stopped immediately when one councillor, who I will not name, retired from the council. That is an interesting answer. There would have been a much bigger problem with the Standards Board in place, because it would continually have tied up everyone's time.

I finish by saying that the best way to ensure that local government is clean is to make certain that as much information as possible reaches the public, because if members of the public do not like the way a councillor behaves, they can throw them out. Too much of the Standards Board's time is taken up investigating conduct rather than misbehaviour. If a councillor is displaying appalling conduct, and they are abusing the electorate, as is sometimes the case, the answer lies in the ballot box. However, the Government might want to consider asking the larger councils—unitary authorities and county councils—to record their meetings. Something that keeps this House on the straight and narrow is the fact that what we say is recorded and published. If we say something that goes too far, there is a fair chance that another political party will publish it in a leaflet and use it against us. That is a very effective tool, which is not available to councils because what they say is not recorded.

3.38 pm

**Mr. Eric Pickles** (Brentwood and Ongar) (Con): I found that last speech very distressing, largely because I agree with just about everything that the hon. Member for Ludlow (Matthew Green) said. It is not good for me to find myself agreeing with Liberal Democrats. However, after years of Liberal neglect, one can now watch Brentwood council on the internet and every word is recorded.

This has been a most interesting debate, not least because it has given hon. Members, and students of constitutional history, a tutorial on the use of parliamentary privilege. Councillor Wilcox of High Peak will have something to chew over besides his cornflakes when he picks up his morning copy of *Hansard*. The man may have redeeming features, but, sadly, because of lack of parliamentary time, his Member of Parliament was not able to give us any of them.

**Tom Levitt:** Will the hon. Gentleman give way?

**Mr. Pickles:** Yes. It was just a light comment.

**Tom Levitt:** I appreciate the sentiment with which the hon. Gentleman made that remark, but for the record I repeat that there are two councillors named Wilcox in the borough of High Peak and the other is a fine, upstanding member of the community.

**Mr. Pickles:** Over the cornflakes tomorrow morning, one will be feeling smug and the other will be gnashing their teeth.

As not enough emphasis has been placed on what it is really like in local government, I quote briefly from "Getting the Balance Right", which states:

"it is possible for the Committee to conclude on the evidence it has received that despite incidences of corruption and misbehaviour, the vast majority of councillors and officers observe high standards of conduct."

That is absolutely right. I agree with the hon. Member for The Wrekin (Peter Bradley)—what matters in relation to standards should be the big stuff, not the trivial.

With some regret, I have to say that the Standards Board has become the problem, not the solution. It is damaging to the reputation and standing of local government and wastes taxpayers' money on frivolous and malicious complaints. It has done much to undermine confidence in councils and councillors. My party plans to abolish the Standards Board and, if time permits, I shall say what we will replace it with. There can be no doubt that the board is being used for partisan, malicious reasons. We have heard some very good examples of that, which I shall not repeat.

The *Local Government Chronicle* noted that just over 200 of 3,122 complaints made between March and April last year resulted in action being taken against councils. There remains a serious issue for the board in how it discriminates between legitimate and illegitimate public concerns.

Again, the fact came out that the process is risk free for the complainant. They can cheat, lie and fabricate and there is no comeback.

3.41 pm

*Sitting suspended for a Division in the House.*

3.56 pm

*On resuming—*

**Dame Marion Roe (in the Chair):** As there have been three Divisions in the House during the debate, it will now finish no later than 4.15 pm.

**Mr. Pickles:** As I was saying, this is a charter for the disgruntled and the grudge bearer, against which there is no redress, unlike in the criminal and civil courts. Malicious complaints can be submitted that place a candidate or political party under a cloud of suspicion before they are cleared. We heard examples of that earlier today. We all know that mud sticks and reputations are ruined by dirty tricks. However, what makes matters worse is that the Standards Board refuses to publish the names of people or organisations that make the allegations, due to data protection legislation.

The Standards Board has a deserved reputation for dragging its feet with complaints. I shall give one example of how councillors appear to be guilty until they are proved innocent. One complaint against six Liberal Democrat councillors in Islington has taken more than two and a half years. I checked with colleagues before we resumed and that case is still going on, but it is unacceptable that it should be hanging over councillors for such a long time. As Sir Alistair Graham, chairman of the Committee on Standards in Public Life, who has been quoted already, has said:

"Justice delayed is justice denied."

He says that that appears to be compounded by some abuses of the complaints system for purely political or personal motives and it is often successful abuse, given the time taken to complete the investigations. We have heard various references to that committee's findings and I endorse its view with regard to proportionality.

*[Mr. Pickles]*

The Standards Board spends far too much of its time considering relatively trivial things. I also agree with the recommendation on culture, which says that local investigation is withering on the vine.

The Committee on Standards in Public Life makes a third point at paragraph 3.11 that is worth quoting:

"Local government is far more constrained by rules governing conduct than any other part of the public sector we have examined. It is therefore ironic, but not at all surprising, that despite the profusion of rules, the lack of clarity about standards has grown."

In a way, that body is beginning to have an impact on representative democracy. Unless we are careful, we will end up with the local delivery and management of services without a democratic element included.

The Committee on Standards in Public Life report suggests that the Standards Board should be transformed into a more strategic regulator and goes on to explain why. The good old strategic role is in many ways the outer circle of hell for many organisations that have outlived their usefulness and are heading towards the door marked "Exit". Once people have achieved nothing much, they are made strategic and after a few years they are got rid of.

Much reference has been made to parish councils. It has to be noted that nearly two fifths of parish and town councils do not attract sufficient candidates to fill their available seats, there has been a decline in the number of contested parish council elections over the past decade, there is a great problem finding candidates and the situation is worse. People might not have left en masse, but there has been an exodus of a slightly more disguised nature: people are not seeking re-election.

That is why we believe that the Standards Board should be abolished, and we shall do that in our first month in office. We shall seek to repeal the secondary legislation within the first year. District auditors will continue to play their role in investigating financial impropriety in local government and the local ombudsman will continue to investigate complaints made by the public about administrative failures. The police, the Crown Prosecution Service and the courts will take the lead in investigating and prosecuting any breaches of criminal law.

Existing civil law will cover such issues as libel and slander by councillors. We will repeal the codes of conduct for councils and replace them with light-touch advice on declaring personal and prejudicial issues. That will ensure that there is a simpler, straightforward transparency in the conduct of councillors.

What should the sanctions be? If councillors do not meet the highest standards of conduct, which the electorate expect of them, the electorate will take the opportunity to vote them out of office through the ballot box. Alternatively, the councillor may choose not to present themselves again for public office or the political parties may choose not to sponsor that candidate for election.

**Mr. Dismore** *rose—*

**Mr. Pickles:** Let me make a final point before I give way. It seems to me that this should be about the big things: financial corruption and the misuse of public resources. It should not be about using these itsy-bitsy things to get even with the council.

**Mr. Dismore:** I am grateful to the hon. Gentleman and follow on from his last point with regard to Westminster council. He just referred to the importance of political parties taking responsibility for their people. Will he take this opportunity—one of many given to the Conservative party—finally to apologise for what Dame Shirley Porter did during her regime at Westminster council?

**Mr. Pickles:** I am grateful to the hon. Gentleman. At times, I have felt as if I were part of some elaborate Friends Reunited meeting of ex-Westminster councillors. The record shows that I defended Dame Shirley in this House, believing that she had a right to the presumption of innocence until she was proved guilty. I am happy, but sad also, to don the necessary sackcloth and ashes and recognise that what she did in Westminster was unacceptable. I support the current leadership of Westminster council in its pursuit of her to get back the necessary sums of money. It is a great shame—Dame Shirley had many things going for her—but justice has been gone through and a decision reached. I do not seek in any way to bow away or back-pedal from that. I hope that my response is sufficiently robust for the hon. Gentleman.

**Mr. Dismore:** How about an apology?

**Mr. Pickles:** I rather think that that is what I have given. Does the hon. Gentleman want me to abase myself further? I deeply regret what happened in Westminster, although I cannot take personal responsibility. My party supports the current leadership of Westminster council in pursuing Dame Shirley and getting those sums of money back. I have gone as far as it is reasonable to expect me to go.

Perhaps I should make one final point. What caught Dame Shirley was not the Standards Board, but existing, robust procedures to ensure standards. They have been replaced by a system in which members and officers can hide behind the petty regulations of the Standards Board. It is certainly my view that this odious, useless and pointless body—it has achieved virtually nothing, is toothless in its desire and has spent an awful lot of money—should be wound up without further ado. However, I look forward to the Minister's explanation of how necessary the board is until it becomes strategic.

4.5 pm

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper):** I am grateful to my hon. Friend the Member for The Wrekin (Peter Bradley) for the opportunity to discuss the work of the Standards Board for England. The board's role is to conduct important work, helping to maintain the highest standards of public conduct for local authority members. I want to address some specific points that hon. Members have made; although they will recognise that it would not be appropriate for me to comment on many of the individual cases that have been raised, I do want to respond on some of the principles that have been discussed.

Clearly, promoting high standards of behaviour among councillors and elected representatives is an important objective for the Government. We know that many men and women devote their time and energy to the service of their communities. The vast majority of people elected to serve as local authority members already observe the highest standards of conduct—as indeed do the officials who support them. The strength of local democracy and the delivery of effective services depend very much on elected members' commitment and willingness to serve. We are lucky in this country to have high standards of probity, accountability and objectivity in our local political traditions.

However, we cannot disguise the fact that failings do occur from time to time. There have been cases, albeit rare, where elected members have fallen short of the conduct that is expected of them. That kind of misconduct not only harms the community that members are elected to serve, but can damage the wider reputation of local government and undermine the public's trust and confidence in the system as a whole. That is why an ethical framework is so important. In the Local Government Act 2000, a new framework was introduced to promote high standards of ethical behaviour. After a period to allow people to adjust, it is increasingly accepted by the local authority world as an integral part of public life. It aims to provide clarity about what constitutes acceptable standards of conduct; a fair and effective means of investigating allegations of misconduct; and a regime for response.

In November 2001, following consultation, the Government laid before Parliament a set of model codes of conduct, drawing on a set of principles of public life and laying down the conduct expected of members. From May 2002, the provisions of the code have applied to all councillors. This means that any allegations that the code has been breached can be reported to the Standards Board for England, which can decide whether to investigate. Some changes have already been made; regulations have now enabled ethical standards officers to refer less serious cases for investigation by local monitoring officers and the determination of cases by standards committees. This enables cases to be dealt with locally where this is the most appropriate level.

Hon. Members have raised a series of detailed points and concerns about the operation of the code. This is the right time to review the code. We have had the Graham report, which hon. Members referred to. We know, too, that the Office of the Deputy Prime Minister Committee is looking at the code and issues around it at present. The Standards Board will shortly go out to consultation on a review of the entire code. I will ensure that the issues raised in the debate are passed on and considered as part of that review. However, I want to address a couple of specific points that have been raised.

First, I wish to respond to a point raised by several hon. Members—notably my hon. Friends the Members for The Wrekin, for Regent's Park and Kensington, North (Ms Buck) and for Hendon (Mr. Dismore)—who expressed concerns about the issue of confidentiality and the way in which it is addressed. There is an issue about the relationship between the code and the Freedom of Information Act 2000. We need to ensure that the code reflects the introduction of that Act and operates clearly in line with it. The code of conduct was set out in 2001 in advance of the implementation of the Act. It makes it clear that members must not disclose confidential information, but it does not refer to the Freedom of Information Act 2000 nor does it refer to a public interest defence.

However, the Freedom of Information Act is clear about the importance of public interest and sets out what sort of information must continue to be confidential or exempt and what sort needs to be weighed against a public interest test. We must ensure that the code operates fully in line with the Freedom of Information Act. We clearly do not want to have a situation where, in theory, a councillor can be criticised under the code for releasing information that the Act says should be made public. Clearly, that would be unsatisfactory and unfair, not only for the councillor but for the public.

The Standards Board has already recognised such matters and is concerned about them. Ethical standards officers are expected to consider whether the information was properly confidential, perhaps under the Data Protection Act 1998 or other legislation, or whether it had been designated confidential out of expediency. Ethical standards officers are also trained in the Freedom of Information Act. So, in effect, there is an implicit public interest test on a case-by-case basis. However, in such circumstances it is important that consideration of such issues should be fully transparent and that councillors and the public know exactly where they stand and how questions of confidentiality and of the public interest will be assessed.

The Standards Board will therefore soon be consulting, as part of its complete review of the code, on whether and how that part of the code should be amended to deal specifically with the relationship between the code and the Freedom of Information Act and the way in which the public interest should be addressed. It will be asking specifically for views on issues such as whistleblowing, including the case for a public interest defence.

**Peter Bradley:** I am encouraged by what my hon. Friend has said. She has given a positive response to the points that have been made. However, how does it leave those who are subject to investigation under the current code, if the code were imminently to be revised because of the anomalies?

**Yvette Cooper:** As I said, ethical standards officers are already expected to be trained in the Freedom of Information Act and to consider whether the information is properly confidential. It is obviously a matter for the panel and the tribunals to take their decisions on individual cases, so we must make such issues explicit, but clearly freedom of information matters are already considered.

My hon. Friend the Member for High Peak (Tom Levitt) referred to vexatious complaints. So far the board has decided that less than a third of allegations have required investigation. It will be consulting specifically on whether further action should be taken in respect of vexatious complaints. For example, it has been asked whether it should be a breach of the code to knowingly make false complaints under the code. Hon. Members have raised several other issues to which I have not had time to respond.

**Tom Levitt:** My hon. Friend the Member for Hendon (Mr. Dismore) raised the subject of vexatious

*[Tom Levitt]*

complaints. My worry is that the decision whether the case that I mentioned should be adjudicated nationally or locally still has not been made, 15 months since the complaint was made.

**Yvette Cooper:** On my hon. Friend's specific point, the board's target is to meet 90 per cent. of investigations within six months. I will ask the chief executive and the chair of the Standards Board to contact him about that individual case. Obviously, I do not know the details of it, but he must know what is happening with the case and the reason for the time that it has taken.

It is important that we now review the code. Equally, we should recognise the important work of the Standards Board. It would be a completely retrograde step to try to abolish the board at this time. Given the importance of high standards in public life, the Conservative party is wrong to try to abolish it, especially given the history of the issue and the importance of preventing problems such as those that have occurred in local government—in Westminster council and elsewhere—and the importance of ensuring that we have appropriate high standards throughout the country and that they can be maintained. Furthermore, we want confidence to be maintained in those standards. That is the reason for the Standards Board and the code of conduct.

## Army Restructuring (Wales)

4.15 pm

**Gareth Thomas** (Clwyd, West) (Lab): Before I open this debate on an important topical issue in Wales, it would be appropriate, as I hope all hon. Members agree, to pay tribute to those who lost their lives in the recent Hercules crash in Iraq, and to those men and women who have served this country in Iraq and other areas in recent times.

I am grateful to have the opportunity to initiate this debate on Army restructuring in Wales, a subject that has elicited a large postbag of correspondence from my constituency and, I am sure, those of my colleagues who are present. I am glad to see the Minister of State in his place. I say at the outset that, as a Labour Member, I have no quarrel whatever with him on the bigger picture of the fundamental need to restructure the Army, to make it operationally more effective and responsive to modern needs, so he need not spend much, or indeed, any of his time defending that strategy. I would rather he tried to explain why the naming of the new regiments and the antecedent battalions has created so much of an outcry in Wales, and how it can be justified in operational terms. On the more substantive issues—before I go on to the more controversial matter of names, with which he will be familiar—with regard to the new regiment, the Royal Welsh Regiment, does he not accept that, whatever happens, there is a need to retain a regimental base or headquarters in Wrexham in north Wales?

**Ian Lucas** (Wrexham) (Lab): Anyone who witnessed the regiment marching through Wrexham only last year on returning from its tour of duty in Iraq will be aware of the strength of support in the town for the regiment and its base, and how that will affect the future of the regiment. I have heard again and again from officers in the regiment about the importance of those local ties.

**Gareth Thomas:** I agree entirely with my hon. Friend, and I hope that the Minister will take that on board. I know that decisions on a regimental base have yet to be made but, at this stage, it is worth putting down that marker, as well as stating the need for the new Welsh regiment to have a home in Wales, whether in the south or the north.

The Secretary of State made an announcement on 16 December last year about the new infantry structure, which involves the creation of large, single-cap regiments with two or more battalions. In Wales, the new regimental structure involves the creation of a large single-cap regiment with two battalions, to be known respectively as the 1st Battalion of the Royal Welsh (the Royal Welch Fusiliers) and the 2nd Battalion of the Royal Welsh (the Royal Regiment of Wales).

In itself, I would suggest—and this is borne out by discussions that I have had with serving and retired soldiers from the Royal Welch Fusiliers—that that was an unfortunate decision. The relegation of the antecedent regiment's name to a position in brackets after the name of the new regiment was in itself insensitive and something of a slight to the memory of those historic regiments. As the Minister will know, the

Royal Welch Fusiliers goes back 300 years. The same argument applies to the Royal Regiment of Wales and its antecedents.

**Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): This is an all-party matter, and what the hon. Gentleman says is fully supported by all parties in Wales. Last night I was with the Blaenau Ffestiniog branch of old comrades of the Royal Welch Fusiliers, and I was told that recruitment is very much a family affair. Many of us believe that if the changes go ahead, recruitment will be badly affected.

**Gareth Thomas:** That is an important issue because, as we know, the British Army traditionally recruits on a regional basis, and Wales has been a fertile recruitment ground.

**Mark Tami** (Alyn and Deeside) (Lab): Does my hon. Friend agree that what is asked for is very reasonable? It will not cost millions of pounds and will help to safeguard and protect the proud traditions of the Welsh regiments.

**Gareth Thomas:** I agree entirely. To rebut any suggestion that sensitivities about the name were not ventilated at an early stage, I should say that I know that the colonel of the Royal Welch Fusiliers, one Major-General Brian Plummer, to whom I have spoken in recent days, did in fact express that view and say that the old, famous names of the Royal Welch Fusiliers and the Royal Regiment of Wales should be given precedence in the new title, so the suggestion that the issue was never ventilated is erroneous, as I understand it.

**Chris Ruane** (Vale of Clwyd) (Lab): Am I to understand that military representations in Wales were made to the executive committee of the Army Board? Was the request listened to at that level—that is, by military personnel, and not political people?

**Gareth Thomas:** I am not privy to that information, but the divisional colonel-commandant may well have expressed a different view, a collective view representing the interests of not only the Welsh regiments, but others, too. As far as the Welsh regiments are concerned, my understanding is that the wish was expressed to the executive committee of the Army Board.

**Mr. Bill Wiggin** (Leominster) (Con): I congratulate the hon. Gentleman on securing this important debate, particularly given that it is highly unlikely that the Government will change their mind, although he is absolutely right that they should. I am glad to see the hon. Gentleman's colleagues behind him.

It seems to me that the executive committee of the Army Board unwisely took the advice of the colonel-commandant of the Prince of Wales Division, instead of listening to the Welsh regiment's colonel, Major-General Brian Plummer. The seven regiments that make up the Prince of Wales Division select a colonel-commandant between them. He was not privy to the Welsh view, or, if he was, perhaps he mistakenly failed to put it across.

The point made by the hon. Member for Alyn and Deeside (Mark Tami) is extremely important. I hope that the Minister will take on board the fact that the decision is neither tactical, nor expensive, but is based purely on common sense. It would aid recruiting and give people in Wales and their tremendous regiment, which was formed in 1689, exactly what people in Scotland have.

**Gareth Thomas:** On this occasion, the hon. Gentleman is correct. I hope that the Minister notes that there is a large measure of cross-party support on this issue. My point is that even before subsequent developments there was a strong head of steam behind retaining the old names. To add insult to injury, the Scottish regiments—and one has great respect for their traditions—were allowed the same concession that I and fellow hon. Members seek for the Welsh regiments.

Scotland loses a regiment and we are sorry about that, but the names of the antecedent regiments in Scotland are given proper respect and priority in their new titles. For instance, in the case of the Royal Highland Fusiliers, the title of the new battalion is the Royal Highland Fusiliers (2nd Battalion the Royal Regiment of Scotland). These are significant changes, and we are dealing with matters of sentiment and loyalty which are fundamental to the morale of our forces. I am sure that the Minister accepts that.

If the Minister was not already aware, I can tell him that the situation has gone down very badly, and, rightly or wrongly, the disparity of treatment between Wales and Scotland is perceived as a slight to Wales. I will quote from three letters, which are a sample of a much larger collection of correspondence that I have received on the issue. The first is from Mr. P W Jones, president of the Colwyn Bay Royal Welch Fusiliers Comrades Association. He said:

"As a Welshman and former serving soldier, I was dismayed to learn that in the Government's recent re-organisation of infantry regiments, Wales is being treated less equitably than Scotland . . . we are to have our proud name demoted to brackets and be known as 1st Battalion The Royal Welsh (the Royal Welch Fusiliers) . . . So my question is why is Wales being treated less equitably and why are proud names and traditions being cast aside? We have asked for no more than has been granted to the Scottish regiments. This unfair treatment of the regiments and Wales must be put right."

Another letter came from Mr. Bryan Lewis from Ruthin, a former national service subaltern in the Royal Welch Fusiliers who made his point quite strongly. Talking about that regiment, he said:

"It is the least that this Government can do to respect the traditions of this fine Regiment of which the Principality is truly proud and in showing some gratitude to those who have served the Regiment and their country with distinction."

The final letter, which was distributed to all Welsh Members, came from the right hon. Lord Morris of Aberavon, who served in this place with distinction for many years and is a former Secretary of State for Wales. He put the matter succinctly. He referred to the two old regiments, the Royal Welch Fusiliers and the Royal Regiment of Wales and said:

"Allowing them to place their current names first might, on the face of it, seem to be mere detail in the great scheme of things, especially when there is much that is positive in this reorganisation for our soldiers. But to them, of course, it matters a very great deal as history continues to show, and we fear that, despite general assurances to the contrary, the naming of the regiments in this way will soon strip them of their identity and traditions."

I accept what not only Lord Morris, but my constituents have said on the issue, and I ask the Government to reconsider their decision. I understand

*[Gareth Thomas]*

that negotiations and discussions are continuing with the Army Board and I hope that there will be movement on the issue. I know that a cross-party petition will be presented next week. A great many Labour Members have signed a letter expressing concern about the decision and explaining how strongly people in Wales feel.

I hope that my right hon. Friend agrees that we have a strong argument and that there should be equity. We are not asking for a lot. The regiments are proud and many people who have served in them lost their lives or suffered great injuries. They are asking for no more than a prefix rather than a suffix. They want their traditions and loyalties to be respected by the Government at a time when their services are, unfortunately, much required.

4.30 pm

**The Minister of State, Ministry of Defence (Mr. Adam Ingram):** I congratulate my hon. Friend the Member for Clwyd, West (Gareth Thomas) on securing this debate on Army restructuring in Wales and I appreciate his thoughts and comments on the tragedy in Iraq. In previous debates we have set out the logic underpinning the decision to restructure the infantry, but I recognise that the changes have generated and continue to generate considerable debate. My hon. Friend enumerated some Welsh views, which are mirrored elsewhere in the country, and the attendance at this short Adjournment debate indicates the strength of feeling on the subject.

My hon. Friend did not question the underlying organisational changes that have resulted in the decision to form the new Welsh regiment, but rather voiced his concern about the formulation of the names of the two battalions that will form the regiment. It is always worth putting on record the rationale behind the overall changes to the Army structure. I recognise that he accepts that rationale, but not everyone does and not everyone acknowledges the quality of the debate. There are those who still argue against the fundamental principle behind the changes.

Nobody would dispute that the Army must continue to evolve to meet future challenges; to do otherwise would be to jeopardise the fighting effectiveness of our forces. The changes to the infantry are only one aspect of a wider evolution that will enhance the deployability of the whole Army. Once fully implemented, the future Army structure will provide a force better suited to meet the challenges of the 21st century. We are moving towards a more balanced force organised around two armoured brigades, three mechanised brigades, a light and an air assault brigade, and the Royal Marines commando brigade.

It is important to emphasise that we cannot deploy forces that we are unable to sustain in operations. The Army has therefore been reorganised to be more robust and with enhanced enablers. That requires us to make significant enhancements to the key specialist capabilities, including communications, engineers, logisticians and intelligence experts. At the same time, we want to make fighting units, including the infantry, more robust by ensuring that they have adequate numbers and increased availability for deployment. It is our view in the Ministry of Defence that those enhancements can be achieved only as a result of a reduction by four in the number of infantry battalions, which will release 2,400 posts for redeployment across the force structure. That measure is made possible by the improved security situation in Northern Ireland.

I will come to the points raised about the name of the regiment in a moment, but there is a misunderstanding about the size of the Army. It will remain broadly the same size as it is today—between 103,000 and 104,000—until normalisation in Northern Ireland is complete, when it will settle at 102,000. It is worth noting that the Regular Army is measurably larger than it was in 1997, so we have been recruiting successfully and expanding the strength of the Regular Army as a result of a lot of effort. No area in the country has it easy in terms of recruitment: some are better than others, but when we compare establishment to real strength, we find that some areas are significantly under strength. We have been succeeding against some very difficult odds.

The most important factor in the changes to the structure of the infantry is the decision to end the infantry arms plot and the associated move to multi-battalion regiments. The arms plot was a process whereby we moved infantry battalions from role to role and place to place every few years. Although the arms plot maintained broad experience and variety, it hampered the availability of infantry battalions. As we have said time and again—some people are still not prepared to take on board the logic of ending the arms plot—of the 40 infantry battalions, only 26 or 27 are available for deployment at any time. Seven or eight battalions are unavailable due to the arms plot, which is some 20 per cent. of the total infantry strength. That is simply impractical and inefficient.

Ending the arms plot will make most of the 36 battalions available for deployment, as opposed to 26 or 27. The logic and benefits of that are undeniable. Ceasing the arms plot will increase our operational capability. I am grateful that my hon. Friend accepts all that.

In future, battalions will be fixed by role and largely by location. That will release resources routinely tied up in moving location or retraining. The Army will be more capable and effective, because as well as more battalions being available for operations, the new structure will provide continuity of expertise in respect of role and greater brigade stability.

**Mr. Wiggin:** Will the Minister give way?

**Mr. Ingram:** In a moment. I shall come on to the naming of the regiment, but I thought that it was worth while setting out the background. If the hon. Gentleman is disputing the logic of what I have set out, I am interested to hear his position.

**Mr. Wiggin:** The Minister has talked about the effectiveness of the Army, and we all accept that arms plotting should come to an end, but I want to press him on one issue. There are three Welsh regiments—we must not forget the Welsh Guards. Can he confirm whether

any of those will be stationed in Wales and, as a Royal Welchman and an Englishman, may I urge him, a Scotsman, to listen to his Welsh colleagues?

**Mr. Ingram:** I shall certainly listen to my Welsh colleagues. If the hon. Gentleman has been following what has happened to the Welsh Guards, he will know that, during my time as the Minister responsible for the armed forces, the Welsh Guards have been sent to Wales—to St. Athan—which is the first time in its history that it has been based in Wales. So, he obviously has not been following closely the traditions of that particular—

**Mr. Wiggin:** What about the other ones?

**Mr. Ingram:** All the other issues in terms of where people will be based—super-garrisons and so on—have to be determined. We are developing a process to get to the best position. Again, that applies to where we base the future regiments within the UK overall. There is sensitivity about that issue, which is important because we want maximum regional impact.

The end of the arms plot—I am grateful that the hon. Gentleman recognises that that is desirable; not everyone in his party does—means that the single-battalion regiments, including the Royal Regiment of Wales and the Royal Welch Fusiliers, need to reorganise themselves to meet the requirements for regiments of two or more battalions. There is a drive to all that.

My hon. Friend the Member for Clwyd, West referred to the announcement made by my right hon. Friend the Secretary of State for Defence on 16 December, when he set out the new structure with regard not only to Wales, but to what is happening in Scotland and in every other part of the United Kingdom. Different decisions were taken accordingly.

We have made it clear throughout that the process of restructuring the infantry has been worked through by the Army. The process has not been manipulated or dictated by Ministers. It is best left to the Army, because the Army has the best understanding in historical and traditional terms and in terms of effectiveness and what it wants to come out of this important restructuring.

A key element of all that was the consultation with the divisions and regiments concerned. In making the recommendation on naming the Royal Welsh Regiment, the executive committee of the Army Board took into account of advice from the colonel commandant of the Prince of Wales's Division, in which the Welsh regiments sit. He is the representative of the regiments concerned. I do not believe that he arrived at this out of the blue— *[Interruption.]* Well, hon. Members say that that is the case, but there has to be a process of consultation. Every other division went through that process.

A lot of heat was generated—justifiable heat, I have to say, because of the scale of what was going on. I think I am being told here that in Wales one person made a decision, did not speak to anyone and simply passed it on to ECAB. I shall check that out, but I do not think that it will accord with what is happening in the other divisions. ECAB left the matter to the divisions in one sense, but it was not wholly left to them as it had to take into account a number of competing arguments in terms of some advice that was given. ECAB had to assimilate that advice and come to a conclusion.

The new regiment, we believe, will preserve a distinct Welsh identity within the future infantry and will explicitly identify the two new battalions with their antecedent regiments. Their traditional recruiting areas and links to the local community will also be maintained. We have made clear our commitment to maintain the traditions and ethos of the battalions in the new regiment. That will include further work—this is not a completed, rounded-off process—and the regiment and the division will have to consider accoutrements issues, such as the cap badge. It has not yet been determined whether there should be a single cap badge and I would be interested to know whether anyone here has a view on that matter.

**Mr. Wiggin:** I will happily intervene if the Minister wants to give way.

**Mr. Ingram:** No, I have already given way.

My hon. Friend the Member for Clwyd, West asked about headquarters, basing and local identity. Again, I say that the Army is very sensitive to that matter, as the one thing it does not want to lose is the point of local contact. The preservation of local ties is a matter that it will have to work through carefully to arrive at the best solution. The key is maintaining the links between the regions and the Army units.

Some famous regimental names are going. The Glosters have an issue, as the regiment is being combined with the Devonshire and Dorset Regiment to become a single-battalion regiment of the Light Infantry. There will be a lot of pain and discomfort in the reorganisation, but to get to the position that I set out at the beginning of my speech we have to take some of the pain to get that big, maximum gain.

My hon. Friend compared the arrangements for the Welsh and Scottish battalions—I must say that this has not been an easy process for me in Scotland—and referred to the Royal Highland Fusiliers, which is not a long-standing regiment in the Army, but an amalgamated regiment, as he may be aware. It recruits in my area, but I have not had one letter on the matter as a constituency Member of Parliament, although I have received letters as a Minister. The west of Scotland—

**Gareth Thomas:** Will the Minister give way?

**Mr. Ingram:** Let me finish this point. That does not mean that the issue is not "out there"; it just has not generated the same issues. That is not a reflection on Scotland's commitment to those regiments that recruit in Scotland.

**Gareth Thomas:** Why are the Scottish regiments being treated more favourably, as Wales would see it, than the Welsh? Will the Minister respond to the specific point on what we consider the relegation of the old name, compared with what is happening in Scotland?

**Mr. Ingram:** Many in Scotland do not take that view. Remember, before the announcement there were six regiments or battalions. There was a possibility that two

*[Mr. Ingram]*

would go, but to maintain maximum regional impact it was determined that it would be best to reduce from six regiments or battalions to one regiment with five battalions.

The determination was made that because the regiment would be the single biggest in the British Army in its new form—going to a single cap badge and a single tartan—this decision on the name should therefore be taken. Every other division was asked whether it had a comment to make on the issue and there were no adverse remarks. There were no representations on getting the same provision for the Welsh regiment. If that had happened, the decision may have been different.

We understand the strength of feeling and my hon. Friend is right: I have received a letter on the matter, which is being attended to, and a reply will be issued shortly. My right hon. Friend the Secretary of State is due to meet a cross-party group next week and the petition might be given to him then. He will also meet interests from elsewhere in the country that want to raise particular issues.

This is an important issue, but I believe that it is best left to the Army to come the conclusions.

**Mr. Wiggin:** On a point of order, Dame Marion. Just before the Minister leaves, is it possible, through you, to communicate the fact that Welsh regiments would prefer to retain their cap badges, and two cap badges are better than one?

**Dame Marion Roe (in the Chair):** That is not a point of order for the Chair.



## Housing Proposals (Gloucestershire)

4.45 pm

**Mr. Laurence Robertson** (Tewkesbury) (Con): I think that we are about to be interrupted by another vote, but I shall see what progress I can make. I am grateful to the Minister for turning up to hear what I have to say, and I look forward to hearing her response.

I intend to discuss the South West regional assembly's proposals for housing in Gloucestershire and, in particular, the consultation document that it has issued, which is entitled, "Shaping the future of Cheltenham and Gloucester to 2026." The proposals are part of the spatial strategy required by the Planning and Compulsory Purchase Act 2004. The title page of the document also includes the words:

"Work undertaken on behalf of The South West Regional Assembly".

I understand that some of that work was done by Gloucestershire county council.

I have a number of problems with the document, and I will list five of them. First, the consultation period on the document is very short. Secondly, the document is very confusing and, in some areas, incomprehensible. Thirdly, it has taken the wrong tack on housing. Fourthly, its proposals seriously compromise the position of the green belt, and fifthly, they certainly endanger the flood plain.

Powers given to the South West regional assembly and to the Deputy Prime Minister are quite strong. Some might even call them excessive, in terms of house building. In my view, it should be left to local bodies to decide the basis on which houses are built in their area.

Regional government was rejected by the people of the north-east, yet the Government seem to be introducing it by stealth, by giving increasing power to unelected quangos. The regionalisation of England is consistent with the breaking down of the United Kingdom through devolution, which is convenient if we are to move towards a federal Europe of regions, in which countries do not exist. Perhaps I digress too much, but that is an important argument against regionalisation. The quality, or lack thereof, of the document is also important. It demonstrates the folly of having too many layers of bureaucracy.

The spatial strategies will supersede the local plans and the county structure plan. Already, Tewkesbury borough council's plan has cost £300,000, largely because of costs associated with a Government inspection of the local plan inquiry. There are five other districts in Gloucestershire. I think that I am right in saying that Gloucester itself has not prepared a local plan; the hon. Member for Gloucester (Mr. Dhanda) will correct me if I am wrong. A lot of money has been spent on preparing those local plans and the structure plan, all of which will be swept aside by the spatial strategy.

I shall discuss each of the points that I mentioned. Printed along the bottom of the document in capital letters are the words, "Have your say", yet the consultation period is just four and a half weeks; it closes on Friday 18 February. It is already 1 February, and this debate has been held as soon as it could be. The Government guidelines for the consultation period on

this type of document suggest 12 weeks. Why, therefore, is this consultation period not 12 weeks? Was the publication of the document delayed? Has that truncated the consultation period and, if so, why was that allowed to happen?

I described the document as confusing. The proposals and the analysis are in parts incomprehensible.

**Mr. Parmjit Dhanda** (Gloucester) (Lab): I thank my neighbour for giving way. I have sympathy with much of what he has said. Dose he agree that the confusion has arisen at a time when the county council's local plan has not been agreed? He and I both attended a meeting with the Government office for the south-west a little while ago, and there was some contention about the local plan, not least the sustainability of the balance of 16,000 local homes proposed by the county plan, versus 6,000 in Cheltenham, which he knows that I oppose. That is a balance in one area rather than another. This matter arises when we do not know whether that plan has been adopted, so there is no coherence.

**Mr. Robertson:** The hon. Gentleman is right. The confusion is not helpful, and now we get another confusing aspect to the matter with the publication of this document.

Regional planning guidance note 10 suggests that 2,400 houses per annum are required between 2005 and 2016. The document that we are discussing tests other proposals, including RPG10 plus 25 per cent and RPG10 plus 50 per cent. It says:

"The Steering Group's studies have led to the RPG10 Levels of growth + 50% being discounted as a viable option due to transport constraints and the inability of the local economy to sustain this level of growth."

But it is not being discounted. The South West regional assembly and the Government could go for that option. The wording is not only misleading, but downright wrong. How can this be a serious consultation document if it says that one option has been discounted when it has not? Where have the plus 25 per cent. and plus 50 per cent. figures come from? Were they just plucked out of the air, or are they based on past trends and, therefore, a reliable extrapolation?

Furthermore, the document says that 60 per cent. of the houses should be in the principal urban area. That is also not true; that is not the proposal. The 60 per cent. figure is what the county structure plan third alteration panel report 2004 recommended, but that has not been accepted by the South West regional assembly. It has not been decided that 60 per cent. of the houses should be in the principal urban area. Page 5 of the document, headed:

"How Much Development are We Talking About?",

is based on false premises. The highlighted area of the page—probably the most critical part of the document—is based on falsely represented assumptions and arbitrary figures.

4.53 pm

*Sitting suspended for a Division in the House.*

5.3 pm

*On resuming:—*

**Mr. Robertson:** I was referring to the document on housing in Cheltenham and Gloucester as being very confusing, and I went through some of the detailed reasons for that. I also mentioned the misleading quote in the document, and was about to say that the highlighted bit on page 5 is probably the most important part, but is based on a completely false premise. Falsely represented assumptions, arbitrary figures, approximations, guesswork and a very misleading quote all appear in a very small part of the document.

My next concern is that the regional assembly and the other people who worked on the document are taking the wrong tack on housing altogether. I do not intend to be party political, but in opposition the Labour party said that it would end the predict-and-provide approach to planning. I welcomed that, but in the document we have proposals being made on the basis of birth and death rates, migration, household size, divorce rates and economic trends. Page 13 states:

"If this continues the population of Gloucestershire in 2026 is likely to be in the order of 668,000."

If that is not a prediction, I do not know what is, and if this document is not about providing in order to satisfy that prediction, I do not know what is. Unfortunately, the principle of predict and provide is still going strong. When will the Government fulfil their 1997 commitment to end that approach to housing?

I turn to the green belt. In Question Time on 19 January, in answer to a question from my hon. Friend the Member for Daventry (Mr. Boswell), the Prime Minister said:

"For those families who are struggling to get on the housing ladder, it is important that we increase the supply of housing in a planned and orderly way that does not affect the green belt."—[*Official Report*, 19 January 2005; Vol. 429, c. 810.]

In this document, four options for that increased housing are put forward. Option 1 would be in a "Green Belt, greenfield area". Option 2 would also be in a "Green Belt, greenfield area". Option 3 says that it will have a

"Major impact on critical area of Green Belt. This development would encroach on the area that is most important for maintaining the separation of Cheltenham and Gloucester."

Option 4 also says that it would include the green belt. Therefore, all four options include major building—if not the entirety of the building—on the green belt. How does the Prime Minister square his words in the Chamber less than two weeks ago about protecting the green belt with the document that the Deputy Prime Minister will consider that proposes major incursions into the green belt?

I turn now to the flood plain. Two rivers, the Severn and the Avon, converge at Tewkesbury and continue down the Severn vale as the River Severn, causing flooding all the way down at certain times of the year. It will make matters considerably worse to build on or near the flood plain. Last year the Government's inspector, Mary Travers, suggested building 580 houses both on and near the flood plain between Longford and Innsworth. That was bad enough, but this document goes much further. Its proposals would involve a massive building programme either on or very near the flood plain. That could have serious implications, and it is wrong.

This is a poor document. It is badly written, its assumptions are general and arbitrary, and it proposes a development the size of Gloucester—which is a

*[Mr. Robertson]*

considerable size—to be built largely, if not entirely, in my constituency, on the green belt, and close to, if not on, the flood plain.

**Mr. David Drew** (Stroud) (Lab/Co-op): Does the hon. Gentleman accept that one of the basic fallacies in this document and the one that comes from the third review of the structure plan is the failure to address the need for some building in rural areas? We do not want to swamp rural areas, but our villages are in desperate need of some housing, and that is left out of all these documents.

**Mr. Robertson:** The hon. Gentleman is right. I do not want to name areas, but there are places where villages are dying. They could do with a little extra building, and a little extra infrastructure, too. The hon. Gentleman is right to say that that need is not mentioned in this document. People trot out the mantra, "The houses have to go somewhere," but certain areas of the south-west are not developed properly; for example, Cornwall and Devon are not economically developed. All we will end up with is a self-fulfilling prophecy. If we build more and more houses in my constituency, the prices will fall, and people will fill up the houses and then turn around and say, "Well, there we are; we needed the houses."

I am digressing slightly, but I am concerned about this document. The consultation period ends on 18 February. That is bad enough, but I defy most people to understand what it is going on about, the figures that are being bandied about, where they have come from, what this means, what period of time we are talking about, and what is the total number of houses we are talking about. It is incomprehensible. Asking people to respond in such a short time and asking them to understand this nonsense of a document is asking far too much. We are talking about a serious matter, which, given all the problems that go with building houses, could completely change not only my constituency, but the surrounding areas.

I would be grateful if the Minister could address the points that I have raised about the document and let me know whether there is anything that she can do, not to wreck the whole process—I accept that there has to be a process—but to ensure that it is carried out fairly, professionally and competently, because at the moment that is not being done.

5.10 pm

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper):** I congratulate the hon. Member for Tewkesbury (Mr. Robertson) on securing the debate. I know that he feels strongly about the issue and that he has asked a series of written questions about it to which my right hon. Friend the Minister for Housing and Planning has responded.

I want to set out where we are in the process in relation to Gloucestershire and the current debate on developing a new regional spatial strategy. The Government are committed to creating sustainable communities, to delivering the homes that communities need and to ensuring that we have a planning system that will put in place the long-term strategies for delivering the homes and jobs in a sustainable way. As part of that we must ensure that communities are fully involved in developing those strategies.

The Planning and Compulsory Purchase Act 2004, which came into effect last September, implemented a series of important reforms to the planning system. A key feature of the new system is the development of regional spatial strategies. Their aim is to ensure much greater co-ordination of all the work that is essential to deliver homes, jobs, infrastructure, services and facilities. Regional spatial strategies will need to be developed by the regional planning bodies. The reason for doing that is to recognise that many planning issues, including housing markets, go beyond local administrative boundaries. They therefore need to be considered at the regional level and at a more strategic level.

Regional planning bodies are required by the new planning Act to have at least 60 per cent. of their membership from local authorities with planning expertise. At least 30 per cent. of their membership comes from community interests, such as business, voluntary and environmental groups, to ensure that a wide range of views are brought to the planning process. Ultimately, the Secretary of State must also approve the regional spatial strategy, so that there is further democratic accountability at national level.

Regional spatial strategies are not aimed to be one-size-fits-all documents. They need to address particular issues that will come up in their own regions. They also need to seek advice and consider sub-regional issues, which might be more localised than the regional level, and discuss them with county and unitary authorities, which have strategic planning expertise. They also need to work in partnership with planning authorities and others to carry out joint studies, monitoring and other work that is essential to their work.

That is the way that work has progressed on the regional strategy for the south-west. Well before the new Act was in place, the South West regional assembly took the initiative in developing partnership arrangements with the local county councils and the unitary authorities. Joint studies have been agreed for eight sub-regions, based largely on the region's largest urban areas, including Cheltenham and Gloucester. They have been under way for some months and are expected to report in March. Their purpose is to feed into the more detailed consideration that needs to take place later on and into the development of the regional spatial strategies.

The partnerships have been asked to undertake technical work, not to set out proposals for housing or any other type of development. They have been asked to consider a series of alternative future scenarios and take into account issues around demographics, housing and economic studies, green belt and environmental designations, transport and a range of other considerations.

To ensure consistency and comparability between the eight studies in different parts of the south-west, all the partnerships were asked to consider the possible implications of three hypothetical levels of growth: a continuation of existing levels as set out in the current regional planning guidance for the south-west; an

increase of 25 per cent. in those levels; and an increase of 50 per cent. in those levels. It is important to stress that those are not development proposals, but different hypothetical scenarios to complete the studies and test the work that was being done. Importantly, the partnerships were also asked to consult local people and stakeholders on that work.

**Mr. Robertson:** I am grateful to the Minister for explaining the issues very clearly. I accept what she says, but does she not agree that the document is very complex and that it will not be easy for anybody—even people involved in the process—to understand it fully and comment on it, especially given the very short time scale?

**Yvette Cooper:** I want to come on to the document to which the hon. Gentleman refers. It is entitled "Shaping the Future of Cheltenham and Gloucester to 2026", and is published by a steering group for the Cheltenham and Gloucester sub-region. That group is led by Gloucestershire county council and includes all that county's district councils, the Campaign to Protect Rural England, the community and voluntary services, the Gloucestershire strategic partnership and Gloucester First, which represents businesses. The group is independently chaired. The document contains technical work as well. The consultation paper sets out the steering group's thoughts on what might be the spatial implications of different levels of growth, and asks for people's views.

**Mr. Dhanda:** I hear what the Minister says. She makes excellent points, particularly about the fact that housing proposals are not made in this strategy. However, at a meeting last week, one of the developers highlighted something to me which implied that a specific scheme called Hunts Grove—of which the Minister will not be aware—in the constituency of my hon. Friend the Member for Stroud (Mr. Drew), is in that strategy as a given.

Bearing it in mind that there is controversy in Gloucester and Gloucestershire on whether that scheme should be included—not least because there is a competing scheme that would give money towards a £7 million bypass through my constituency—will the Minister urge people to take a closer look and ensure that there are not givens such as that scheme? Among others, the Government office for the south-west is itself in dispute about whether the schemes should be part of the strategy.

**Yvette Cooper:** Obviously, as my hon. Friend points out, I do not know the case that he mentions, nor its status in the current planning system.

I reiterate that the document sets out the preliminary work required to develop a regional spatial strategy. This is not a regional spatial strategy, nor is it a local development framework. It is not a planning document, but part of the process through which the local area is going to establish the regional spatial strategy. There is an opportunity for consultation on this document right now, and there will be further opportunities for consultation when specific proposals are put forward at a later stage. It is important to reiterate that.

As I have said, the consultation document makes clear the purpose for which it has been prepared and the fact that it does not set out housing proposals by the South West regional assembly. It is right that the community is asked for its views on these important issues at an early stage so that those views can be taken into account as the regional spatial strategy develops. That is what is happening in Gloucestershire and elsewhere in the south-west, with joint study area partnerships for Swindon, the west of England, Taunton and south-east Dorset. They, too, have already issued consultation reports. I understand that other partnerships will also be consulting shortly.

It is consistent with the reform of the planning system that the public are given the earliest possible opportunity to consider issues that can be complex and contentious, and, indeed, matters for strong local disagreement. There will of course be full consultation on the draft regional spatial strategy itself. That is where any firm proposals for housing growth will be made, and that will be the opportunity for full public discussion and consideration. The regional spatial strategy will be submitted to the Secretary of State in December, after full consultation. There will also, however, be a subsequent examination in public by an independent panel during 2006.

There are a series of opportunities for hon. Members' constituents to engage with the process. I recognise that these are issues which constituents want to debate in full. It is important to have as many opportunities as possible at every stage in the process, and not simply at its very end, when definitive proposals have been put forward.

**Mr. Robertson:** I accept that there are different stages to the process, but I would suggest it is off to a bad start in this particular case. The Minister says there will be further consultation in 2006. Without wishing to be pedantic, I have to say that that really proves the point I was trying to make about the document. It says "if necessary" there will be further consultation, which seems slightly different from what the Minister is saying. So will there be more consultation, or not? Is it intended that there will be, rather than that it will occur "if necessary"?

**Yvette Cooper:** Let me clarify that point, although I am obviously unsure of the exact wording on the page that the hon. Gentleman is talking about. A draft regional spatial strategy will be drawn up. There will be full consultation on that draft. It will then be submitted to the Secretary of State in December, and there will also be a subsequent examination in public by an independent panel during 2006.

I think we need to recognise the context here. We need to have wide public debate about the future of communities and the need to ensure that the planning system delivers the homes and jobs required. In the south-west, including the hon. Gentleman's constituency, the availability of enough affordable housing is a major problem. The current average house price in Gloucestershire is £191,000—higher than the average for the south-west as a whole. Between 2001 and 2026 the number of households in Gloucestershire is expected to increase by 22 per cent. We cannot ignore or wish away those figures. If we want to ensure that existing and new households in Gloucestershire, and

*[Yvette Cooper]*

elsewhere, have the opportunity to live in an affordable home, we must ensure that these issues are debated within the planning system, and that the planning system can deliver homes for the whole community, in the right places and at the right time.

The Government are committed to creating sustainable communities and to ensuring that community members have a full opportunity to debate these issues through the development of the regional spatial strategies. That involves a series of different consultations and discussions, in order to ensure that everybody has the full opportunity to debate the future of our towns and cities before final decisions are made. That is happening in Gloucestershire and elsewhere in the region. We need to see that good work continue, and we look forward to seeing it brought together into a regional spatial strategy to help us to deliver the homes, the jobs and the services that our communities need.

*Question put and agreed to.*

*Adjourned accordingly at twenty-four minutes past Five o'clock.*

# Westminster Hall

*Wednesday 2 February 2005*

[MR. FRANK COOK *in the Chair*]

## Fundamental Rights Agency

*Motion made, and Question proposed,* That the sitting be how adjourned.—*[Mr. Ainger.]*

9.30 am

**Mr. Kevin McNamara** (Hull, North) (Lab): I am indebted to Mr. Speaker for choosing the proposed fundamental rights agency of the European Union for general debate this morning. I shall, even outside the House, do my best to persuade my fellow citizens to vote for the European constitution. In 1997, the Government failed by not having an immediate referendum to give them the right to join the euro when they considered it fit. I have now made my position clear, so any strictures that I might have about the European Union must be put into that context. I am a Europhile, but I hope not a Europoodle.

I am a member of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe. I was elected to the Parliamentary Assembly by my colleagues in the Yorkshire group of the parliamentary Labour party. I am the rapporteur on the overlapping jurisdictions of various human rights organisations in Europe: the Council of Europe, the Organisation for Security and Co-operation in Europe, now possibly the European Union and, ultimately, the United Nations. It is important therefore that their roles should be defined carefully and that there should be no turf wars that could only be to the detriment of the citizens of Europe.

The proposed constitution of the European Union was a carefully negotiated document. It sought to define the roles of the Parliament, the Commission, the Council of Ministers and member states, based on the principle of subsidiarity. The proposed fundamental rights agency threatens to undermine that careful arrangement by the creation of a new institution with a yet undefined role, vague powers and no statement of its relationship to any of the existing institutions of the Community. It is a prospective gift for Eurosceptics, who can frighten their children before they put them to bed by telling them about the new ogre that will invade the civil and human rights of every free-born citizen of this country. It is a new institution with potentially wide-reaching powers, which never surfaced in the long discussions about the new constitution.

Lest it be thought otherwise, I should say that I welcome in principle and in theory the proposed new agency. Individual citizens in the Community have no rights against Community institutions if their human rights are infringed by them. They might have such rights—and should have—if the constitution is accepted and the Community signs up to the European convention on human rights. There is no proper system in the Community to examine European Union legislation in a manner similar to that carried out in this Parliament by the Joint Committee on Human Rights, as was pointed out in reply to the Commission's consultative document in a letter written on behalf of the Committee by my right hon. Friend the Member for Bristol, East (Jean Corston) on 9 December.

Furthermore, a power for a new agency to examine thematic matters throughout the member states of the European Union would be a most welcome innovation. For example, procedures on the European arrest warrant could be examined to find out its implications for human rights in member states. So far, I am supporting the idea that was suddenly sprung on us with so little thought and so little preparatory work. The proposal was the result of a deal between Austria—which, at present, has the headquarters of the European monitoring centre in Vienna—and Italy at the European Council meeting in Brussels on 12 and 13 December 2003 at which representatives of the member states,

"stressing the importance of human rights data collection and analysis with a view to defining Union policy in this field, agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia and to extend its mandate to become a Human Rights Agency to that effect."

What did "to that effect" mean? Did it mean that the agency would deal with racism and xenophobia or something far greater? On 25 October, we received our reply. The Commission published a communication containing a public consultation document on the establishment of a fundamental rights agency of the European Union, in which it set out detailed ideas, options and questions regarding the field of action of such an agency, the tasks to be entrusted to it, its relations with civil society, the Council of Europe and other bodies, and its operational structures. Those three main options were pretty vague.

A general public meeting was held last Tuesday in Brussels at which such matters were discussed and at which the Commission, to a degree, revealed its hand. Although acceptable in many ways, that hand left many issues unresolved and undecided. For example, let us consider the relationship of the agency with the European Parliament, the Council of Ministers and the Commission. To whom would it answer? What powers will it have? Will it initiate inquiries? Will it initiate work or will it just relate to suggestions or proposals put to it? How will it be governed? What will be the scope of its work, given that it was supposed to be established on the basis of the European monitoring centre, which has a limited staff and limited finances?

The Commission, however, has put forward the idea that the agency will have a greatly expanded role and will therefore need more people working for it and extra finances. I am not necessarily against such things, but we do not know the thinking behind them. The real problem for us all is the degree to which the development will deal with the acquis developed by the Council of Europe over the past 55 years, which has encompassed not only standards on civil and political rights, social and minority rights, treatment of people who have been deprived of their liberty and the fight against racism, but importantly, European monitoring of the respect for such standards by its member states.

Such monitoring is carried out by several well established independent human rights bodies, with recognised expertise and professionalism on both a country-by-country basis, through country visits

*[Mr. Kevin McNamara]*

and on-the-spot investigations, and, increasingly, thematically. Two examples are the Council of Europe's human rights commissioner and the European Commission against Racism and Intolerance, which deals with racism, anti-Semitism and xenophobia. Through those mechanisms, the Council of Europe monitors respect for the range of human rights obligations of its member states and identifies issues of non-compliance. It addresses recommendations to member states and, in the case of the European Court of Human Rights, issues judgments binding on states' parties when the standards are not respected.

It is important to make clear in relation to such matters the fact that the Council of Europe covers all the countries of the European Community as well as more than a score outside the EC. There are established European standards of human rights, obligations and ways in which to work. The fear is that, if the new fundamental rights agency of the European Union duplicates any or all of the spheres of work of the Council of Europe, we may have a two-tier system of human rights standards in Europe: one tier for the richer countries in the European Union and one for those outside it.

One of the great advantages of Council of Europe membership has been that, in states newly emerged from communism or other dictatorships, independent organisations, lawyers, non-governmental organisations and independent citizens have been able to appeal to the general European standards to which countries joining the Council of Europe must seek to adhere, thereby ensuring that there can be no going back to the standards that existed before the fall of the Berlin wall. Such matters are of the greatest importance.

The Council of Europe does important intergovernmental work on various human rights themes, leading to the adoption of reports, new legal instruments, treaties, recommendations and guidelines by the Committee of Ministers, which also has a political monitoring procedure. In addition, significant human rights achievements result from the practical assistance work carried out to facilitate the attainment of requisite standards as well as from the work of Council of Europe institutions with a broader remit. Linked to that work are numerous activities in the field of human rights education and awareness raising, which seek to develop a genuine human rights culture in European societies. Indeed, last week the Parliamentary Assembly discussed in detail the important proposed conventions on trafficking and terrorism and found them both lacking in important respects. It was therefore able to carry out a thorough investigation of the matters by virtue of the common standards that member countries all accept.

I now come to the role of the new agency. To avoid duplication of the work of the Council of Europe, and to a lesser extent of the OSCE, the work done by the new agency should be fully defined on three levels: first, the field of action and its mandate; secondly, the tasks that it will be given; and thirdly, its working methods and management structures—notably the need to co-operate and co-ordinate closely with the Council of Europe and the need for Council of Europe participation in its management structures. I would go so far as saying, as would be the opinion of the Parliamentary Assembly of the Council of Europe, that adequate representation of the Council of Europe on the governing body of any new organisation should be mandatory to ensure that there is no overlapping and to draw on the expertise of the Council of Europe in certain fields. If the relationship is ad hoc rather than laid down in statute or clearly defined, there will be a tendency for the new body to want to go its own way and to react to problems in its own fashion rather than having what it might see as outside interference. That would be very dangerous indeed. Given the tasks for the new agency, it has to be adequately financed and staffed. Its proposed role, even in the minimalist scenario, will not be possible with the present staffing and financing of the European monitoring committee.

I have a number of questions to put to the Minister. Do the Government agree that establishing an agency with monitoring powers over member states compliant with human rights standards would be tantamount to giving the EU a general human rights competence, contrary to the careful balance achieved in the constitutional treaty of last year between the responsibilities of the EU and its member states? Will the Government ensure that the agency will operate exclusively in the scope of Community law? Do they agree that the Council of Europe is the pre-eminent organisation in matters relating to the promotion and protection of human rights in Europe?

Will the Government ensure that the fields of action, tasks and powers of the agency will be carefully circumscribed in order to avoid duplication with the role and activities of the Council of Europe? Do they agree that it is important to avoid such duplication, not only in theory, but in the operational practice of the agency, and that it will therefore be essential to ensure that the regulations setting up the agency make mandatory provision for the full participation of the Council of Europe on the agency's management and executive boards, as is currently the case with the EU monitoring centre?

Furthermore, do the Government agree that the debate on the EU human rights agency illustrates the need to clarify who does what in Europe in matters concerning the protection and promotion of human rights? Do they agree that the Council of Europe has an irreplaceable role to play, particularly in ensuring a European framework for co-operation in the field of human rights, democracy and the rule of law? Will they ensure that the up-coming third summit of the Council of Europe will be used to lay the foundations of a stronger, more structured and better defined relationship between the EU and the Council of Europe? Will they make it a priority to set up procedures to ensure that the EU signs up quickly to the European convention on human rights?

I am indebted to the Government for their initial reaction to the EU proposals, as posted on their website. I read it with interest and encouragement. I also found useful the document prepared by our former colleague, Terry Davis, now secretary-general of the Council of Europe, and the discussion paper produced by the Library of the House.

The Government have a unique opportunity to put their firm imprint on the future of the new agency. We will shortly assume the presidency of the European Union, which will give my right hon. and hon. Friends

an opportunity to ensure that there will be no federalising creeping encroachment by the Commission in the field of human rights and that it will not seek to intervene with the well-tried human rights mechanisms of so many member states in the EU. Although I will not be able to question Ministers, I will be watching with interest from my retirement to see how they measure up to the task that I have put before them today.

9.50 am

**Tony Lloyd** (Manchester, Central) (Lab): I am sure that several hon. Members in this Chamber were a little mystified when they first saw the title of the debate secured by my hon. Friend the Member for Hull, North (Mr. McNamara), and that around the precincts of the Palace of Westminster many people are scratching their heads and wondering what the debate is all about. However, this debate has real importance for how we steward the human rights process throughout Europe. Like my hon. Friend, I should say that as a member of the British delegation to the Parliamentary Assembly of the Council of Europe and to the OSCE, I come with motivation to put a certain case.

A turf war about who does what in the unfolding Europe—fighting for the rights of one institution relative to another—would be pointless. Let us consider the important issues in the debate around a fundamental human rights agency. As my hon. Friend said, we have a long established and well tried system and structures for the delivery of the culture of human rights and for monitoring the way in which those rights are implemented—through the Strasbourg court, the human rights commissioner of the Council of Europe and bodies such as ECRI and the Venice Commission. That is not to say that there is no role for the European Union in human rights. My hon. Friend made a good case for where there can and ought to be competence for a fundamental rights agency in enshrining those fundamental rights within the European Union, but the agency must not be in competition with bodies that already do such work.

I say that not simply to defend the Council of Europe, but because competing agencies will almost inevitably result in confusion and give those who want to avoid the strictures of a proper culture and framework of human rights an opportunity to find a way through the system. My hon. Friend referred to double standards, and such standards would not simply be high in the European Union and possibly lower elsewhere, but multi-tiered. Those who sought to avoid the strictures would be able to move in and out of the different institutions as it suited them, to pursue their own case or to avoid being brought to some accountability for the human rights of the European populations.

The Council of Europe already does a remarkably good job. In this Parliament there are many whose experience of the Council of Europe would testify to the fact that the existing institutions have steadily expanded the culture of human rights across the European continent and, indeed, beyond—to all our advantage. The debate around the fundamental rights agency and the period of reflection between now and the third summit is therefore an opportunity to begin to establish a proper framework for delivering the architecture of the Europe that is already emerging, ensuring that the boundaries between different institutions are well defined.

I do not wish to say much more than that, because I am here to support my hon. Friend. I say to the Minister that even though the debate might seem a little arcane, it does matter. It is important that we get these things right. It is important that we are not aggressive, trying to prevent the EU from taking competences in areas where it ought to have them, but that we are clear about what we want of the agency, about the parameters of its operation and about where—geographically and in terms of content—and how it can operate. If we establish that, we will profoundly strengthen the culture of human rights in both the EU and wider Europe. We have an opportunity to make what already exists work better and to allow the new agency to work properly. If we get it wrong, we will have a period of confusion, rivalries and competition, which in the end cannot assist anybody, least of all those who have proposed the creation of the agency.

9.55 am

**Mr. Michael Moore** (Tweeddale, Ettrick and Lauderdale) (LD): It is a pleasure to follow the hon. Member for Manchester, Central (Tony Lloyd), who possibly revealed the truth about our attitude to the debate. I admit that, when I saw it on the Order Paper last week, I reached for the textbook to brief myself on the proposed agency. I pay tribute to the hon. Gentleman and, most importantly, to the hon. Member for Hull, North (Mr. McNamara) for bringing the matter to the House's attention and giving us an opportunity to consider it and hear the Government's views. As both have highlighted, the debate about human rights and how they are monitored and checked is a key area for us in Europe. It is vital that we maximise the impact of our scrutiny and efforts, and do not create competition between different institutions in different parts of Europe.

The work of the European Monitoring Centre on Racism and Xenophobia, which was established in 1997, has been extremely important. The collection of objective, reliable and comparable information in these key areas is of use in Europe as a whole. In principle, we certainly support the intention to expand that role to a broader human rights agency. Fundamental human rights are at the heart of the European Union, and never more so than now. The new charter of fundamental rights in the constitutional treaty is an important development, as is the stipulation that the Union will accede to the European convention on human rights.

As has been made clear in the debate, at the heart of all the different discussions and inputs about the new agency is the question of its purpose and scope. The European Union as an entity has long been committed to the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, as set out in treaties past and present, in keeping with the founding principles of the member states themselves. Explicitly, the European Union respects fundamental rights as guaranteed in the European convention on human rights.

The key issue as the agency is set up is whether it should monitor the activities of the European Union's institutions or take a broader role in overseeing the compliance of member states with the principles that

*[Mr. Michael Moore]*

they are committed to upholding. For our part, we believe that the agency should have a narrow remit, focused on the bodies and institutions of the European Union. That is important in principle and for practical reasons.

In principle, it is important that the European Union should respect subsidiarity. Each member state has obligations to respect human rights under the European convention and its monitoring mechanisms, not least through the Council of Europe. There are also clear political channels for member states to deal with each other when concerns emerge about human rights issues in a particular country. We must not underestimate the key role that NGOs such as Amnesty International and others play in that process.

In practical terms, the efficiency of any human rights agency surely requires a degree of focus, and its effectiveness will depend on a manageable remit. Regardless of the political issues involved, it is not realistic to envisage a suitably resourced agency taking on responsibilities beyond the scrutiny of the EU institutions. However, we believe that it is important that the body be established. The EU is strong on declarations, but sadly not always great on monitoring or enforcing them, so, within a well defined area, the agency will tackle that deficiency.

The Commission's consultation paper raises further issues about the extent of monitoring within the EU framework and asks specifically whether the agency's scope should include a review of compliance with the charter of fundamental rights. We are keen supporters of the charter, and we welcome its inclusion in the new constitutional treaty on the basis that is clearly set out: it is not mandatory or legally binding and that its provisions apply, as is often stated in the treaty,

"In accordance with national laws."

That is an important statement, but given the explicit flexibility of interpretation, it would be difficult for any human rights agency to be efficient or effective in monitoring that—quite apart from difficulties that we might have with the principle of subsidiarity. We believe that the agency should have a role in considering the policies that have been developed in the EU, particularly extending work that is already done on racism and xenophobia and in key areas of policy making such as immigration and asylum.

There are critical tasks for the agency to undertake, the most basic of which—the collection of reliable data—is already carried out by the monitoring centre. It is vital that as the agency is set up it develops links with civil society and the institutions about which we have already heard this morning. It is fundamental that the agency should not be in competition with the Council of Europe or national institutions that have already been set up for the purpose of overseeing human rights. Therefore, within a limited remit, it should be properly resourced and it should have suitable expertise and, above all, independence.

The agency is important. I am pleased that we have had an opportunity to debate it and, along with other hon. Members who have spoken, I hope that in this important year for the Government, as they hold the presidency of the European Union, we will see the agency move from theory to practice.

10.3 am

**Mr. Graham Brady** (Altrincham and Sale, West) (Con): The hon. Member for Hull, North (Mr. McNamara) suggested that those of my outlook might want to frighten our children at bedtime with stories of the fundamental rights agency. I assure him that at bedtime I want to calm my children, which I do by reassuring them that we will have a resounding no vote in a referendum on the constitution. If I want to get them straight to sleep, I read them the constitution, which works very quickly; I recommend it to hon. Members who have young children to get to sleep at night.

I congratulate the hon. Gentleman on securing the debate. He said that he is pro-constitution, but stressed that he is a Europhile, not a Europoodle. He set out some of his concerns about the proposed agency, and he raised worries about the vagueness of the powers that it may have, the uncertainty of its remit and the opportunities that it will apparently provide for people to use it as a weapon against the European project. He stressed that he is in favour of the constitution, but the irony of his remarks is that nearly all his reservations about the agency apply just as strongly to the constitution as a whole. The vagueness of purpose, the uncertainty over its powers and the endless grey areas that need to be defined by case law in the European Court of Justice apply equally to the constitution, particularly to the charter of fundamental rights.

The hon. Gentleman has rightly pointed to those matters with regard to the fundamental rights agency, which whatever else its functions may be, will have a clear remit in the field of interpreting the charter of fundamental rights. I hope that he will reflect on his entirely reasonable, proper concerns about the agency and how it may be brought into being, and perhaps in so doing also reflect on his support hitherto for the constitution. I hope that in due course we will see him joining us in urging people to oppose the whole thing, not just any one aspect of it.

Examples abound of how vague and uncertain the charter of fundamental rights is and, therefore, how vague and uncertain the scope and remit of the agency might be. To give just one example, article I-15(3) of the constitutional treaty says:

"The Union may take initiatives to ensure coordination of Member States' social policies."

Is that a fundamental right? Apparently, it is. I think that all are comfortable with the work of the European Monitoring Centre on Racism and Xenophobia, but extending its remit as far as monitoring the co-ordination of member states' social policies would be truly remarkable and would transform something being done to monitor racism, which is clearly valuable and proper, into something much wider. That ought to raise concerns throughout the House. I am sure that the Minister will be very clear that the Government intend not that the agency's scope and remit be that wide, but that it should be clearly defined, limited, and restricted to aspects of EU, not domestic, law. The question, to which I will return, is whether they can deliver on that commitment.

Another instance of the uncertainty to which I refer arises in the article of the charter of fundamental rights on the rights of the child, which I have pursued with Ministers through written answers. It is remarkable that

Ministers are unable to give assurances about the scope of the provisions in the charter. They say that they believe it applies only to EU law, although if an agency were set up that had the powers to monitor, comment on and perhaps investigate actions that were relevant to the charter of fundamental rights, its work may spread into the domestic law not just of the United Kingdom but of other member states.

This debate is welcome and I hope that before we have a referendum we have many more such discussions on the implications of the proposed constitution. The Opposition are unpersuaded of the need to expand the role of the monitoring centre, or to risk undermining its work. That was raised as a concern by the Law Society. The hon. Member for Manchester, Central (Tony Lloyd) was concerned that changing the institutions could undermine some of the good work that is done by the monitoring centre and that we could move backwards during the process of changing the structures and institutions of the European Union. The hon. Member for Hull, North also referred to the good work of the Council of Europe.

This is a clear example of what we might term institutional mission creep. Institutions gather momentum to reform themselves, expand their role and move into new areas, not necessarily because of the pressing need for them to do so, but simply because they are there and they start to look at what else they might do.

We need to ask some fairly fundamental questions about the proposed agency. First, are our domestic agencies failing? Secondly, is the existing monitoring centre performing usefully and effectively? If the answer to the first question is no, our domestic institutions are not failing and are working well, and the answer to the second is yes, the monitoring centre is doing an effective and proper job, the proposal for a new EU-wide agency with new competences needs very close examination.

I have a number of other concerns. If the role of the agency is based on the charter of fundamental rights, surely it should not be under construction before ratification of the constitution, which I believe is likely never to happen. Surely Commissioner Frattini was talking nonsense when, in relation to the establishment of the agency, he said:

"The EU charter of fundamental rights is now part of the EU constitution so we are morally and politically obliged to do this".

Notwithstanding Mr. Frattini's recent helpfulness to my party in matters of asylum and immigration, his remarks on the agency do not bear scrutiny. Is this not yet another step towards the creation of a binding EU justice and home affairs policy? Will the Minister confirm that it is Her Majesty's Government's view that the agency should concentrate more on human rights than fundamental rights? If so, does that not show the tension between UK attempts to limit the widening of EU competences and the inexorable institutional momentum towards seeking wider powers?

Furthermore, do the Government believe that the agency should have a role in applicant countries or in assessing non-EU countries' human rights records? Is it the Government's view that the agency should have a role in assessing action under article 6, which might result in the suspension of the rights of member states in the Council of Ministers?

What will the new agency do that is not now done in the UK by the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission, which are themselves shortly to be combined into the commission for equality and human rights? Is it not inevitable that the agency will result in duplication in EU institutions, given that the Council of Europe performs some of the important functions, and in member states? Should the agency's remit extend to member states such as the UK or to proposed European Union law only?

What estimate has the Minister or the Commission made of the cost of expanding the role and function, and establishing the agency, as opposed to the existing costs of the monitoring centre? What will be the UK's contribution towards those costs? I assume that the intention is that the new agency will be based in Vienna, where the monitoring centre has its headquarters. Can the Minister confirm that that is the case, as I have not seen any clear statement to that effect in any of the documents that I have looked at? Will the agency's function be solely relevant to EU legislation and institutions?

In that context, the Luxembourg presidency has spoken of the priority for a draft framework decision on criminal suspects' rights. Do the Government support that? Similarly, the Luxembourg presidency has mentioned a draft framework decision to harmonise penal sanctions for racist offences. Do the Government support that, and, if so, why?

Even though organisations such as Amnesty International have supported the proposal in general terms, it is worth noting that Amnesty International did so with some scepticism. It warned that the agency is likely to have a marginal role as member states will not allow it

"to exercise any real oversight of the respect for human rights in their own countries."

Is there not a danger that the proposal could fall between two stools? If the Government—I hope that they will—assure us that they would seek to limit the agency's role to EU law and EU institutions, is there a danger that it will contribute nothing new and that the whole exercise will turn out to have been pointless? I look forward to hearing the Minister's response to hon. Members' questions. The challenge that faces him is profound: to give clear guarantees and assurances about something that is undefined. He must explain the need for a body which arises from a constitution that is not in force and that in all probability never will be.

So far, all who have spoken in this debate have favoured a narrow remit and the preservation of the role of important institutions such as the Council of Europe in protecting human rights. The question is not just whether Her Majesty's Government say that they agree with that narrow remit, but whether they can deliver on that. So far, the indications are that they either cannot or will not stop the institutional creep or the spread of competences in the European Union. If the constitution were ever to be in force, that process would accelerate and be ever harder to control.

10.16 am

**The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy):** I congratulate my hon. Friend the Member for Hull, North (Mr. McNamara) on securing the debate and on his thoughtful speech, which was characteristic of his extensive knowledge of human rights issues and his wealth of experience as a member of the Joint Committee on Human Rights and the Committee on Legal Affairs and Human Rights of the Council of Europe. I read with interest his report to the latter Committee on the plans to set up a fundamental rights agency for the European Union.

We have had an interesting debate and I am pleased that there appears to be little difference between the views of my hon. Friend the Member for Hull, North, supported by my hon. Friend the Member for Manchester, Central (Tony Lloyd), and the position espoused by the hon. Member for Tweeddale, Ettrick and Lauderdale (Mr. Moore). Our position was set out in our response to the consultation document issued by the European Union Commission on 25 October. The hon. Member for Altrincham and Sale, West (Mr. Brady) raised a number of issues that I thought were dealt with very clearly in that consultation document. Information is available on our website and the Government make their position clear.

**Mr. Brady:** The difficulty in dealing with matters of EU legislation is that the Government make clear their position, but the eventual outcome can be completely different. Will the Minister give an undertaking that the Government would veto any developments that are not entirely in keeping with the commitments given and the views expressed in that consultation?

**Mr. Lammy:** The hon. Gentleman knows the rules of the game; he knows that we are at the beginning of a negotiation and that the outcome on the fundamental rights agency requires unanimity across Europe. He knows that; I know that. We are having a serious discussion about the role of human rights across Europe and the role that a fundamental rights agency would play. The Government do not go into negotiations presupposing their outcomes—he knows that. Indeed, all Governments have taken that view over the past few years.

Fundamentally, like my hon. Friend the Member for Hull, North, the Government welcome the decision of the European Council to extend the remit of the European Monitoring Centre on Racism and Xenophobia in order to create a fundamental rights agency. Also like my hon. Friend, we believe that the role, remit and powers of the agency deserve careful consideration if it is to add value to the existing protections for human rights in Europe. That said, it is important to point out that, as I said to the hon. Member for Altrincham and Sale, West, we are still at the very early stages of negotiation on the remit and powers of the proposed agency, and this very Adjournment debate contributes to that process.

We are interested in hearing what others say. A final decision on the agency will require a unanimous decision by all 25 member states, so our presidency of the European Union later this year will have an important task in leading member states towards an agency that will genuinely add value to Europe. That has been at the nub of this debate. We have heard a range of views, and it might be useful if I gave some background on the proposal.

In December 2003, the European Council decided to extend the remit of the monitoring centre to convert it into a human rights agency. In October 2004, the Commission sought member states' views on the agency's field of interest, its remit, its geographical scope, the task that it might be given and its structure and size. The Commission proposed two options, based on two alternative visions of what shape the agency might take. The first option would confine the agency's remit to Community law. As my hon. Friend the Member for Hull, North knows, that option would avoid duplicating the work of other bodies that operate at national and international level, and would complement the existing Community system of protecting and promoting fundamental rights, as my hon. Friend the Member for Manchester, Central was keen to ensure.

**Mr. Brady:** The House of Commons Library note on this debate quotes a United Kingdom Government representative who insisted that the agency's remit should be confined to EU law. He added:

"It should concentrate more on human rights than fundamental rights".

The Minister has welcomed the extension of application to fundamental rights. Does that indicate a change in the Government's policy on this matter? If not, can he give an indication of what that representative meant by what he said?

**Mr. Lammy:** There is no change. I have made the Government's position clear. If the hon. Gentleman allows me, I shall go on to explain that that remit is specific to EU institutions. There is a role for a fundamental rights agency to play; that is what we proposed in the published document on our website, which I encourage him to read.

**Mr. Brady:** I think that I understand from the Minister's answer that he believes that a role in fundamental rights with regard to EU institutions would be appropriate. I think that he said that. Is he making that distinction: the agency should be relevant to human rights only when it considers things other than EU institutions, but its remit could extend to fundamental rights in reference to EU institutions?

**Mr. Lammy:** I did not talk about rights in the way that the hon. Gentleman puts it. I talked about European Community law, and in that sense I do not accept the rather simplistic distinction—I hope that he will forgive me—that he draws between fundamental rights and human rights per se. I talked about European Community law, and I shall stick to that position for the purposes of *Hansard*.

The second option proposed by the Commission was for an agency with a more interventionist role and a very wide remit on freedom, democracy and the rule of law, in addition to fundamental rights. We sent our response to the Commission on 10 January. Hon. Members will

be pleased to know that it indicated our clear preference for the first option. We expect the Commission to produce a draft regulation in June to establish the agency, following in-depth consultations with all involved in the development of fundamental rights in the EU. Once the draft regulation has been issued, member states will begin negotiations on an agreed final version in consultation with the European Parliament. We hope during our presidency to complete the work necessary to bring the agency into existence, with a view to its commencing its business on 1 January 2007.

The UK Government strongly believe that the new agency should focus its attention and energies on ensuring that the institutions of the European Union comply with human rights when they propose new laws and implement existing ones. All member states are required, of course, to observe the European convention on human rights. However, the EU has not yet established an independent body to advise its institutions on how best to take into account the need to respect human rights, and the new agency should fill that distinct gap.

Such a role is very important, as our Joint Committee on Human Rights has shown continually in the domestic context. The proposal fits with the Government's intention to establish a commission for equality and human rights that would take forward that promotional role and ensure that our domestic institutions are doing the job of promoting human rights. In the same way, that work can be done within our EU institutions and there is a role to play there.

We believe that the agency's primary purpose should be data collection and analysis. In doing that, it would build on the functions of the monitoring centre and expand its reach from anti-discrimination into the wider field of human rights. I say again to the hon. Member for Altrincham and Sale, West that there is now a broad consensus about the key relationship between the fields of equality and discrimination and of human rights. Human rights underpin all those issues, competing and conflicting as they may be, to ensure that that human rights-inclusive goal can meet the aims of all in society who experience a particular discrimination, because of gender, race, sexuality or whatever. That is a broad consensus, and I am surprised to hear that the official Opposition are departing from it.

**Mr. Brady:** The Minister is—I am sure inadvertently—misrepresenting the Opposition's position. I have made no comment against the combination of the various agencies to ensure equality. My question was whether it was not the case that the UK agencies are able to fulfil those functions and do not need to be augmented by an EU agency that might interfere with, or possibly diminish, their role.

**Mr. Lammy:** I am absolutely delighted that the hon. Gentleman has said that the official Opposition will support us on the establishment of the commission for equality and human rights when we bring forward that Bill later this Session. On his second point, I should say that I thought that I made it clear that the body would be about European institutions. The hon. Gentleman continues to talk about the domestic position.

**Mr. Brady:** Five minutes ago, the Minister said that one of the agency's roles would be to monitor human rights performance in member states. He really needs to be more consistent in his position. Will he now be clear? Will the agency have that monitoring role or not?

**Mr. Lammy:** We are entering something of an oxymoron. I talked about data and analysis and that key role for European institutions. I thought that that was patently clear, and I am surprised that the hon. Gentleman has failed to understand the point. There is a key role in Europe, as there is domestically. That is why the Government put forward their proposals a few weeks ago. The agency should operate in areas in which it can best add value, instead of trying to cover the whole range of human rights issues. It should prioritise its work thematically—my hon. Friend the Member for Hull, North said much on that—and concentrate its activities where the need for more information and increased awareness of fundamental rights is greatest. However, as all hon. Members except the hon. Member for Altrincham and Sale, West have said this morning, we must avoid duplication.

The Government do not see the agency as a body that will examine the policies and practices of individual member states. Such a remit would be inconsistent with the principle of subsidiarity. The agency's focus should be on EU institutions and on member states only when they are implementing EU legislation. We are worried that to give the agency a wide remit would result in substantial duplication and possible conflict with existing agencies. Above all, we do not want unwelcome and inefficient duplication with established or developing institutions in the Council of Europe, the EU or member states, or the creation of another source of authority on the interpretation of human rights in Europe. The Council of Europe and the European Court of Human Rights already give a strong and internationally respected lead on that. To create new sources of authority is likely to lead to confusion, a dilution of authority and, perversely, a weakening of protection for fundamental rights.

There is, therefore, an important path to tread and an important line that we must not cross. That is what the Government will seek to do as we enter the negotiations. I hope that that gives my hon. Friends the Members for Hull, North and for Manchester, Central and the hon. Member for Tweeddale, Ettrick and Lauderdale the assurance that they seek. We do not believe that the fundamental rights agency should play a policy or operational role in human rights issues in third countries. There might be merit in giving it a role in assisting candidate states to membership of the EU, but that should not replicate the work of other institutions in assessing candidate states. Rather, it should complement existing initiatives, providing an educational and supportive role. The agency might work alongside civil society in candidate countries, including with NGOs, universities and community groups, with a view to ensuring the long-term sustainability of human rights promotion in the country.

*[Mr. Lammy]*

The monitoring centre was established in 1997 to provide the community and member states

"with objective, reliable and comparative data at a European level on the phenomenon of racism, xenophobia and anti-Semitism in order to help them when they take measures or formulate courses of action within their respective spheres of competence."

That is important work, which needs to continue. We must ensure that it is not diluted in any way.

The tasks of data and information gathering carried out by the monitoring centre and the transmission of its findings to Community institutions and member states to help influence policy formulation have proved beneficial. For example, the monitoring centre has produced important reports on anti-Semitism and on the way in which the education system in EU states is still failing migrant and minority pupils. It has also highlighted continuing racism in Europe against the Roma community. Indeed, if we get it right, the fundamental rights agency can bring even greater value to all of us across Europe.

**Mr. McNamara:** I support all that my hon. Friend said about the achievements of the monitoring centre. The monitoring centre has an agreement with ECRI to cover possible duplication and the statutory representation of the Community on ECRI and the Council of Europe. Do the Government intend to seek to ensure that the statutory representation in respect of the Council of Europe will extend to the new agency's management board?

**Mr. Lammy:** At the heart of what my hon. Friend asked about is the key relationship between the two bodies. We are keen to ensure that the Council of Europe retains its authority. The example of the monitoring centre gives us an established format for establishing that relationship. That is an option that member states will discuss in the negotiations. My hon. Friend will understand that, at this stage, it is difficult to say what the outcomes of those discussions will be, but the Government's position is clear: the existing agencies, including the Council of Europe and its authority, should not be undermined by the new FRA. The structures of the FRA will have to take that fact clearly into account.

**Mr. McNamara:** I am grateful for that carefully phrased answer.

I am also concerned because, when the Commission's representative discussed the options in Brussels last week, he did not support the concept of an active role for the Council of Europe on a new management body. That is the attitude of the Commission. In my talks with them, representatives of the Commission have taken a "Sinn Fein" attitude towards the Community and shown a desire to go it alone without any representation from elsewhere. That is why I raised the issue. I urge my hon. Friend and his colleagues in the Government to ensure that the creeping power that the Commission seeks does not emerge.

**Mr. Lammy:** My hon. Friend could not have put that concern any more strongly. It is heard and understood. He knows that if he wants to continue that dialogue, meet the Government and take forward any intelligence nuances that he picks up as the process goes forward, he is welcome to do so.

As well as the importance of continuing work on racism and xenophobia, there are likely to be other areas of social or legal policy in which similar data gathering and opinion giving could be of real relevance and value to EU institutions and member states when implementing Community law. For example, data on discrimination, including disability discrimination, may help to provide evidence about the impact of EU policy in the area of employment rights. The agency could usefully gather data on the impact of new EU legislation in the workplace, such as the recent directives prohibiting discrimination on the grounds of religion or sexuality. In addition, the agency could perform a useful role in assessing the extent to which data protection practices ensure respect for private life. So, we believe that the agency should gather data in co-operation with member states, the Council of Europe and civil society, but it will be necessary for the agency to ensure that data gathering does not replicate the work undertaken by the Council of Europe's bodies or by national human rights institutions.

The hon. Member for Altrincham and Sale, West asked how much the agency will cost. There is an estimate. The annual budget of the monitoring centre in 2003 amounted to about £4.5 million. The European Community subsidy was the principal revenue of the centre in 2003. The centre also receives financial support from the Austrian authorities. That is the basis on which we go into these discussions.

**Mr. Brady:** I am grateful to the Minister for telling us the current budget of the monitoring centre. He referred, albeit while giving the Government's view that the agency should not have a much wider remit, to a role in advising, assisting and educating EU applicant countries. What estimate or assessment has he made of the addition that would be necessary to the budget to cover those activities?

**Mr. Lammy:** We have an existing budget as an indicator. We go forward at the beginning of negotiations with a clear view, as a Government, of what the outcome should be, but clearly other member states will take a different view. For that reason, it is difficult to suggest today what the eventual budget might be. The hon. Gentleman may wish to inquire further down the line when the matter will be clearer, but, as I have said, the budget of the monitoring centre was £4.5 million in 2003.

We recently announced our intention to legislate for a commission for equality and human rights in order to promote equality and human rights together and to challenge discrimination. We think that the fundamental rights agency could replicate much of the work going on domestically. I welcome the position of the official Opposition on having a commission for equality and human rights in this country; that is very helpful. It is for those very reasons, which are now shared by parties across the House, that we welcome a fundamental rights agency. I congratulate my hon. Friend the Member for Hull, North again on securing this debate.

10.42 am

*Sitting suspended.*

## Structure Plan (Kent and Medway)

11 am

**Mr. Derek Wyatt** (Sittingbourne and Sheppey) (Lab): Thank you for granting me an opportunity to discuss the Kent and Medway structure plan, Mr. Deputy Speaker. It is a wholly good thing for a county such as Kent—I include Medway—to take stock and to reflect on the needs and aspirations of its people. If we do not have the chance to dream, and to dream big, and to back those dreams with more detailed plans, we are the lesser for it.

I shall be interested to hear from my hon. Friend the Minister how the plan was initially conceived. I know of no public meetings, no bus that went up and down the county, and no polls that were taken, but a plan has come from somewhere. It seems that the plan was started back to front: to have an aspiration or some idea of where the county should be in 2021, the people of Kent should have been talked to.

Kent and Medway together are the largest local authority area in the country, with a turnover of billions of pounds. It has not been possible to find out the gross domestic product of the county, so may I suggest to the Minister that GDP figures be produced for each county, district and, where possible, constituency? Such figures would help the people of Kent to understand better what we have and, as important, what we need, especially when we are discussing the future needs of the county through the structure plan.

We know a great deal about poverty indices and which wards in Kent suffer from neglect. Kent had a necklace of poverty around its coast for much of the 1970s, 1980s and 1990s, but thankfully, under the Labour Government's stewardship, there are signs of green shoots everywhere, not least in my constituency, where the Government are investing more than £300 million. That investment includes £44 million for the northern distributor road in Sittingbourne, £21 million for the Rushenden link road, which we hope will happen soon, and between £40 million and £60 million for the new secondary schools for the Isle of Sheppey. We have already had a £13 million new community hospital and our new £100 million bridge is being built as we speak. Sadly, all that may be at risk, as the Tories have announced the closure of the Thames gateway should they win the next election. In that event, my constituency and many others in Kent would be returned to boom-and-bust economic policies and poverty and deprivation would rear their ugly heads once more.

For Kent and Medway to be the best in Britain is no longer enough. The Kent and Medway structure plan needs to have at its core an understanding of the impact of globalisation, as India and China threaten Europe and America's economic hegemony over the coming two decades. The plan needs to demonstrate a better understanding of the impact that formula 1 high-speed broadband will have on our communities. I am not sure that the plan understands either of those profound changes.

In 2002, as the founder of the Oxford internet institute I was invited to lecture in north Sweden, in a region called Lulea. It is not possible to go much further north before reaching the Arctic circle, yet Sony Ericsson has its 3G research centre at Lulea university of technology. In 2004, I visited Helsinki to meet the owners of M-real, which owns UK Paper in my constituency, but I took time out, thanks to the UK ambassador to Finland, Matthew Kirk, to visit Nokia and to spend some time with the mayor of Helsinki. Like Singapore, Helsinki is a smart city—completely online and completely broadband, some of it wireless—and it is incredible to consider that the whole country is too. Finland has a population of 5 million and is incredibly mountainous, but it is online and broadband. That broadband was paid for by the regional development agency. It is not just any kind of broadband—not the 512 k on offer from BT, but 2G and 4G. It is more formula 1 than model T.

Interestingly, as a result of such provision, the north Baltic area, including Sweden, Finland, Latvia and Lithuania, has the fastest-growing GDP in the whole of Europe. Landlocked, cold and distant by 20th-century standards, it is smart and already connected by 21st-century standards. A history of the 20th century written in the mid-1970s would have failed to include venture capital, the personal computer, the mobile phone and wireless and broadband. The Kent and Medway structure plan must have those values underlying the activities; it does not.

If we were debating this issue in February 2021—when I will be 72—what could we say about Kent and Medway and the place that we bequeathed to our children and their children? Our duty would have been to provide enough added-value employment opportunities in a greener environment, with new housing that we could be proud of and an infrastructure to match. Only aspects of that are available today in Kent and Medway. We do not have enough added-value or smart employment opportunities, we have been slow on a green audit, few of our housing estates have any architectural value or merit, and our infrastructure, especially our road and rail investments, needs more attention.

The greatest centres of added value are to be found in California, mainly in the bay area. Those centres in San Francisco, San José, silicon valley and Oakland gave birth to the modern economy. They had at their core two great universities—the university of California at Berkeley and Stanford university, the private university founded by Leland Stanford. Those institutions have embraced globalisation and they have as the heart of their being the biosciences and technological industries that make for smarter communities. The Kent and Medway structure plan needs to have biosciences and technology as the added value for our children's sake.

The Kent and Medway structure plan has no vision or understanding of where we need to be as a county. The largest local authority in the country has no world-class university and no plans to create one, or to bring one in from outside, or to initiate a franchising arrangement with an Oxford or a Cambridge—or a Stanford or a Berkeley, for that matter. How can we have such low expectations?

The Kent and Medway structure plan needs to be re-thought. It lacks vision, and the county continues to fail to attract world-class businesses. It is shameful that the whole computer industry passed us by. Motorola chose Swindon, Slough and Basingstoke. Microsoft and Oracle opted for Reading. Apple and Cisco Systems

*[Mr. Derek Wyatt]*

homed in on Stockley park. Hewlett Packard—now HP—made a base in Bristol. Intel also settled at Swindon. Not one chose Kent, which is worrying, especially as both Microsoft and Intel continually feature in the top five companies in the world. One of the fallouts from that failure is that Kent has still not made inroads into establishing a venture capital base.

In the 1960s, the Robbins report on higher education highlighted the need for new universities. Out of that came the new university of Kent at Canterbury. Since its establishment, it has welcomed the Open university, Christ Church university college, Canterbury, and more recently the university of Greenwich, which used to be Woolwich polytechnic. I know that my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews) has always wanted a university for Medway, and he has now realised part of his dream.

Kent and Greenwich universities have been working together to find common ground. The science of computing has spawned spectacular successes where a university has developed a spin-out science park. Surrey was the first to do so. Surprisingly, Cambridge and Oxford were relatively slow to come to the dancefloor, but their respective parks now make a substantial contribution to the UK's GDP. They have drawn their success from the example of the Ivy league universities in America, especially Stanford, which spawned Hewlett Packard, Yahoo and, more recently, Google.

Into this mix, in 1998 and 1999 the Labour Government introduced the regional development agencies. The South East England Development Agency—SEEDA—ignored the science park phenomenon, and chose instead to create small hubs or clusters. Perhaps it is too early to judge their success, but I believe that it was a mistake not to link them directly to our universities. Science parks have become the vogue, and in all cases they are attached to universities. Leeds university, Leicester university, Bristol university and Bath university announced science, technology or innovation parks in 2001. Liverpool university and Liverpool John Moores university followed suit last year—interestingly, funded by the local RDA—as did London and, more recently, Nottingham and Nottingham Trent, which all announced science parks.

The Chancellor of the Exchequer is a science enthusiast and has increased science research funding substantially in the Budget. At the same time, he has ensured that our investment and share option tax breaks are better than those of California. The UK has the fourth-largest GDP in the world; California used to have the fifth, although it has slipped recently. That is why it is important that we follow the California model.

According to the league tables of the *The Times* guide to universities—notwithstanding the usual reservation about league tables—Kent is placed 44th in the UK and Greenwich 94th. Kent has disappointed in comparison with other 60s universities: Warwick is fifth, York is seventh, Bath is 11th, Loughborough is 24th and Essex is 27th. However, we have a newcomer in Kent: Imperial college at Wye. Imperial is ranked third overall, after Cambridge and Oxford, and first in technology and science, although it is only a university college of London university. Imperial is hampered by its location in Kensington and it cannot develop a science park except at Ashford. I was the only MP who attended the Kent and Medway discussions on science parks in September. Kent county council said that there was no intention to develop a science park at Ashford—you couldn't make it up. Kent needs a world-class university, and Imperial is the only game in town.

The two major science companies in Kent are Pfizers at Sandwich and Abbott's at Queenborough. We should be working with those two American companies to create an equivalent of the Massachusetts Institute of Technology at Ashford and a collegiate university system for Kent based on the university of California model that would enable university colleges to be sited at Ramsgate and Margate, Dover and Folkestone, Maidstone, Sittingbourne, Tunbridge Wells and Tonbridge, and Dartford along with those already established at Canterbury, Medway and Greenwich. Imperial would, over a 20-year period, subsume both Kent and Greenwich.

Does the Kent and Medway structure plan have those two companies at the forefront of the bioscience and technology plans for our grandchildren? It does not. Instead the plan has identified four small science centres, none of which will be world class or an integral part of a university. One was called the Sittingbourne research centre until a name change last year. Now called the Kent science park, it is owned by the LaSalle pension fund on behalf of Mars and it wants to double its footprint. It wants to build an additional 10,000 homes on top of the 10,000 announced last week by the Government, and it wants a southern ring road to a new motorway junction of the M2. However, according to an anonymous phone call that I received last Friday, it will allegedly enrich two landowners to the tune of £80 million.

Can the Minister confirm that if that wretched scheme were to see the light of day the Government would introduce a substantial windfall tax on gains from farming land that is given planning permission for housing? In that way the cost of housing would be reduced, which would greatly help our younger families and our key workers who are frozen out of the property market in Kent. Above all else it is clear that the Kent and Medway structure plan has no real understanding of the place of biosciences and technology. If the plan is adopted our children and their children will be the poorer.

Let me add a few comments about the housing needs for Kent and the lack of detailed infrastructure modelling, although Kent county council's "Kent—What Price Growth?" is more than a stab in the right direction. I have raised the matter continually over the past eight years and even proposed a ten-minute Bill on the subject. Incidentally, I wonder when the Government will respond to Kent county council's request for £9.6 billion worth of infrastructure over the next 30 years.

Wherever I look in my constituency, the new build housing has not had any section 106 gains. At Warden Bay we were promised a primary school; it never happened. Guess what? We were promised another on the Meads estate at Bobbing; it never happened either. Now I learn that the large Thistle Hill estate being built on the Isle of Sheppey will not after all have a primary school. Three different developers have reached a section 106 agreement with Kent county council, but

have walked away smiling. They have lined their shareholders' pockets, but they have not improved the quality of life of my constituents.

My constituency needs quality housing of every sort. We are desperate for housing estates in the great 19th century traditions of New Earswick and Port Sunlight, not the appallingly designed new rabbit hutch estates that currently adorn the north Kent coast. We need at least 3,000 houses for our young couples, our older people and our key workers. As Sittingbourne and Sheppey's economic base grows, we will need more housing to attract businesses.

The structure plan is weak on how we build, side by side, both the hardware of the infrastructure and the software, by which I mean our people. We will have a shortage of water in the next five years. Without wind power from the Thames, Kent will not have enough power. Where do we get more carpenters, builders and painters from? Where is the skills audit in the plan and where are the plans to build co-operation between our secondary schools and our further education colleges? I could say more, but I know that my hon. and learned Friend the Member for Medway wishes to add something and so I will stop there.

11.13 am

**Mr. Robert Marshall-Andrews** (Medway) (Lab): I understand your semaphore perfectly, Mr. Deputy Speaker. I will indeed be brief, as we want to hear from the Minister on this important topic. I congratulate my good and hon. Friend the Member for Sittingbourne and Sheppey (Mr. Wyatt) on securing the debate, which he opened with a characteristically articulate and informed speech. He has been an outstanding Member of Parliament for Sittingbourne and Sheppey. He was rewarded by a massive increase in his vote in 2001. I do not suggest that those who did not receive massive increases in their vote are not outstanding Members of Parliament, but some of us take rather longer to mature than others.

The debate gives me the opportunity to indulge in the rare, unalloyed, indeed practically unendurable, pleasure of congratulating the Government in very large measure on what they have achieved in terms of structure within my constituency during the last eight years. When I first became the Member of Parliament for Medway I was asked what I expected from my stewardship. After a certain amount of thought I replied that two things seemed to be needed more than any other to change the structural basis of the Medway towns. The first was a university: ours is the largest conurbation in Europe without its own university. The second was the development of the Rochester and Chatham riverside—a massive area of post-industrial dereliction caused by the death of the dockyard 17 years ago. I am delighted to say that although neither has been completed, both developments are now inevitable, due in no small measure to the Government's intervention.

Some £15 million has been given towards a new university based in the Medway towns—an outstanding contribution, which has made that development possible. Within 10 years we will have 10,000 students, which will change and revolutionise the intellectual and employment face of the towns in that part of Kent. Some £26 million has been granted by the Government to underpin the development of the Rochester riverside on a site for which the expression "brownfield site" might have been newly minted. That, too, will transform my constituency. There is no word for gratitude in politics, but there is a word for achievement, and that is a considerable achievement, on which I congratulate the Government.

I share my hon. Friend's reservations about the present structure plan. In my own constituency, I am concerned about the silence that radiates around development within the precious green areas that we have and that we must maintain. When I first arrived in my constituency, it had the most unenviable reputation—possibly in the country, and certainly in the south-east—for overdevelopment. That was probably linked to the fact that many of its councillors at the time were either developers or were linked to the development world. As a result, the Medway towns suffer in no small measure from a serious absence of green space, both within the towns and outside them. I hope that the Minister will take that into account when he responds to our points on structure and infrastructure in the Medway towns. I hope that he will say that the time has come to call a halt to development within and outside the towns.

It is an unhappy fact that the threats to the green space in my constituency come from the council, which is now resurrected not quite in its old aegis but in something like it. Names such as Watts Meadow and Copperfields will mean little to you, Mr. Deputy Speaker, but they mean a great deal to my constituents. Those areas are currently threatened by a council that is remorselessly and recklessly selling off its own green space within the Medway towns as part of what it perceives to be a structural plan which is, in fact, no plan at all.

I say this to the Minister and I hope that he will take it on board. The Hoo peninsula, which is part of my constituency, is a rare and wonderful green space, which I enjoy as much as any of my constituents. I am sure that you, Mr. Deputy Speaker, because I know your predilections and activities, would also enjoy it very much were you able to visit. If you ever manage to visit my constituency, I should be delighted to introduce you to it.

We have fought battles over that land—for example, we successfully fought off incinerators. There is much talk now about development on the Hoo peninsula but, as far as I know, that is wholly false. There is nothing in any plan that I have seen—certainly not in one derived from the Government—that threatens development on the Hoo peninsula over and above the local plan that was agreed many years ago. I hope that that will continue to be the case, but I serve notice now, not simply on the Government and on local government, but on the developers who for many years have looked upon that area of Kent with salivation, that any attempt to concrete over or build or that wonderful and wild area will be resisted in precisely the same way in which my constituents and I made common cause to resist Cliffe airport, now of unblessed memory.

There is much on which to congratulate the Government. There has been a great deal of expenditure, partly leveraged from Government by my colleagues in the Medway towns and myself. Sometimes it has been said, rather unkindly, that the more unpopular one becomes with one's Government, the more money they give for development in one's own constituency. I do not

*[Mr. Robert Marshall-Andrews]*

recommend that as a way of obtaining money from the Government, but it can be argued and might be true in my case.

I am grateful to my hon. Friend the Minister and my hon. Friend the Member for Sittingbourne and Sheppey for allowing me to make this short contribution. I congratulate my hon. Friend again on obtaining a debate on one of the most important issues facing the south-east.

11.20 am

**The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope):** I congratulate my hon. Friend the Member for Sittingbourne and Sheppey (Mr. Wyatt) on securing this debate on the Kent and Medway structure plan. He is well known as a keen advocate of his constituency and for bringing issues such as these to the attention of the House.

Given events that may or may not happen in a couple of months' time, I am not surprised by the unusual display of gratitude, recognition and loyalty to the Government by my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews). The Government must be congratulated on delivering benefits to the hard-working families of Medway, and indeed Sittingbourne and Sheppey, despite events elsewhere.

My hon. Friend mentioned some specific cases. He will appreciate that I cannot comment on the merits of individual planning cases because of the Secretary of State's appellate responsibilities. If he will forgive me, I will therefore concentrate on the broader planning issues.

As I am sure my hon. Friend is aware, Kent county council, in partnership with Medway unitary authority, is preparing a new structure plan to cover the period 2001 to 2021, which has been the subject of an examination in public held by an independent panel. I understand that the two strategic planning authorities are still awaiting the panel's report. The authorities decided to continue with a new structure plan, although it will be superseded by the new south-east plan when that is adopted in 2007. In the meantime, local planning authorities in Kent will have to have regard to the structure plan, once it is adopted and until the south-east plan is in place, in preparing their local development frameworks.

My hon. Friend opened his remarks by voicing some concerns about consultation. Let me emphasise that the Kent and Medway structure plan was published as a deposit plan in September 2003. That was preceded by extensive pre-deposit consultation, including the publication in March 2002 of a consultation document entitled "Mapping out the future: Kent and Medway Structure Plan—Future Policy Directions", which was accompanied by publicity and public meetings in every district and borough. All the Kent Members of Parliament were consulted directly at this stage and on the deposit plan in 2003. The "Future Policy Directions" document specifically referred to the development of innovation hubs and clusters and the important links between higher education and research, about which my hon. Friend spoke so eloquently. A number of locations were discussed in this regard, including the Sittingbourne research centre, now the Kent science park. I shall come back to that later.

My hon. Friend mentioned issues relating to infrastructure, water and so on. It is important to put on the record one point about water. During the consultation, Kent and Medway councils received no representations from the Environment Agency about any insurmountable constraints to development in Swale from a water supply perspective. Evidence to the examination in public confirmed that view, conditional on Kent and Medway structure plan quantities not being exceeded. Decisions by the councils arising from the panel report should be subject to similar consultation processes.

On the need for homes for younger people, older people and key workers in the area, I am aware that the proposed housing numbers in the structure plan for the county as a whole show no significant increase over the previous plan, although there are two growth areas in the county. Indeed, representatives of the Government office for the south-east pointed that out to the examination in public in September last year and argued for higher numbers, in line with the Government's commitment to address the severe housing shortage in the south-east. We await the outcome of that examination in public. The panel is due to report early this year. I regret that it would be inappropriate for me to comment further on the details of the plan in advance of the report.

The next formal steps in progressing the Kent and Medway structure plan will take place when Kent and Medway councils consider the panel recommendations and propose modifications arising from those recommendations. The proposed modifications will, in turn, be subject to public consultation. Kent and Medway hope to adopt the plan by the end of 2005. I believe that my hon. Friend has made the representations that he spoke about this morning directly to the process. When the modifications are proposed, he will get another bite at the cherry and will be able to re-emphasise his concerns if the modifications do not address them.

There is also a statutory planning process to determine what the revised regional and sub-regional growth levels should be. At this stage, the South East England regional assembly is responsible for examining alternative spatial options as part of the preparation of the new south-east plan, which will include housing figures for districts in Kent. The regional assembly launched a public consultation on the matter on 24 January. I cannot comment at this stage, because my comments would pre-empt the outcome of the consultation and the public inquiry that will follow.

My hon. Friend rightly raised concerns about the infrastructure that will support development. Swale Forward is the local partnership that ensures that the area's infrastructure priorities are delivered effectively. It is co-ordinating a £26 million programme that is supported by the sustainable communities fund. Swale Forward endeavours to ensure that the aims and objectives of its policies and programmes make the appropriate links with other relevant strategies, such as Swale's infrastructure needs, the Swale local plan, the Kent and Medway structure plan and the regional economic strategy.

It is the role of Swale Forward to assess the infrastructure needs of the borough in delivering the required growth and regeneration. It is primarily the responsibility of Swale borough council to ensure, through the local plan and other strategies and plans, that sufficient infrastructure is provided to support agreed levels of housing growth. I am glad that my hon. Friend has put on record some of those developments. Two road schemes are under way—the second Swale crossing and the Sittingbourne northern relief road. Funding from section 106 agreements will support provision of other infrastructure requirements, such as health and education facilities and community needs. It is good to see that a new secondary school has been allocated for Sittingbourne, as well as the secondary school for Sheppey. A new community hospital has also been allocated.

I share my hon. Friend's concerns about the Conservatives' decision to abolish the Thames gateway. That decision will have a massive effect in removing the opportunities for infrastructure development. My hon. Friend is right to point that out. Many of us were taken aback at the Opposition's decision to adopt that policy, which makes no sense. That decision does not fit easily with the simultaneous call of the Conservatives on Kent county council for £9.6 billion of infrastructure regeneration cash. It seems to me that the local and the national are not working easily together.

My hon. Friend mentioned issues around gains from developing land. I emphasise that, in her recent review of housing supply, Kate Barker recommended that section 106 of the Town and Country Planning Act 1990, as amended, which provided for planning gain contributions relating to increased development value resulting directly from the grant of planning permission, be reviewed to provide more certainty and simplicity. I confirm that the Government are considering the option of a planning gain supplement that would, if introduced, address some of the issues that my hon. Friend raised. That debate is under way and I am grateful for his contribution. We will draw it to the attention of relevant Ministers.

My hon. Friend raised a number of key points about the importance of the university development and the way that the structure plan creates the conditions for attracting bioscience and technology investment. I cannot comment on the plan because of my position in the Office of the Deputy Prime Minister. I draw his attention to parts of the plan that refer specifically to that development, not least to Pfizer which is one of the companies that he mentioned. The plan identifies Pfizer as a company that may grow and respond to some of the concerns that my hon. Friend raised. However, it is up to us to see what the panel says and consider whether the modifications and developments provide solutions to the problems that he is concerned about.

While I understand my hon. Friend's concerns about the make-up of the Kent science park, and the issues that he raised about the highway network, I point out that both Kent county council and Swale borough council support the expansion of that site as a science park.

11.30 am

*Sitting suspended until Two o'clock.*

## Hazardous Waste

2 pm

**Mr. Jonathan Sayeed** (Mid-Bedfordshire) (Con): When I resigned my post as a shadow Environment Minister, the Government's waste and environment policy was a shambles, and 18 months later little has changed. The Government have promised to review their waste strategy this year. The review must consider the current problems with hazardous waste disposal that have arisen following the implementation of European directives. Unless the Minister acknowledges that the problems exist and says how they will be overcome, they are set to continue.

We know that 5.2 million tonnes of hazardous waste is produced annually, a figure that increases 8 per cent. year on year. It must be disposed of safely and efficiently, and it must be our priority to ensure that the infrastructure exists to achieve that. Although environmentally sustainable methods of disposal should be explored and strongly encouraged, we cannot ignore the reality that 40 per cent. of hazardous waste is still sent to landfill. The implementation of the European landfill directive, the factor that continues to have the biggest impact on hazardous waste disposal, should be the focus of our debate today.

I want to examine the Government's preparation for banning the co-disposal of hazardous and non-hazardous waste in landfill sites, following the directive implemented on 16 July 2004. I believe that their approach had four flaws, relating to regulation, awareness, enforcement and communication, which continue to characterise their overall approach to hazardous waste.

First, the Government did not provide the regulation required by the waste management industry to invest in the new hazardous waste treatment infrastructure demanded by the directive. Regulations bringing into United Kingdom law the waste acceptance criteria—WAC—that regulate pre-treatment standards passed through Parliament only in June 2004, one year before they came into force. Strict regulation of the waste disposal industry requires detailed legal guidance, which in turn can be achieved only with accurately targeted investment.

Waste management companies, however, had only one year in which to identify potential markets, raise finance, gain planning consents, obtain environmental permits, construct facilities and conduct appropriate testing before finally accepting and treating hazardous waste. As it is a commercial decision whether to apply for a licence to treat hazardous waste and the Department for the Environment, Food and Rural Affairs cannot force companies to do so, the Department should have done everything it could to encourage investors, or should at least have made it feasible for companies to make the necessary commercial decisions to obtain a licence. However, far from leading the way, the Government, through their indecision, have created uncertainty and confusion.

Secondly, DEFRA's lack of forward planning is underpinned by a lack of awareness and understanding of patterns and volumes of hazardous waste flows. Only six weeks before the ban on co-disposal, the hazardous waste forum's projections showed huge variations

*[Mr. Jonathan Sayeed]*

between best and worst-case scenarios: shortfall estimates varied between 350,000 tonnes in the interim year and, in the worst case, 2.9 million tonnes, an eightfold difference. However, that is not all. No account is taken of seasonal variations in hazardous waste levels as a result of fluctuations in the amount of contaminated soil produced by the demolition and construction industry. That problem is set to intensify as more brownfield sites are redeveloped.

Thirdly, the enforcement of regulations has been flawed; their implementation is neither stringent nor consistent. Non-compliance tends to snowball. The more people get away with the illegal disposal of hazardous waste, the more the business case for waste management facilities is undermined. Fly-tipping will become an ever more attractive option if waste disposal costs increase while penalties and enforcement remain static. An Environment Agency report stated that people fly-tip because it costs "money and time" to dispose of waste properly. That is a statement of the blindingly obvious. As the cost and trouble of proper waste management increase, so will the incidence of illegal disposal.

Will the Government accept the recommendation of the Environmental Audit Committee that the fines imposed should better reflect the seriousness of the environmental crime and act as a greater deterrent and punishment? Will the Environment Agency be directed by the Government so that we do not get what we did with the end-of-life vehicles directive? We do not want inadequately trained inspectors focusing on repeat visits to those tackling the task satisfactorily, but rather a concentration on the real rogues, who may not even be registered as producing hazardous waste. If matters continue as they are, all we will have is another Child Support Agency-type fiasco, where providing parents were pursued and the rogues ignored.

Fourthly, communication by the Government and the Environment Agency with waste producers and managers has been inadequate. The Federation of Small Businesses has identified "an information vacuum" among many of its members. A survey by the Environment Agency itself revealed that, in 2003, 76 per cent. of businesses were unaware of their legal duty of care to ensure that waste was managed lawfully. I would like assurances from the Minister as to the strategies in place to make businesses aware of their duties resulting from new legislation.

Subsequent to the implementation of the landfill directive, what has been the effect of the prior inaction and lack of forward planning? How has it impacted on both the hazardous waste industry and the environment? The immediate effect was to create a substantial shortfall in the capacity of the industry to treat hazardous waste. Only 11 merchant landfill sites are operational and, of these, only five can accept a wide range of hazardous waste streams. Infrastructure exists to dispose of only 1 million tonnes of hazardous waste annually, but 5 million tonnes are produced every year. This is compounded by the uneven distribution of commercial sites, which are concentrated in the north-east and north-west of the United Kingdom, while no sites able to deal with hazardous waste are located in Greater London. Hazardous waste must now be transported greater distances, which is costly, increases bureaucracy and risk, raises further capacity issues—as transportation must be with a registered carrier—and makes neither environmental nor economic sense.

Economic factors are rarely the best drivers of environmental policy as they tend towards short-term myopia, while many environmental benefits are not financially quantifiable. However, cost must be considered when it has a direct impact on the level of compliance. Implementing the landfill directive has resulted in a threefold increase in the cost of landfill and a potential further increase after July. The "polluter pays" principle is probably the best way to operate environmental policy, but the Government must think realistically rather than adhering to that dogmatically. Costs must not be increased unfairly due to poor policy implementation and, ultimately, they must not discourage the safe disposal of hazardous waste.

If enforced to the letter, the "polluter pays" principle will hit small and medium-sized companies hardest. Those with the tightest margins may begin to cheat, misclassifying their waste, disposing of it illegally or hiring unregulated, illegal contractors. Subsequent costs to society, regardless of the physical danger, could then outweigh the income garnered from making these smaller hazardous waste producers pay. Possibly, a fairer and more effective alternative would be for the Government to consider a threshold whereby small amounts of hazardous waste can be disposed of safely, at lower cost, and an incremental charge imposed thereafter.

Hazardous waste disposal problems have not yet been resolved. The additional capacity required due to the landfill directive is not forecast to be met until 2009. Other key challenges have not even begun to be tackled. I am sorry to say that the Government seem to have learned nothing from implementing the landfill directive.

The Government must rethink how they implement European directives. They must ensure proper parliamentary scrutiny of draft directives so that there is awareness and action well in advance of implementation, and only after industry-wide consultation. The main problem is not the directives, but the Government's approach to implementation, which has caused the United Kingdom to develop a far less comprehensive hazardous waste-treatment infrastructure than other member states have developed and has compounded their already weak performance on waste.

The Government's approach is still characterised by the same four flaws. There are still no regulations and guidance from the Environment Agency to transpose hazardous waste regulations or to produce the WAC for monolithic waste. DEFRA has not allocated sufficient resources to communicate responsibilities to waste producers or for resource enforcement: the £2 million available through the business resource efficiency and waste programme is inadequate.

Lack of awareness continues, as there are no real-time data on waste flows, and DEFRA is only now developing a waste data strategy. In this interim year between the end of co-disposal and the enforcement of WAC, it is timely to assess the impact of the landfill directive on the Government's waste strategy and

to press for the end to the lack of regulation, of information and of enforcement and the mis-communication that has been a characteristic so far. The current strategy is wasteful and is certain to prove hazardous to our environment.

2.12 pm

**Richard Ottaway** (Croydon, South) (Con): I congratulate my hon. Friend the Member for Mid-Bedfordshire (Mr. Sayeed) on securing the debate. I know that he spends a great deal of time worrying about the subject, which has always been high on his list of priorities, and he is doing us all a favour by bringing it to the attention of the Chamber today.

At the end of the day, this is not a political issue in the party political sense of the word. Whatever the party we belong to, we know what we are trying to achieve. The quarrel is about how we achieve that and the administration of the policy. Waste, whether non-hazardous or hazardous, is a fact of life. It is part of our society, and given society's thunderous momentum, it is inevitable. The question is how we deal with it.

The Government have good intentions, which I do not criticise. They are making a genuine effort, but there is a shortfall between what they say they want to achieve, their method, and what they actually achieve. In true Blairite style, they have the big vision and all the ideas, and local concerns are dealt with, but are we achieving the results and producing the initiatives that we need? As someone who represents a south London constituency, I know that waste is a very serious issue. London does not have enough waste facilities. Waste has to be taken out of London, and the Government do not have the courage to deal with the issue of incineration.

A small illustration of the problem is the local municipal tip in south Croydon, which is being shut. It is open for only three days a week at a time when we need more tips and outlets. My hon. Friend the Member for Mid-Bedfordshire mentioned fly-tipping, and one of the problems is that small businesses must pay to use these tips. I might be off message so far as my party is concerned, but I believe that there should be no charge for municipal tips, because small businesses, deterred by the fact that they have to pay to use them, are engaging in increased fly-tipping. It is a serious problem in south London, and, in that regard, I am very critical of my local authority, which has not addressed the issue.

Recycling is to be encouraged; it is very welcome. The problem is that it is weight based, so local authorities, in order to meet their worthy targets, are encouraging people to recycle things that need not be recycled—too much green waste, but not enough of the hazardous substances that ought to be recycled. There is not enough plastic being recycled, because it is not heavy. If there is a weight-based target for recycling, plastic, which is not only light but voluminous—a plastic bottle takes up a lot of space but not much weight—is not attractive to local authorities.

**Mr. Sayeed:** Is my hon. Friend aware that, certainly two years ago, our party had a policy that involved setting a ratio between weight and volume? I think that it was 1 kg to 3 cu m. If the Government had adopted that, as was pressed on the now Minister for the Environment and Agri-environment, there would have been a greater chance of plastic and other light but voluminous materials being recycled.

**Richard Ottaway:** My hon. Friend is absolutely right. In fact, he pre-empts my next remark, which is that that is the direction in which we ought to be going. Whether there should be a multiplier effect or a tariff of some sort to encourage local authorities to recycle more plastic, I do not know, but that is the way to go. I hope that the Minister who, I know, takes these matters seriously, will respond to that point.

I come to the specific matter of hazardous waste. It is a tremendous problem. It is dealt with in a manner that was excellently described by my hon. Friend, and the rules of the game have changed. There are businesses that are prepared to dispose of hazardous waste commercially, meaning that when they invest, they want to make sure that their money is secure and they want to see a profit from it. However, the Government have not encouraged that process. As the deadline approached, investors complained that they had had inadequate detail from the Government about the criteria for the establishment of a hazardous waste disposal centre. They were prepared to invest, but they were not prepared to do so unless they knew what the criteria were—what the Government wanted from them. They wanted to know what the bottom line would be.

This is the first time that the private sector has been asked to invest big time in waste disposal; we are talking about serious money. The Government have to take seriously the fact that businesses want to have every last t crossed and i dotted before they will invest. It should come as no surprise that there was, and still is, a problem over the disposal of hazardous waste, because there is not enough private sector investment—the Government are not doing enough to attract it. The lack of detail is critical.

I said in opening that the Government are on the right track, but are not implementing the policy in the right way. This illustrates my point. Something can be done. It is well within our ability to deal with hazardous waste in a way that is acceptable to everybody, but the Government have not grasped the nettle, and they are not giving us enough detail. That is my central point to the Minister, and I hope that he will deal with it when he responds.

2.20 pm

**Dr. Andrew Murrison** (Westbury) (Con): I congratulate my hon. Friend the Member for Mid-Bedfordshire (Mr. Sayeed) on introducing this important debate. Indeed, it is unique, because all of us on the Conservative Back Benches are ex-Navy men, although that has absolutely nothing to do with the subject.

**Miss Anne McIntosh** (Vale of York) (Con): I am grateful to my hon. Friend for giving me the opportunity to add that I am a graduate of the armed forces parliamentary scheme. I am currently undertaking my second programme, so I, too, am connected with the Royal Navy.

**Dr. Murrison:** I am grateful for that intervention, which makes it clear that this occasion is, indeed, unique. I am afraid, however, that that has nothing to do with the subject in hand, to which I shall now turn.

*[Dr. Murrison]*

I want exclusively to discuss the disposal of hazardous waste, because I have a constituency interest in the issue. As the Minister for the Environment and Agri-environment knows, I have a cement works in my constituency; it is operated by Lafarge and its operation has caused a lot of difficulty locally. That bears directly on the subject of hazardous waste.

To a large extent, what we are really talking about today is the EU landfill directive, although it has not been mentioned as such. None the less, much of the pressure on us when it comes to the disposal of hazardous waste stems from the Government's need to be extremely careful—and rightfully so—about what we tip into holes in the ground. We would all agree that it is right for them to be careful about that, but my concern, which relates directly to what is happening at the Westbury cement works, is about the alternative. The worry in my constituency is that, instead of stuff being put into a hole in the ground, it is being put up a chimney without proper environmental controls.

**Mark Tami** (Alyn and Deeside) (Lab): Does the hon. Gentleman agree that some people see incineration as a panacea or a magic cure for the problem of waste, and particularly hazardous waste? They think that if we somehow keep burning this stuff, there will not be a problem any more. What we should be asking ourselves is why we produce so much of this stuff in the first place.

**Dr. Murrison:** The hon. Gentleman is absolutely right. Of course, it is tempting to tip things into a hole in the ground or to put them up a chimney without thinking how best to deal with them. The best approach would be not to create them in the first place, or to recycle them in a way that did not have an environmental impact. Tyres, for example, can be recycled in a very environmentally friendly way because they can be turned into road surfaces. That happens extensively in America, but very little in this country. It does not happen here, I believe, because we are under an imperative to meet the targets generated by the EU landfill directive, and one of the only ways to do that in a reasonable time is to dispose of them in cement kilns, rather than develop the technology necessary to turn them into road surfaces, as happens in the States.

The cement industry is all too willing to oblige the Government by helping to dispose of hazardous waste; it has certainly been disposing of tyres for some time, and it is now trying to do the same with recycled liquid fuel, which is an unholy concoction of all manner of poisonous substances that can be used as an alternative to fossil fuels in firing cement kilns. Of course, the cement industry is not necessarily altruistic, and it seeks, quite legitimately, to obtain a financial gain from its operations. My concern is that at least part of that gain should be used to ensure that the best available techniques are employed to dispose of hazardous substances, and I am not entirely clear that the industry has hoisted that on board sufficiently. Of course, we can ultimately filter just about anything out of the stack at a cement works, but there is a marginal utility in so doing, and it becomes increasingly expensive as fewer contaminants are released.

Nobody will insist that every last particulate is removed from the material coming out of the top of a cement kiln. Nevertheless, we must ensure that at least some of the profits that I am convinced the cement industry is making from the disposal of hazardous waste are channelled back into best-available technique so that we at least reduce the amount of pollutants leaving cement works such as the one in Westbury. I am not sure that that is happening.

The cement industry put pressure on the Environment Agency to reduce the standard for emissions from cement works and that has happened. The standards for dedicated incinerators are much more rigid than those for cement works. That is extremely worrying. The Minister for the Environment and Agri-environment has given all sorts of sophisticated reasons as to why there should be a difference—for example, the temperature at which cement kilns operate—but few of them are convincing. I know from my chemistry days that halogens cling quite nicely to particulates. Both are produced in ample quantity if recycled liquid fuel is burnt. The worry is that the temperature will not affect them and that many particles full of halogens, which are potentially hazardous to human health, will exit the stack at Westbury. The case has not been made by the Environment Agency or the cement industry that what they propose is entirely safe. We should operate under the precautionary principle in this matter, but I do not believe that we are being precautionary enough.

**Norman Baker** (Lewes) (LD): Does the hon. Gentleman agree that what matters to his constituents and anyone else is the quality of the emissions and the air that they breathe. It is of little consequence to people who suffer—if that is the right word—the emissions whether they come from a cement kiln or an incinerator. Therefore, should not the Environment Agency's concern be the standardisation of emissions rather than determining what process generates them?

**Dr. Murrison:** I entirely agree with the hon. Gentleman. He is absolutely right. We need standardisation of emissions from incinerators, cement works and so on. The risk is that cement works will become quick and dirty incinerators. The Government are very reluctant—understandably so—to propose purpose-built incinerators with clearly understood standards. I fear that they consider cement works an easy, back-door way of incinerating material that offers the best prospect for rapidly satisfying their targets. The Government have leapt at this option. They have grabbed at it as an opportunity to achieve their targets in a way that is not too painful and that minimises the number of local inquiries that would undoubtedly be needed if they were to propose purpose-built incinerators.

My constituents and those who live downwind of the cement works at Westbury are not at all happy with that, as it is all being done on the back of their health. I am keen to impress upon people who ask me that, in my view, the health effects of what goes on at Westbury are likely to be very small indeed, if they exist at all. It is important to say that and to put the matter into context. Nobody should be shroud waving.

If we believe in the precautionary principle, however, we must do much more to monitor what is happening at sites such as the Westbury cement works and not be put off with blandishments from organisations such as the Environment Agency, which has not exactly covered itself with glory in this matter. That is why my district council is absolutely right to set up an independent committee to review the matter on behalf of the local people, who have lost all confidence in the agency. Expert advice is needed to reassure them that what is happening at Westbury is reasonable and will not damage their health.

The issue is even more serious because of the amendment to the substitute fuels protocol, which I believe is a sleight of hand. It will re-badge waste as fuel. It will allow material to be classified as a fuel provided that more energy is generated by its burning than is needed for its burning. In other words, if we generate one calorie more by burning a substance, we can reclassify it as a fuel. That has a particularly insidious significance, because it would then allow material that is not allowed to be imported to the UK to be imported as a potential fuel. It opens up the door to the possible transportation of hazardous waste from the continent of Europe into this country for disposal.

It is important that the Minister says quite categorically that that will not happen. Otherwise, we have the grisly prospect of tank-loads of such stuff trundling up from the south coast to works such as Westbury for disposal, with all the potential environmental consequences that that will bring, not least the cost in carbon of the transportation of a high-volume, low-value material such as recycled liquid fuel. My constituents and others would be up in arms if that were to happen. If it were to happen, and it is difficult to see how it might not, given the amendment to the substitute fuel protocol, it will be pinned firmly at the door of the Minister and his colleagues.

I am doubly concerned because the Lafarge cement works recently had an admission to make. It told the public that what it describes as "rogue employees" had, over the course of two years up to December last year, falsified the content of batches of its cement. That was an extraordinary revelation, and to date the company has been opaque when asked for details about that episode. It has done a great deal to dent the company's already sketchy reputation in my constituency. I have written to the Health and Safety Executive to ask what investigation it has carried out into the implications of that revelation, to the Environment Agency to ask if it will review the data that it has from Lafarge and its consultants, and to the Minister for the Environment and Agri-environment. To date, I have had no meaningful response.

I would have thought that such an episode should set the alarm bells ringing. So far, there has been a deafening silence. It is relevant to hazardous waste, because if Lafarge is trying to tell us, as the Environment Agency is saying, that the disposal of recycled liquid fuel in a cement kiln is safe, the company will use its own data to prove its case. Given that data relating to the content of its product have been shown to be false, what confidence can we have in its assertion that the disposal of hazardous waste at the Westbury cement works is safe? We would have to treat that assertion with a great deal of caution, and I hope that the Environment Agency will mount an investigation on the back of that company's revelation. I look forward to the written reply from the Minister for the Environment and Agri-environment to the letter that I have sent him on the subject.

I hope that given the doubt that has been cast upon the veracity of data coming from that company, West Wiltshire district council will redouble its efforts to ensure that there is some form of independent scrutiny of what is going on at that plant, and an assessment of the implications for the local population of the disposal of hazardous waste. Even at this late stage, I strongly urge the Minister to revise his thoughts on how we should deal differentially between the cement industry and dedicated incinerators. We must apply universal standards to both to dispel the notion that has arisen understandably and correctly that there is no even playing field and that the Government are using cement kilns as a back-door way of quickly disposing of hazardous waste.

**Mr. Deputy Speaker (Mr. Frank Cook):** Before I call the first of the three Front-Bench spokesmen, may I point out that we have 55 minutes left? The convention is to divide the remaining time equally into three parts, although no one is necessarily required to fill their time. However, bearing in mind that the purpose of these debates is to give the Minister an opportunity to give the Government's views and answer questions, the Chair would frown on anyone who exceeded a third of the time available.

2.35 pm

**Norman Baker** (Lewes) (LD): Thank you, Mr. Deputy Speaker, for that indirect warning. I assure you that I have no intention of exceeding a third of the time that is left. Indeed, it would be an interesting experience for one of these debates to finish early. We always miraculously seem to find just enough to say to occupy the hour and a half available on these occasions.

I congratulate the hon. Member for Mid-Bedfordshire (Mr. Sayeed) on securing this debate. He has a long interest in waste matters, as has already been said. He was, as he says, a shadow Environment Minister, and I remember serving with him on the Committee considering the Waste Emissions Trading Bill. We have had a bewildering succession of shadow Environment Ministers on the Conservative side—I am losing track of them all—but his knowledge of the subject made him one of the better ones. He is, therefore, well qualified to raise the matter this afternoon.

Before I approach the issues that the hon. Gentleman raised, I want to follow up directly the matters raised by the hon. Member for Westbury (Dr. Murrison). He makes some powerful points, and I want the Minister to be in no doubt that those concerns are shared beyond the Westbury constituency, and indeed beyond the Conservative party. I assume that the hon. Gentleman is speaking for his colleagues on that matter as well.

The basic principle of using cement kilns for incineration is one with which I am instinctively unhappy, because such kilns are designed to make cement, while incinerators are designed to incinerate waste. Mixing the two up in a cavalier manner is not satisfactory when we are considering public health, regulation of emissions and matters of that nature.

*[Norman Baker]*

Incinerators are largely unpopular up and down the country. In the view of local authorities, however, they are required: since the Government have been so late in transposing the EU landfill directive, the local authorities have no time to do anything other than build incinerators to meet their landfill reduction targets. As the hon. Gentleman says, there is considerable evidence that the Government, who do not want to get the blame for a chain of incinerators, are looking to do two things: shift the blame on to local authorities, and find a back-door way of dealing with waste. I fear that cement kilns are just such a back-door method.

Like the hon. Member for Westbury, I do not wish to overstate the case, but I believe that emission levels and, potentially, public health are being brought into the equation unnecessarily because of that strategy. Again, I urge the Government to look at what that means in terms of emissions from cement kilns and, indeed, the use of cement kilns for hazardous waste. The substitute fuels protocol was published yesterday, as I am sure the Minister is aware.

The hon. Member for Westbury also raised the question of transportation of waste from outside this country. I have looked into that in some detail.

**Mr. Sayeed:** I admit that the hon. Gentleman has alluded to this, but should not the real question be the quality of emissions? There are brick-making kilns in Stewartby in my constituency. The only thing that matters to anyone is the quality of the emission howsoever it occurs, no matter if it is from brick-making, cement-making or a designated facility.

**Norman Baker:** I absolutely agree. Indeed, that was the content of my intervention on the hon. Member for Westbury a few moments ago.

We were faced with an incinerator in Newhaven in my constituency, and I looked into the matter. As incinerators are now classed as producing energy from waste, there is no ban on the importation of material from elsewhere in the European Union for disposal of material—I call it disposal, they call it something else—in incinerators. Of course, one cannot import material for landfill, but it can be imported for incineration. There is the prospect, particularly for those of us who have constituencies close to mainland Europe, that such material will be imported, in the same way that the Government are increasing and encouraging the importation of nuclear waste, apparently to please the Treasury. Who is to say that waste will not be imported for disposal in incinerators?

**Dr. Murrison:** Does the hon. Gentleman agree that another damaging aspect of the substitute fuels protocol is the lack of public consultation that it ushers in? At the moment, there is a facility for public consultation that the substitute fuels protocol will degrade.

**Norman Baker:** I agree with that very good point, and I hope that the Minister will pick up on it when he responds.

At the beginning of his contribution, the hon. Member for Mid-Bedfordshire talked about the lack of forward planning by DEFRA. I do not wish to be too down on the Government but it is a fact that, over the years, we have had a number of opportunities to make that particular point and nothing seems to get much better. We have had to deal with fridges, abandoned cars and next it will be batteries. There is to be a requirement to recycle 40 per cent. of batteries and there are no battery facilities, apart from the one that will be opened shortly. Yet again, we face mountains of waste, for which the Government are ill-prepared.

The same argument applies to hazardous waste; the Government were clearly unprepared for the co-disposal rules on 16 July, despite warnings made at great length by my hon. Friend the Member for Guildford (Sue Doughty) and others.

**Richard Ottaway:** If the hon. Gentleman does not mind, I would like to return to the subject of incineration for a moment. His opposition to incineration is well known, but how does he feel about combined heat and power? Is it all right to incinerate if something productive results from it, such as heat and power?

**Norman Baker:** I must not be tempted to go down the route of the entire waste strategy. The Government have a waste strategy, and my party adheres to it. My only complaint is that it is not implemented. In fact, it is implemented upside down in a sense, with landfill being encouraged most of all. Combined heat and power has a role, but we are not in favour of incineration, except for certain small quantities of hazardous waste—if that process can be properly controlled. Combined heat and power is clearly a better end result than letting heat drift out, but incineration is not necessarily implied in that process.

**Richard Ottaway:** Is that a yes?

**Norman Baker:** That is the answer I have given. We are in favour of combined heat and power; we are not in favour of incineration, except for the small, purposeful use that I mentioned for hazardous waste.

**Richard Ottaway:** I want to press the hon. Gentleman on this because it is an important point. One cannot have combined heat and power without incineration. If the hon. Gentleman is in favour of combined heat and power, logically he is in favour of incineration.

**Norman Baker:** I will try again. I am not in favour of facilities being created for the purpose of incineration from which combined heat and power is a by-product. I hope that is more helpful in clarifying my position.

**Richard Ottaway:** Will the hon. Gentleman give way?

**Norman Baker:** I am conscious, Mr. Deputy Speaker, that we have had a warning not to overrun, and I have allowed about five interventions. I shall move on.

One of the other matters raised by the hon. Member for Mid-Bedfordshire was the lack of sites for disposal of hazardous waste to landfill, irrespective of the landfill directive and its requirements. That is a serious issue for my constituency where there is now a proposal that has suddenly emerged to fill that void. There are no sites for

the disposal of hazardous waste anywhere remotely near to my constituency. No such site to deal with hazardous waste has been identified in the East Sussex, Brighton and Hove waste plan, but a speculative application has arrived for a site in Chailey in my constituency, which is wholly unsuitable. The proposed site is the old Hamsey brickworks, and it is unsuitable because it will lead to the generation of a huge number of lorry movements. Because there are so few sites, and there are none for miles around, a large number of lorry movements from Kent, Surrey and West and East Sussex will all bear down on that site.

It is interesting to note that when health authorities and primary care trusts are asked to comment on incineration facilities, the health issue they comment on most is the movement of lorries and the pollution that they generate, which is significant. There will be a massive increase in lorry movement if that proposal is accepted.

The proposal would also place the site on top of a geological fault, of all things. It is close to a stream and it is very close to a residential area, and it would be a nightmare if that were allowed to proceed. However, I am afraid to say that the Conservative county council, which is in charge in my area, has seen fit to ask the applicant, Lloyds Environmental, to combine the application for a landfill site for hazardous waste with a materials recycling facility. They are quite clearly different decisions, but it is being asked that they be considered together. On behalf of my constituents, who have written to me in large numbers, I call on the county council to reject that application. I hope that those comments will be picked up and relayed to the county council.

I also want to confirm my agreement with the hon. Member for Mid-Bedfordshire on the issue of what is happening to the waste. We were warned before the ban on co-disposal of hazardous waste came into force that there were no sites. The Government were ill prepared for that. The question that has not been properly answered by anybody is: what has happened to the waste that has not been disposed of properly? There may have been a rush to deal with some of it before the ban came in. We may be having a quiet winter and that may have helped people to stockpile waste. Some waste may have been disposed of improperly through non-hazardous-waste channels and some may have been fly-tipped—there is a real issue there.

I have not had a decent answer to this question from the Minister when I have raised it before: what happens to a farmer who suddenly wakes up one morning and finds that he has got a field full of asbestos because someone else has tipped it there? He is faced with a choice. He can ring up the Environment Agency and say, "I've got a field full of asbestos," to which it will say, "Thanks very much. Here is the bill. We'll take it away." Alternatively, he is forced to pretend that the asbestos is not there in order not to incur a penalty for something that is not of his making. That is a difficult situation. I am afraid that it is quite possible that private landowners find material tipped on their land that they do not report because they will incur a financial penalty. What is the Minister's answer to that point and how will he deal with the issue? What reporting mechanism is in place to identify what hazardous waste is being fly-tipped on private land? The Minister seems rather occupied with his correspondence. Perhaps one of his officials will record my point and send him a note when he comes to reply.

I am sorry to bring in a party note, but it is important if we are going to talk about the issue seriously. As I said, I have respect for the knowledge of the hon. Member for Mid-Bedfordshire on this issue. I would go so far as to say that I do not doubt the integrity and commitment of those who speak on the environment for the Conservative party. However, I am bound to say that their credibility has not been helped by the recent James report—the exercise carried out at the behest of the shadow Chancellor—which proposed swingeing cuts to the Environment Agency, which is the very body that we rely on to deal with the dumping of hazardous waste up and down the country.

In a letter that was published in *The Times* yesterday, John Harman, the chairman of the Environment Agency, wrote:

"The James report for the Conservative Party on the savings to be made from bureaucracy proposes cutting government grants to the Environment Agency by £47 million, which it describes as cuts in 'intrusive enforcement by the Environment Agency'.

"As the Environment Agency actually spends £19 million on enforcement—acting on breaches of the law . . .—my board would dearly like to understand what else is for the chop . . .

My board takes the views and objectives of the major political parties extremely seriously, and it is part of our duty to the public that we understand them properly. In the circumstances we can hardly fail to conclude that Mr. James's recommendations have no basis in even the most rudimentary understanding of our business."

The hon. Member for Vale of York (Miss McIntosh) is not responsible for the proposals in the James report, or for the shadow Chancellor, but if she and her colleagues want credibility on the environment, they had better undo that particular cut pretty damn quickly.

**Dr. Murrison:** On the subject of credibility and the Environment Agency, I hope that the hon. Gentleman will pay a visit to my constituency and speak to the The Air That We Breathe Group, which is a champion of the concerns of local people in respect of the Westbury cement works. He should ask that group what credibility the Environment Agency has. He would find that it is much dented. We should not for one moment suppose that it is a faultless champion of the environment. I fear that it is full of faults.

**Norman Baker:** The Environment Agency is not without fault, although I noticed that in the debate on the Clean Neighbourhoods and Environment Bill—yesterday, I think—the Conservatives proposed an amendment to give the Environment Agency more power to tackle fly-tippers. There seems to be some contradiction between cutting the powers of the Environment Agency and giving it more powers. The Environment Agency is not always as effective as it might be because it is under-funded. It cannot carry out the necessary inspections and the Conservative proposals would make that much worse. Tony Juniper, who has a key position as executive director of Friends of the Earth, said:

"The Conservatives' plan to slash and burn spending at DEFRA is a dangerous attack on Britain's environment and countryside. Cutting Environment Agency staffing risks undoing some of the excellent achievements made over recent years . . . Oliver Letwin's plans are nothing short of madness."

*[Norman Baker]*

I want the Conservatives to be credible on the environment; I want people in all parties to argue for better environment protection, because that is how we will get it. I want serious action on global warming, for example, but we ain't going to get it with the recent half-baked proposals to cut budgets.

**Richard Ottaway:** I am sure that the hon. Gentleman wants to be even-handed, and that he is aware that the chairman of the Environment Agency is a member of the Labour party, and not a completely neutral voice. Would he like to explore the Gershon report, which calls for substantial cuts in the recycling budgets? The Minister has been totally unable to explain how they will be achieved.

**Norman Baker:** I am happy to be even-handed. I spend most of my time criticising the Government in my contributions in the House, even if I have not done so today. We do not agree with the proposals to which the hon. Gentleman referred and they will not feature in our manifesto, which will be committed to properly funding local authorities and recycling projects.

Hazardous waste raises serious issues. The Minister cannot pretend that everything is hunky-dory and has gone swimmingly since 16 July. He must deal with the points made about the lack of facilities, the huge imposition on local communities where facilities are provided, and about the cement kilns and transport movements, to which I referred. I hope that he will address those matters when he replies, and if he cannot do so that, he will write to the hon. Members present and give them his full and considered views on the points that have been raised in the debate.

2.52 pm

**Miss Anne McIntosh** (Vale of York) (Con): May I join in the hearty congratulations to my hon. Friend the Member for Mid-Bedfordshire (Mr. Sayeed) on securing the debate? I also congratulate another illustrious predecessor in this excellent debate, my hon. Friend the Member for Croydon, South (Richard Ottaway).

The most staggering thing is that the credibility of the Liberal Democrats has been shot in the water. They opposed an incinerator in Guildford but built one in Sheffield, under a Liberal Democrat administration. However, I was not aware of the confusion and muddle of their policy on incineration and combined heat and power until we focused on their comments.

For the sake of clarity, I should say that we take very seriously the so-called allegations made by the two Labour stooges—the chairman and chief executive of the Environment Agency—who are both still members of the Labour party. Those allegations will be rebutted fulsomely in the same medium from which they emerged.

Locally, I enjoy an excellent relationship with the Environment Agency in the region, which had a difficult role in the scenario of the ghost ships, especially the Able plant. ENCAMS and other organisations in my local region also play an excellent role.

**Norman Baker:** Far be it from me to defend members of the Labour party, but it is unfair to call John Harman and Barbara Young stooges. I hope that the hon. Lady will withdraw that remark, because in my experience of working with them their approach has been entirely professional and independent.

**Miss McIntosh:** Had they been more even-handed in their analysis of Gershon, as well as James, Conservative Members would have taken their comments much more seriously, as would those who are deeply concerned about the environment.

My hon. Friend the Member for Mid-Bedfordshire has played a role in the Conservative party on which we continue to build. *Hansard* records that as early as May 2002 he alerted the Government to the problem of the delay and lack of preparation in signing up to the EU landfill directive. I am staggered that even now there are only 12 hazardous waste merchantable sites, which is a gross underestimate of what is required. By my hon. Friend's calculations, there are still 4 million tonnes with nowhere to go. That is very serious.

My hon. Friend raised the serious concerns that we Conservatives have about the pre-treatment required and the lack of technologies to dispose of and prepare such waste under the new criteria that will be set. We want to take this opportunity to press the Minister on the matter. I am sorry not to have the company of the Minister for the Environment and Agri-environment, who I gather was in Cumbria yesterday and is even further afield today. However, I hope that our concerns will be conveyed to him.

Of the 200 sites that were licensed before 12 July 2004, only five were licensed to continue to operate past that date. On 16 July, we had the capacity to dispose of only 1 million tonnes of hazardous waste, leaving a shortfall of 4 million tonnes. That significant amount of hazardous waste may well not be missing, but it is of great concern to us. The industry and the businesses concerned would welcome an assurance from the Minister that that shortfall is not missing and unaccounted for. Only eight sites had permission as of 12 December last year to dispose of hazardous waste. On 12 December, *The Daily Telegraph* apparently recorded that the cost of hazardous waste disposal had risen to £50 per tonne, compared with £10 per tonne for normal waste. Hazardous waste includes, among other things, computer monitors, fluorescent tubes and contaminated soil. More than 60 per cent. of hazardous waste is soil, according to the Minister for the Environment and Agri-environment.

As recently as 23 January, an article in *The Mail on Sunday* warned that mountains of TV sets could be joining that veritable electronic mountain. From August this year, they will also be considered hazardous waste. More than 2 million are disposed of each year. Industrial leaders and specialists in the field, such as the Environmental Services Association, say that no plans have yet been made to deal with the problem. Biffa says that there is no reason not to think that this will be a rerun of the fridge saga. That echoes the points made by my hon. Friend the Member for Mid-Bedfordshire: this is clearly another example of the Government's failure to plan for EU directives and of a deepening of the hazardous waste crisis.

Other newspaper stories have something like 120,000 fridges being discarded on banks in Manchester. In spite of the fact that 2.3 million fridges and freezers are discarded each year, the Government can account for only 1.3 million. Perhaps the Minister could tell us where the other million have gone.

On 12 December 2004, it was reported that the London 2012 Olympic bid will lead to a crisis in hazardous waste disposal due to the removal of contaminated soil to construct the athletes' village. The cost of that would be immense, at more than £50 per tonne. In a further alarming report on 30 January, *The Independent on Sunday* reported that nuclear waste may have been dumped near Totnes.

We have also identified the forthcoming battery mountain. We have a number of questions for the Minister and would like some clear answers and assurances. It is extremely important that the UK Government do not agree to something that we cannot implement by the due date. Our battery recycling levels are very low, so can the Government supply a route map, showing how they intend to reach the standards set, before signing up to the directive?

We need an open assessment of the UK's battery recycling capacity. I understand that Britannia recycling of Bristol went into receivership in November 2003 and closed down, leaving only one company in the west midlands, of which I do not have the name. That one company appears to be the sole recycler of household batteries in the country.

Without adequate recycling capacity, the likelihood is that we shall continue to send batteries to France and other continental countries to be recycled. That is environmentally unsustainable. Will the Government state what plans they have—presumably through the Waste and Resources Action Programme—to grow the required capability in the United Kingdom? There is much good will among the public about the need to recycle batteries. We need to facilitate that and make it as easy as possible for the public to take batteries to accessible recycling points. These may well be best placed in schools, supermarkets or other easily reached facilities. The Minister's Department has maintained—

**Mr. Sayeed:** Is my hon. Friend aware that, under the IMO carriage regulations which deal with the transport of hazardous waste by sea, it is quite likely to be impossible or prohibited to send a battery which contains acid by sea?

**Miss McIntosh:** It is just as well that we have my hon. Friend's expertise in commercial transport by sea—not least by the Royal Navy—on our side so that we can give the Minister some possible direction in that regard. That was a very helpful intervention.

The Minister's Department's stance is that such minor collection points may need a waste management licence—which would take time and money to acquire. That is not the best nor the most appropriate route. The European Commission, in correspondence with Dr. Caroline Jackson MEP, who speaks for us in the European Parliament, has maintained that the batteries directive does not require such a licence, nor does other associated legislation. That seems therefore to be an area where we need less bureaucracy and more common sense. As schools, supermarkets or other facilities may soon be wanting to put in such collection points, will the Minister state once and for all that such collection points will not require the full panoply of detail—and burdensome administrative procedures—of a waste management licence, which was surely never intended for such small sites?

I echo what my hon. Friend the Member for Mid-Bedfordshire said regarding hazardous waste, which—if it is unsorted—will have waste acceptance criteria applied to it from 16 July this year. They will require hazardous waste to be treated to a specified standard before it can be accepted into a hazardous landfill site. My understanding, however, is that the UK's hazardous waste treatment infrastructure is the least developed of any EU member state. For example, there are 16 high-temperature incinerators operating in France, compared with only two in the UK.

As for contaminated land, developers begin clearing land prior to developing in spring. Therefore, an increase in the amount of contaminated soils needing management is expected shortly. Contaminated soils account for 20 per cent. of all hazardous waste—approximately 1 million tonnes—so I wish to press the Minister on a number of points. Conservative Members want to see the licensing process speeded up, so that more merchant-dedicated hazardous waste sites are opened as soon as possible. I am grateful to the Minister for the Environment and Agri-environment who, in response to a series of parliamentary questions in August 2004, brought us up to date on the number of site applications there had been until then. In many cases, planning applications had been refused pending planning permission being granted, but a number were refused outright. Will the Minister bring us up to date again on whether the total of 12 is correct?

The official Opposition would introduce stricter penalties for the fly-tipping of hazardous waste, including making it an arrestable offence. Like the hon. Member for Lewes (Norman Baker), who also raised this issue, I am only too aware of the prospect that in a deeply rural constituency such as mine it is only too easy to dump contaminated soil, asbestos and other forms of hazardous waste, including fridge-freezers and other items, on the land without the knowledge or permission of the landowner. Increasingly, that is causing great concern. I understand from the Minister for Rural Affairs and Local Environmental Quality, speaking in Committee yesterday, that the Government are saying that that will be an arrestable offence—arrestable, that is, by a police officer. However, we all know that a police officer can never be found in rural areas at precisely the moment one is required. We therefore hope that it will be considered important to extend similar powers of arrest to the Environment Agency officers, who are the very people being asked to tackle the issue.

The Government have so far not released any recent figures showing how many hazardous waste sites are in operation. Will the Minister do so today? What effect has the 85 per cent. decrease in hazardous waste sites as of July and August last year had on the environment? Does the Department have any evidence of an increase in fly-tipping of hazardous waste to date?

The Environmental Services Association and the Environment Agency agree with the Government that there is no longer any significant amount of missing

*[Miss McIntosh]*

waste. Will the Minister confirm that that is correct and give details of what has happened to the waste produced between July last year and now? Some 4 million tonnes are produced annually, but only 1 million tonnes have been accounted for.

There is no waste strategy in place. A waste strategy and/or guidance regulations drive investment, which was the point that my hon. Friends the Members for Croydon, South and for Mid-Bedfordshire made. We increasingly rely on commercial operations, without which there would be no investment. That is particularly important for the waste acceptance criteria, which come into effect on 16 July. The criteria require treatment of contaminated waste before it is landfilled. However, as the Department has published no framework, there has been no investment to date and the treatment technologies are not available.

The Government have persistently demonstrated that they cannot be trusted to deal with hazardous waste effectively. Tens of thousands of fridges have blighted the landscape and they will soon be joined by hundreds of thousands of TVs. There are more than 2 million TVs a year to be disposed of, but no plans to recycle them. We face the increasing challenge of household batteries and no recycling point easily identified, yet the Government are poised to sign up to the new EU directive. The Government seem totally unprepared for the fact that TVs will soon become hazardous waste. What is the Minister doing to prevent a TV mountain being created before August?

We have also built up a body of evidence, not least from proceedings on the Clean Neighbourhoods and Environment Bill, to show that the Government do not consult properly, if at all, with the waste management industry. What plans does the Minister have to change that? If people can, allegedly, dump radioactive waste in Totnes, what hope do we have of the Government preventing people from dumping less dangerous but equally serious waste? Again, where are the 1 million fridges?

I welcome this opportunity to debate the issue and would like to record again my appreciation of my two illustrious predecessors, most recently my hon. Friend the Member for Croydon, South, and previously my hon. Friend the Member for Mid-Bedfordshire. I assure my hon. Friend the Member for Westbury (Dr. Murrison) that we have no immediate plans to convert cement kilns into incinerators, but we see scope, albeit limited, for combined heat and power. I do not think that we shall match the giddy heights reached in Denmark of 58 per cent. of household waste incinerated—I bow to the knowledge of Denmark that the hon. Member for Broxtowe (Dr. Palmer) has—but we would look favourably on any possibilities for micro-generation from combined heat and power.

3.9 pm

**The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Mr. Ben Bradshaw):** I congratulate the hon. Member for Mid-Bedfordshire (Mr. Sayeed) on securing this debate and apologise for the absence of my hon. Friend the Minister for the Environment and Agri-environment, who, as many hon. Members know, is one of the world's leading experts on the subject. He is unavoidably abroad on ministerial business.

I apologise also to hon. Members who have participated in the debate and to those following our proceedings that, as a consequence of my hon. Friend's absence, some of the answers to the questions asked, particularly those asked by the hon. Member for Vale of York (Miss McIntosh), will not be as satisfactory as they would have been had he replied to the debate. I shall deal in writing with anything that I do not manage to cover in my short response this afternoon. I apologise in advance to my officials for the extra work involved in that.

It may help if I give some background to the current state of affairs on hazardous waste, and the way in which the Government envisage things progressing. Approximately 5 million tonnes of hazardous waste was consigned in England and Wales in 2002. Some 70 per cent. of that came from four categories: 25 per cent. was construction and demolition waste and asbestos; 20 per cent. was oil and oil and water mixes; 12 per cent. was from organic chemical processes; and 13 per cent. fell into the category of "not otherwise specified".

Approximately 39 per cent. of all that hazardous waste was disposed to landfill. In addition to consigned waste, some 4.5 million tonnes of hazardous waste was treated or disposed of at the site where it was produced. The solid element of that waste amounted to 500,000 tonnes. As we shall see, those amounts of hazardous waste are set to decline in coming years, as additional controls drive waste producers to consider waste prevention and minimisation above treatment and disposal.

Some of those significant changes to the management of hazardous waste have already taken place in the UK, and more changes are due in the coming year. The most significant, as hon. Members have already mentioned, relate to the implementation of the EU landfill directive, which was agreed in 1999. Most notable is the ban on the co-disposal of hazardous with non-hazardous waste in the same landfill cell. From 16 July 2004, hazardous waste destined for landfill has had to go to a dedicated landfill site for hazardous waste.

In addition, however, the landfill directive allows so-called stable non-reactive hazardous waste to go to a separate cell in a non-hazardous landfill. The term "stable non-reactive" denotes waste whose leaching behaviour will not change adversely in the long term under the landfill design conditions. Examples of a stable non-reactive hazardous waste would be asbestos or contaminated soil mixed with concrete. In addition to the co-disposal ban, there is a requirement from 16 July 2004 that hazardous waste be pre-treated before it is placed in landfill.

Further changes to the treatment of hazardous waste for landfill are being made this year. On 16 July 2005, the waste acceptance criteria will apply to hazardous waste going to landfill and to stable non-reactive hazardous waste going to separate cells in non-hazardous landfill. The waste acceptance criteria do not create new wastes, but set limits on the amounts of substances—mainly heavy metals—that are permitted to leach from the waste. To ensure that waste meets the criteria it must be tested, and guidance is available on those testing requirements.

The changes will improve the management of hazardous waste. They are already leading to more sensible decisions by waste producers and waste managers and are broadly welcomed by the industry. We are already seeing benefits, with early indications of a reduction in hazardous waste going to landfill since July last year. Waste producers must now consider the costs of hazardous waste management and be aware of the new controls, especially on landfill. They also have responsibilities to know what waste they are producing, its characteristics and how it might be treated.

**Dr. Murrison:** Will the Minister outline what pre-treatment of hazardous waste means?

**Mr. Bradshaw:** I am afraid that I shall have to write to the hon. Gentleman with those details. I do not have them at my fingertips.

**Dr. Murrison:** On a point of order, Mr. Deputy Speaker. Is it appropriate for a Minister of the Crown to come here and not be properly briefed?

**Mr, Deputy Speaker:** That is not a point of order for the Chair. The Minister answering the debate is a qualified Minister of the Government, and in the absence of the fully qualified specialist on the issue under debate, who is on duty elsewhere, he is the best we are going to get.

**Mr. Bradshaw:** I did preface my remarks with a reference to the absence of my hon. Friend, and perhaps I might have hoped for more graciousness from the hon. Gentleman. I shall write to him on the point that he raises. Hon. Members can interrupt as often as they like to try to trip me up, but it will not achieve much for their constituents.

As a result of the changes, no longer can the response to hazardous waste management be either "dig and dump" or "that is someone else's problem".

One issue that was raised today, not least by the hon. Member for Mid-Bedfordshire, who initiated the debate, is what will happen to waste electronic and electronic equipment—known as WEEE—once the new directive is implemented. We will see greater treatment and recycling of WEEE. New capacity is already being developed for the proper treatment of such waste; only two weeks ago, a plant opened in Wales that has the capacity to deal with 500,000 television sets a year. Once the treatment requirements of the directive are in place, and if they are communicated and enforced, industry will develop the necessary treatment. I assure the House that there is no prospect of what the hon. Member for Vale of York unhelpfully called television mountains.

Overall, the Government are committed to reducing the UK's reliance on landfill in order to reduce the environmental impact of waste and because, with landfill, we miss the opportunity to recover value from the waste.

The hon. Members for Mid-Bedfordshire and for Croydon, South (Richard Ottaway) suggested that there had not been enough consultation on some of the decisions, and that people had not been given enough time to make the necessary investment decisions—the hon. Member for Croydon, South particularly mentioned private businesses. That surprises me, because only the UK and Sweden have transposed the decision before the July 2004 deadline; all the other member states have yet to do so. We have gone through the compulsory consultation process. We have set up the hazardous waste forum. The Federation of Small Businesses, to which the hon. Member for Mid-Bedfordshire referred, apparently complained that it had not been consulted or included, but it is represented on that forum. I will certainly respond to the hon. Gentleman's criticisms, but they surprise me.

**Mr. Sayeed** *rose—*

**Miss McIntosh** *rose—*

**Mr. Bradshaw:** I will give way first to the hon. Member for Mid-Bedfordshire.

**Mr. Sayeed:** The reason for people's doubts about the Government is the way in which they have performed in the past. The fact is that there was a fridge mountain. The fact is that Ministers did not realise that the regulations stopped them sending redundant fridges to poor countries in Africa until it was pointed out to them. They have a history.

As for the WEEE directive, it was my hon. Friend the Member for Vale of York who brought up the problem. We have facilities to deal only with 1 million tonnes a year. How are we going to deal with the other 4 million tonnes?

**Mr. Bradshaw:** I now give way to the hon. Lady.

**Miss McIntosh:** I am grateful to the Minister for giving way again. Like my hon. Friend, I do not wish to trip him up.

The Minister will appreciate that I spent 10 years trying to negotiate and sign up to some of those EU directives—all in Britain's best interests. The criticism is not personal to the Minister or his officials. However, the global impression that we get from his Department is that we are signing up to EU directives without having the necessary infrastructure in place and without giving business the lead time to prepare for them. It would help the Minister if we did not sign up to any more until we have the facilities in place. Further to that, Denmark and Sweden are incinerating and have stopped recycling because of the transport problems mentioned earlier by a number of hon. Members.

**Mr. Bradshaw:** I shall come to the transport problems if I have time. I take the hon. Lady's point that it is important not to sign up to EU directives; indeed, I am always extremely careful about what I sign up to, especially if I feel that we have not had enough consultation or that we have not considered the potential impact of what is proposed.

The hon. Member for Mid-Bedfordshire asked whether we approved of increased penalties for fly-tipping, as recommended by the Environmental Audit Committee. Yes, we do. I am not going to join the party political mudslinging that we heard earlier, but I am somewhat surprised at that comment given the official Opposition's opposition to the Clean

*[Mr. Bradshaw]*

Neighbourhoods and Environment Bill. That Bill will do exactly that; it will raise the maximum fine for fly-tipping from £20,000 to £50,000. I am sure that the hon. Gentleman is aware of that, and I hope that he will try to persuade his Front-Bench colleagues to change their stance on the Bill.

The changes are beginning to have a positive impact, but we cannot achieve our waste strategy goals alone. We need the active involvement of waste producers, the waste industry and the regulators if the very real benefits are to be realised.

As for the regulators, I decry the sort of language that was used by the hon. Member for Vale of York, when she described the chairman and chief executive of the Environment Agency as stooges. I do not always agree with the hon. Member for Lewes (Norman Baker), but he was right to criticise the hon. Lady for saying that, and I look forward to her promised rebuttal of the Environment Agency's criticisms of the official Opposition's spending proposals.

The Environment Agency has been working hard; its work in this area is vital if we are to address the problems that were raised today by official Opposition Back Benchers. In addition to landfill and treatment site inspections and audits, the agency has undertaken more than 1,800 targeted producer inspections, numerous cradle-to-grave audits, more than 2,200 stop-and-search vehicle checks and audits of port facilities, and reports that there is no evidence from those checks that waste is deliberately being stockpiled or misdescribed in large volumes. The hon. Lady sought assurance on that. The agency will continue to monitor the situation and take enforcement action where necessary, but it needs the funds to do so. It is clear that the regulator is taking the issue of compliance seriously.

The issue of capacity has been raised. There were concerns, last year, that we would not have enough hazardous waste landfill capacity, but, as the Government predicted, that is not the case. Industry responded to the need for capacity by minimising hazardous waste, and there is now sufficient hazardous waste landfill capacity to meet current needs. Concerns were expressed that not all regions have a dedicated merchant hazardous waste landfill—Wales and south-east England have been given as examples—but each of those regions has separate cells in non-hazardous landfill for stable non-reactive hazardous waste.

We must not exaggerate the problem of transport. In response to the question raised by the hon. Member for Lewes, the proximity principle, whereby waste is dealt with as close as possible to where it arises, is clearly important, but hazardous waste has always been transported to the most suitable or best-value sites for treatment and disposal, regardless of distance. There are only two merchant high-temperature incinerators in the UK—at Fawley and Ellesmere Port. They are able to deal with our most intractable hazardous waste, which often has to travel some distance to those facilities.

We should not forget that our overall aim must be to reduce our reliance on landfill, which is at the bottom of the waste hierarchy, and simply leaves the problems of contamination and hazard for future generations.

Another plank of our controls on hazardous waste relates to its tracking and movement. That issue that was also raised by the hon. Member for Lewes. The hazardous waste directive provides controls in that area, and the Government have embarked on a review of the main controls implementing the directive—the special waste regulations. The Government had a consultation on revised hazardous waste regulations last year, which closed on 29 October. They will introduce the final regulations in the spring, with the intention that they should come into force on 16 July, to coincide with the application of the landfill directive waste acceptance criteria.

The new controls will provide a streamlined system. That is important, given that the amount and types of hazardous waste were increased in the EU in 2002. The new controls provide for a system of notification to the Environment Agency for sites producing hazardous waste, with exclusions for low-risk producers such as shops, offices, farms and charities. Companies that move hazardous waste off site will, as now, have to ensure that a consignment note describing the nature of the waste travels with it. However, the current requirement that companies obtain permission from the Environment Agency before moving hazardous waste will be dropped, as it adds little to the controls.

Overall, the focus of the controls is to move from the waste manager, who is already subject to regulation and permitting, to the hazardous waste producer. Thus, the regulatory effort can be directed at the beginning of the chain of hazardous waste management. The agency will be able to offer advice to waste producers on techniques to minimise their waste and on methods of treatment, and will be able to better target its enforcement on those that do not comply, which is in the interests of better regulation.

An important part of the controls in the hazardous waste directive is the ban on mixing different categories of hazardous waste, or mixing hazardous waste with non-hazardous waste. That is sensible, because mixing can make it more difficult for waste to be recycled or recovered, and can lead to higher costs if more hazardous waste results. The new regulations will apply the mixing ban, which we propose to apply to producers of hazardous waste.

**Mr. Sayeed:** The Minister may not be able to deal with my question—in which case, I hope that he will make sure that the Minister for the Environment and Agri-environment does—which is about having incremental charges, particularly on small and medium-sized producers.

**Mr. Bradshaw:** I will certainly ensure that my hon. Friend the Minister for the Environment and Agri-environment writes to the hon. Gentleman on that issue.

Let me deal briefly with the constituency issue about the cement works raised by the hon. Member for Westbury, on which he indicated that he had had a long-standing correspondence with my hon. Friend the Minister for the Environment and Agri-environment. I am unable to comment on the specific case, but I will ask my hon. Friend to respond to the points the hon. Gentleman raised.

In general—also dealing with the concern of the hon. Member for Lewes—cement kilns are and will be subject to the strict emission controls in the waste incineration

directive. There is no prospect of lowering those standards. Cement kilns provide a useful outlet for some wastes. The recovery of energy from waste, to reduce the burning of fossil fuels, is good for the environment—something that I hope all hon. Members would welcome.

I should say a little about the hazardous waste forum. The Government set up the forum in 2002, in response to concerns about the impending changes to hazardous waste management. That forum has been an important body, offering advice to Government and the Environment Agency on the direction of policy, and giving us the mechanism better to communicate changes to businesses, including the interests of the Federation of Small Businesses, which is represented on the forum.

A survey of the forum's members has confirmed that its work is welcomed by both industry and business. We will maintain the forum in its current form, although we are always open to suggestions—from both sides of the House—as to how we can improve its work and outlook.

We have had a worthwhile and interesting debate.

**Norman Baker:** In the time available, will the Minister deal with a point that I raised, as did the hon. Member for Vale of York? One of the reasons hazardous wastes may not appear to be a problem in some quarters is because it is illegally dumped on private land. There is then no incentive for the landowner to report that—in fact, there is a disincentive, because he faces a penalty. Could the Minister—or his colleague, in writing—clarify the Government strategy for identifying how much hazardous waste has been put on private land? Is it their intention that the private landowner who is innocent in this equation bears the bill? Would that appear to be the position at present?

**Mr. Bradshaw:** Further to the Environment Agency's assessment that the problem had not increased, there are extra measures which the hon. Gentleman knows are included in the Clean Neighbourhoods and Environment Bill. I am afraid that I will have to write to him on the other points on which he requested clarification.

We have had a worthwhile and interesting debate. We have heard a number of concerns about the future management of hazardous waste. Overall, the combination of the landfill and hazardous waste directives controls will improve the management of hazardous waste in this country. That will benefit the environment now and for generations to come.

## Premium Rate Services (Ofcom Review)

3.28 pm

**Sir George Young** (North-West Hampshire) (Con): I make no apologies for again raising the abuse of premium rate services by unscrupulous operators who are fleecing our constituents. There cannot be a Member in the House who has not had constituents with unexplained telephone bills because of scams operated through computers, or through text messages on mobile phones about wholly fictitious prizes, or people ringing them at home asserting that they have won £5,000. Such scams require calls to be made to an expensive 090 number, which enrich the fraudster and impoverish our constituents. The related ring tone scam is particularly obnoxious because it is focused on children.

First, let me set the scene. What has happened—almost by default—is that a new currency has been invented. Traditionally, our telephone bill simply paid for telephone calls; now, it can pay for information and services. The revenue is shared between BT, NTL or Telewest on the one hand and the service provider on the other. Most of the services are entirely harmless—the weather, the traffic, news from "Big Brother" or "Who Wants to be a Millionaire?". Others—the so-called adult services—are slightly less so. A few, of which more in a moment, are simply frauds. The account for one's telephone, whether fixed line or mobile, has become a new form of cash, like a credit card, paying for services or content, but, crucially, without the associated safeguards.

Secondly, with technological advance and the breaking down of geographical barriers, more people outside the direct regulatory control of the UK can access our telephones and computers and use the new currency to siphon money out of our accounts. The rate of technological development and the ingenuity of the fraudsters mean that the target is always changing: they are now moving on from 090 numbers to international numbers and 0871 numbers, to which I shall come in a moment.

Thirdly, the complex structure of the industry—what it is pleased to call the value chain—means that the fraudsters get their revenue up front from the telephone companies. In some cases, that happens long before we know that a huge debit has been placed on our bill and even longer before the bill is to be paid, which makes enforcement difficult and compensation impossible.

Fourthly, the regulatory regime has lagged behind all those developments. ICSTIS—the Independent Committee for the Supervision of Standards of Telephone Information Services—was in meltdown last year. Although it is now on the path to recovery, complainants are told that they will not get a personal response to their complaint, but that they should look at the website adjudications for an outcome, which might come 12 months after the original complaint. There has been, and there remains, regulatory failure on a massive scale.

Finally, every number that is allocated to the fraudsters has been allocated by a public body and the money is collected for them principally by our reputable national telephone suppliers. Ofcom gives them the licence to print the money and BT collects it for them. One would have thought that with those two

*[Sir George Young]*

gatekeepers at each end of the operation—Ofcom on the one hand, and BT and the telecom companies on the other—we might have closed the scam down, but we have not.

Let me give specific examples of what is happening as we speak. A constituent writes:

"I am a constituent at Redenham Park. I receive on average six nuisance telephone calls per day informing me that I have won a fantastic prize and to claim that prize to call back on a phone number that begins with 090".

I had one such message on my constituency office voice mail on Friday, telling me that I had won a cruise or £5,000. I, too, was invited to ring an 090 number, with no mention that it was a premium rate number. The use of automated dialling equipment to call home numbers is illegal, but that has not deterred the fraudsters. The Information Commissioner is meant to be dealing with the issue. No service provider has approval for such service, but it is happening.

There is also fraud based on mobiles. At the end of November, I got the following text message on my mobile:

"Private! Your 2003 Account Statement for"—

it then gave my number, which I do not propose, for understandable reasons, to read into the record—

"shows 800 un-redeemed S.I.M points. Call 0871 8738005 Identifier Code 46892 Expires 22/11/04",

which was the day after I got the message. That was another scam. I did not call the number, but I did call ICSTIS, which was helpful. It said that this seemed to be

"an operation designed to run up relatively small revenue through pre-recorded waffle."

I then wrote to Ofcom to find out to whom it had given the number and what it proposed to do. Its letter, which is dated 22 December, started by saying:

"Your experience is far from uncommon and it would appear that this 0871 number is beginning to be used in a way that is similar to matters that ICSTIS has been investigating in relation to Premium Rate Numbers".

There then followed a rather laid-back sentence:

"Ofcom will look further into whether there is any consumer detriment taking place in this instance."

That, of course, was after I had told it of specific consumer detriment, but perhaps MPs do not count as consumers.

The really depressing part of Ofcom's reply was its response to my question about to whom the number had been given. Ofcom wrote:

"Turning to specifics, it transpires that"—

it then gave the number—

"is part of a block of 10,000 telephone numbers allocated by Ofcom to a company called Band-X Limited in December 2003.

Band-X subsequently allocated much of that block, including this number to another provider called Allied Telecommunications Ltd, who has in turn supplied this number to a service provider Iberian Holdings Ltd."

I was told that I could contact that company in New York on a US number, or in the UK—this was the final insult—on an 0871 number. So, if I wanted to ring the service provider to complain that he had ripped me off, I got ripped off again. There was, however, a morsel of good news. I was told that

"the company that sent you the initial text message may be in breach of the Privacy and Electronic Communications (EC Directive) Regulations 2003."

I am told that the Commissioner for Information Society and Media is on the case.

Iberian Holdings Ltd probably paid nothing for that number because it offered to share the revenue with the next company up the chain. If someone is deceived into calling the number, Iberian Holdings Ltd might be paid within seven days; in due course, BT will collect the money from the customer, who might not have realised that he was making a very expensive call.

Given the changing nature of telecommunications, to which I referred, and the abuse, it is entirely inappropriate to issue 0871 numbers as though they were raffle tickets. The letter says that there is no requirement for any member of the chain to be a resident of, or be a company registered in, the United Kingdom.

There is also the ringtone scam. Two constituents e-mailed me to say:

"Recently our nine year old daughter had the misfortune to watch a TV programme during which adverts were shown offering cheap downloads for mobile telephone ringtones. Our daughter thought she had bought and downloaded a 50p musical ringtone. The scam was that after the initial 50p downloads she then kept receiving unsolicited offers by text on her mobile which cost her £1.50 a time (her mobile is a pay as you go). As well as highly distressing for her it soon proved very expensive and annoying for us as we had bought the telephone as a way for her to keep in touch with us when she was out playing with her friends (a necessity in today's world)."

They went on to say:

"The adverts did show legal messages . . . but on a rapidly scrolling bar that an adult would have difficulty followirg never mind a child! Basically our nine year old daughter managed to enter into a contract that should not have been binding. On finding a website for the company it was found that the contract could only be cancelled in writing and the termination would take effect at the end of the month following the month of notice . . . in this case the end of October. In the meantime the company would continue sending the text messages and would be scamming about £20 a week on texting our daughter! Of course the company had no telephone or email address that we could contact directly, only a postal address.

In the end we had to purchase a new SIM card for the mobile. Our telephone shop said they had numerous instances of this where children had been misled by these adverts . . . We would like to know if there are any measures in place or planned that are going to curb these telephone bandits. There seems to be no regulating authorities to prevent these scams from happening. I could provide details of the company".

They provided details of the company, and concluded:

"British Industry whinges about too much regulation but when you rely on them to self regulate and provide an honest decent service to consumers you get sharks like these ripping off children."

Another constituent with the same problem wrote:

"My son has recently fallen foul of the mobile phone ringtone scam. He downloaded a single pop ringtone for 35p without realising that he was entering into a contract to receive monthly downloads of further ringtones until he actively un-subscribed to the service. These additional downloads were costing him £4.50 per month. This facility is cleared aimed at children, as they want their phone to have the latest trendy ringtone. However as children they are likely not to be aware of the on-costs relating to these services. These on-costs are not made clear in the marketing adverts, and the process to cancel a subscription is alsonot made

obvious. Given that these services are advertised on television and in the national press, I am surprised that they are actually legal. It appears to me as a means of obtaining money by subterfuge. Please could you let me know if there is anything being done to try and prevent this practice continuing."

I hope that the Minister for Small Business and Enterprise, whom I welcome to the debate, accepts that there is a problem with some so-called service providers.

The Ofcom review makes it clear that some terminating communications providers, which are in the middle of the chain between the consumer and the service provider, are responsible for a disproportionate number of the abuses. More than half the fines levied by ICSTIS have been against only five of the 70 terminating operators, so why not stop giving them more numbers until they have cleaned up their act? This is what I have been told—I quote from the review—

"Some stakeholders have argued that OFCOM should play a more active role in policing PRS by withholding or withdrawing premium rate numbers from TCP's (Terminating Communications Providers) who have been involved in persistent breaches of the Code of Practice."

That strikes me as plain common sense. It continues:

"However, OFCOM's legal advice is that such a policy would be incompatible with the requirements of the EC Authorisation Directive."

What on earth is going on? Everybody knows that scams are taking place. We know who is responsible, but the EC tells us that the people complicit in carrying out the scams cannot have their numbers taken away. The service providers are also cocking a snook at the regulators. From January to September last year, ICSTIS imposed fines totalling £2.03 million on 91 service providers. Half the fines were unpaid as of 17 September, and of the 17 largest fines—those over £50,000—14 were imposed on overseas service providers, on which we have the least hold.

Let us have a system of bonds, as I proposed during the last debate that I initiated on this subject. If companies had to put up bonds before they could offer services, they would have an incentive to behave, because if they did not, they would lose their bonds; in addition, we would have a means of compensating their customers. Disappointingly, the review says only that my proposal should receive "further consideration".

One of the review's recommendations relates to the revenue-sharing arrangement. It proposes that the so-called seven-day rule, to which I referred earlier, be replaced with a 30-day rule. That seems eminently sensible, as it would mean that the company at the end of the chain providing the so-called service would have to wait for 30 rather than seven days for its cash, thus increasing the likelihood that the scam would be discovered and the cash frozen. Is that rule now in operation and, if not, when might it be introduced?

I turn now to consumer redress. The review says:

"We also understand that there are likely to have been very few cases in which the customers affected by a breach of the Code of Practice will have received a refund, let alone compensation."

However, the review is not very forthcoming about that. I know from my postbag that BT is still chasing people for money that, in my view, is not payable. Let me repeat the advice that I am giving my constituents: if they have taken their complaint to ICSTIS and ICSTIS has confirmed that the call is part of a scam, they should not pay. I stand behind any of my constituents who refuses to pay for calls that he has not made.

Some of the changes mentioned in the review can be made only after a three-month consultation period. Can the Minister tell us whether that period has started and whether there is any way of reducing it so that we can implement the changes quickly?

To sum up, I would like to see faster and more effective action taken against the minority who abuse premium rate services: we need to cut off the numbers more quickly to freeze the flow of cash. There should be a proper compensation process, funded out of bonds. We should name and shame the guilty parties and stop them playing the game; provide better consumer information; reduce the 12-week period for investigating complaints; and increase the maximum fine, as proposed by the review.

I hope that, when he replies, the Minister will have some good news for all who have been victims of the scams that I have mentioned.

3.43 pm

**The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths):** I congratulate the right hon. Member for North-West Hampshire (Sir George Young) on securing the debate and highlighting a scandal of fraud and ineffective consumer protection under the present regime. The Minister for Energy and E-Commerce apologises for not being with us today, and has asked me to respond.

ICSTIS is charged with protecting consumers, regulating companies and tackling unethical business practices. It is responsible for regulating premium rate services. Last year, thanks to increasing numbers of consumer complaints and representations from many of our colleagues, ICSTIS became aware of the scam that the right hon. Member has highlighted and acted immediately in response to the problem: emergency action was taken to cancel the numbers as soon as ICSTIS suspected scam dialler activity. I am advised that ICSTIS can shut down a company—prevent use of its numbers—in two hours. Last year, it cancelled more than 90 numbers following consumer complaints.

A bar was imposed on B and B services LLC, which had installed a dialler in consumers' computers without them being aware of it. It was fined £100,000, and two other operators were also fined £100,000. Last year, ICSTIS levied 95 fines totalling more than £2 million. Regrettably, although B and B Services paid its fine, 33 operators failed to do so. Many are based abroad, but several are based in Britain, such as DCL (NW) Ltd in Liverpool, which has failed to pay one penny of its fine. KT Promotions in Cheltenham was fined £10,000, and according to the data I received this morning, it still remains unpaid. Another Liverpool company, Mr. J. Harrison t/a TIS U-K, owes £3,000 in fines. Most disturbing of all is a case for which I require an explanation from ICSTIS and about which I will inform Ofcom: it concerns a Stockport-based range of companies, each of which has had a £10,000 fine levied on it. They include Dynamic Promotions, James Promotions, Quality Sign Services and Resource Promotions Mobile Services Network, and the common thread linking them, apart from not paying fines after having been guilty of malpractice, is that they are all based at Bromley House, Woodford road, Stockport, Cheshire. I shall ask ICSTIS whether it is able to ensure

*[Nigel Griffiths]*

that anyone operating from that address is investigated, so that if they are connected, action will be taken to end the fraudulent activities for which fines have been levied.

The right hon. Member highlighted several areas in which he wants immediate action. He complains quite rightly that reputable telecom companies—the network companies—are profiteering from such scams by ensuring that they pay the supplier, the fraudster, too quickly. He called for a 30-day delay to allow consumers to see their bill, lodge their complaint and have a payment stopped so that no one loses out. That approach is wholeheartedly endorsed by the Government and forms one of the 18 recommendations that Ofcom made last year, which we hope will be implemented. In the meantime, I urge all telecom operators to take immediate action to renegotiate contracts with other companies, especially where they suspect there may be fraud, to ensure that the delay is built in and the fraud prepared for. It is wrong that they should profit, just as it is wrong that the fraudsters should get away with such bad and illegal practice. Telecom operators can take that step without delay in order to restore public confidence. There are many reputable companies operating in the telecommunications field; the sector legitimately contributes about £1 billion to the economy and it is wrong that a few rotten apples, exploiting consumers who, as the right hon. Member said, are unwittingly suckered into their schemes, should tarnish the whole industry.

It is important to recognise that the potential profits from such scams are huge. I therefore welcome Ofcom's second recommendation that the maximum fine that ICSTIS can levy for breaches of its code of practice be increased from £100,000 and that it be made commensurate with an estimate of the profits that have been made. I hope that Ofcom and ICSTIS will not delay the implementation of that and several other key recommendations.

I was disappointed to read that 12 weeks has been allowed for public consultation and responses from companies. I hope that reputable companies respond favourably and well within the 12 weeks. There is then a further 12 weeks for the European Commission to consider the recommendations. The Government will vigorously lobby the Commission to ensure that it fully understands the scale of the problem in Britain and that it co-operates with us in implementing Ofcom's recommendations to try to end the scandal.

In the meantime, we want Ofcom to use its emergency powers. I am advised that it can close a line down in two hours. It can act quickly if it gets a series of complaints about any number. It is to act as quickly as possible so that consumers—many of which are small businesses, for which I have ministerial responsibility—are not subject to further scams of this nature.

I hope soon to place in the Library a list of all the companies that have been fined by ICSTIS and details about whether they have paid their fines. I hope that appropriate action is taken without delay by Companies House, or whichever body is most appropriate, against the British-based companies that I mentioned.

**Sir George Young:** The Minister is being very helpful. Would he expect any numbers used by companies that have not paid their fines to be cancelled until such time as they have paid their fines?

**Nigel Griffiths:** I can give the House an assurance that the numbers are cancelled—generally, when a scam is detected. The fine is then levied and collected. I am assured that relatives and associates are also banned from offering any premium rate service in the UK and that Ofcom or ICSTIS is determined to name and shame the individuals who are involved in such companies. I hope that the House will be reassured by that information.

I want to be clear about this: public confidence in ICSTIS and Ofcom is undermined by such scams. We expect ICSTIS to continue to use its emergency powers and procedures to take enforcement action against those who abuse the PRS charging mechanism. In the meantime, we also want to emphasise consumer education and awareness, strongly to advise people to install anti-virus software on their computer to avoid the problem, and to warn the young, vulnerable consumers that the right hon. Member rightly highlighted against mobile phone scams. ICSTIS has recently improved its website to inform members of the public about rogue internet diallers. I urge people, as they are already connected, to go to the ICSTIS website and follow its advice.

I am aware that countries such as Germany have banned certain premium rate services. I stress that such services are valuable businesses in Britain and the vast majority of them are legitimate. It would be a terrible loss not just to business but to consumers as well if there were to be a reaction along German lines to such scams. I am assured that the proposals will help to eliminate scams by building in a delay and therefore preventing payment from being made too quickly. It is important to allow companies to retain that money and pass it back to the consumer, not on to the fraudster. I know this is perhaps not Ofcom's finest hour, but the right hon. Member and I will do all in our power to put a bit of spine in the regulation.

**Sir George Young:** It sounds as if the Minister is working himself up to his peroration. Will he say a word about the suggestion that bonds be put up before services are offered? They were considered in the review and a number of people are keen on them, but, as I said in my speech, the review's response was, "No, not yet, but we will look at it." Does he have a view on whether bonds would be a useful safeguard to prevent abuse, and to compensate consumers?

**Nigel Griffiths:** The issue is not whether bonds would be a safeguard, but rather the ramifications of introducing them. Of course they could be useful. They are being considered as part of the implementation of the Ofcom report and I am advised that they have not been ruled out. I shall draw the right hon. Member's comments and strong advocacy of bonds to Ofcom's attention. It is important that the range of issues is

looked at quickly and efficiently and that consumers are not left vulnerable while that happens. That is why I am a strong advocate of the emergency procedures. We want to see them acted on, and we want to see the culprits' names published. I intend to put those procedures in the House of Commons Library as soon as ICSTIS is able to confirm all the details.

I am grateful to the right hon. Gentleman for raising the issue. I assure him that it is being addressed seriously. I shall ensure that he is kept well abreast of developments.

## Enterprise Promotion (Leeds)

3.57 pm

**Mr. Colin Challen** (Morley and Rothwell) (Lab): I am grateful for the opportunity to speak of the great city of Leeds and its enterprise culture. In June 2003 I launched early-day motion 1488 calling for an award to be created, along the lines of the European city of culture, for the European city of enterprise. Naturally, my view was that Leeds should win that title. Since then, much has happened and Leeds has been shortlisted for the title of 2005 British capital of enterprise. The city has a strong case to make and I would like to look at some of its achievements this afternoon and consider some of the issues that still contrive to hold us back.

My own constituency of Morley and Rothwell, which suffered the demise of its mills and mines a generation ago, illustrates well some of the steps we have taken in the district as a whole. Unemployment has practically halved since 1997, and employment has never been higher. Many new jobs have been created, although only a few years ago the future looked bleak. My hon. Friend may recall a visit he paid to my constituency in 2002 to help me to launch my business survey—one of the first steps I took as a newly-elected MP. Some of the comments I received were enlightening. Many employers were calling for better education for young recruits. When we look at getting people into jobs, we must ensure that we get the right skills. In that regard, I was pleased to learn that the fifth of my five local high schools was awarded specialist school status last week. Bruntcliffe high school will from now on be known as the Bruntcliffe business and enterprise college. The school has reached out to the local community, and has been involved with local businesses in the development of its plans. That will go a long way to meeting the needs of today's employers.

Only last Friday, I was at the awards ceremony celebrating 50 years of the Joseph Priestley college, which is largely based in my constituency. The college, too, reaches out into the community—it was not long after the Minister's visit that I was at the opening ceremony of the college's highly accessible high street IT learning shop in Morley. The college intends to deliver high-quality education where it is needed and make it easy to access.

Elsewhere in my constituency thousands of new jobs have been created. Only recently, 300 more jobs with mobile phone company mmO$_2$ were announced at its premises at the Arlington business centre. Some 160 jobs with DePuy International will be created at the White Rose office park, while Northern Foods will establish its headquarters at Thorpe Park. Not all jobs will be maintained or created by outside companies. Since last year I have been working with the Morley chamber of trade and commerce on a retail regeneration strategy designed to stimulate retail interest in parts of the town that have suffered a decline. I am sure that my hon. Friend will agree that we need strategies in place to deal with disparities that persist within larger, economically successful areas. It is probably true that out-of-town shopping centres, such as the successful White Rose centre, have created jobs, but many of them have come at the expense of local shopping centres. In that context I welcome the prospect of business improvement districts—BIDs—so that local people and local

*[Mr. Colin Challen]*

businesses can develop their own plans to revitalise defined areas of need. We must ensure that the benefits of economic success do not conceal areas where problems must be addressed. That is one reason why I support such initiatives as the local sustainability proposals, among others, that the New Economics Forum has put forward.

Over the past 20 years, during which we have had a Labour-controlled council, Leeds has become the UK's best performing city for creating jobs outside London. Some 90,000 new jobs have been created in all, which is an astonishing 30 per cent. increase. It would be remiss of me not to mention the distinguished leadership of the council through some of those years, which included my hon. Friends the Members for Leeds, East (Mr. Mudie) and for Hemsworth (Jon Trickett). They and their successors demonstrated that, with a clear vision and the city council acting as a genuine partner, new enterprise would find the city attractive. Since the local elections last June, which resulted in a confusing coalition of convenience, the leadership has been shared alternately by the Liberal Democrats and the Conservatives. Such a Tweedledee and Tweedledum style of leadership cannot be good for the long-term interests of the city. We are, after all, talking about people who would have held back the regeneration of the city centre by opposing the creation of the Millennium square, which has levered in £15 million of private investment, which is more than £3 million more than the cost of the improvement works.

In the civic quarter as a whole, where the Millennium square sits, £150 million has been invested, which shows how much confidence there is in city centre commercial development. People—not just Labour people—find it odd that whereas the right hon. Member for Ross, Skye and Inverness, West (Mr. Kennedy) has declared that the Liberal Democrats would never form a Government with the Conservatives, he is happy to abandon Leeds to that awful fate.

I digress, however. Leeds and those of us who represent it cannot afford to become complacent and say, "There we are—we're the top dog, the capital of the north". After all, Manchester is trying hard to catch up. We must also ensure that, when we talk about the future enterprise prospects for Leeds, we mean sustainable enterprise. By that I mean not only that employment should be maintained, but that new development should be environmentally sustainable. In that sense, one of the biggest negatives of more employment is more congestion. My parliamentary colleagues and I—as well as just about everyone else in Leeds and elsewhere in the region who has given the matter any serious thought—all back the Leeds Supertram bid. Despite the revision of the bid, which has impacted on my constituency in a way that I would have preferred it not to have, the fact remains that Leeds urgently needs to start work on a new mass rapid transport system. Leeds is the largest European city that does not have one.

The benefits of going ahead are impressive. The increase in accessible jobs in neighbourhood renewal areas is estimated to total 83,000. They are not new jobs, but the measure of how people in poorer areas will have improved access to employment opportunities. The estimate of new jobs created in the wake of Supertram is about 28,000 by 2014. The new jobs that are created in Leeds must be accessible to the people of Leeds. It has been suggested that without Supertram, 70 per cent. of the new jobs created could go to people living outside the city, which would further compound the congestion problem.

I hope that my hon. Friends will press those points on the Secretary of State for Transport, as have those of us who represent the city. It is important that as the Leeds economy grows its opportunities are made available to all. Large cities tend to have doughnut shapes of poverty around their core that miss out on the dynamic growth of the city centre. Now that we tend to talk more of city regions, that is even more important. Until we acknowledge that the Yorkshire-Humber region does not get its fair share of transport finance, the development of sustainable economic growth in the region will be stunted.

Does Leeds deserve to win the 2005 British capital of enterprise award? If it did, it would not be the first award it has won. In the last couple of years, independent judges have found Leeds to be Britain's best city for business, the UK's favourite city, the visitor city of the year, the best place in Britain to live, the best UK university destination and, perhaps allied to that, the No. 1 city for clubbing—as a member of the Ackroyd street working men's club, I wonder if the award includes clubs in that category. With more than 100,000 students in higher education in Leeds, it is not surprising that the place has a youthful feel. It is relevant to the debate that a survey has shown that 50 per cent. of students in Leeds expect to run their own company. Many of those young people choose to stay and live in the city in which they graduate, adding to the increasingly diverse economy that drives employment in the city.

Although it still has a significant manufacturing sector employing more than 48,000 people, Leeds has become one of the UK's most important financial services centres, where employment has reached nearly 100,000 people. In 1991, only 57,000 worked in that sector, which shows how well Leeds was able to realign its economy after the second Tory recession. I acknowledge that some of those jobs are in the much-derided call centre sector and are the kind of jobs that are prone to offshoring. However, when considering recent analyses, it could be argued that more jobs have come to the UK as a result of increased markets in those sectors where call centres operate, so we must be sure that locally we are in a position to capitalise on such two-way traffic. The overall strength of the financial sector in Leeds can weather any storms on that front, which must be one of the key features to consider when judging what is enterprise. It is one thing to get something started but another to keep it going. As things stand, it is anticipated that the financial sector in Leeds will deliver another 28,000 jobs over the next 10 years and that 40 per cent. of all the new jobs will be developed in the Yorkshire-Humber region.

The Leeds Initiative—a partnership between public and private sectors—is charged with the task of driving the Leeds enterprise strategy forward. It is one of the first initiatives of its kind and has spawned several other initiatives in which partnerships and relevant interests can influence developments. It has set itself seven challenging measures of success: increasing the wealth

created in Leeds and the region every year; creating at least 50,000 new jobs; improving Leeds and the region's productivity performance by at least 15 per cent.; improving Leeds and the region's ranking in the European innovation index; increasing the proportion of the work force employed in high-tech or knowledge-based jobs every year; being recognised as the best UK city for business and students; increasing the number of Leeds residents moving into work.

One of the city's strongest emerging sectors is in media, and the Leeds media initiative has identified more than 1,600 media companies in the city with over 13,000 people employed, which represents a 50 per cent. growth since 1993. It is a sector that tends to rely on small companies with 10 people or fewer. It provides one of the most exciting opportunities for further development of Leeds's diverse and multicultural nature, both in the city and in the wider region and I predict further strong growth in that area.

One last fact convinces me that Leeds deserves to be called the British capital of enterprise: the last census showed that Leeds was the only city in the country outside of London whose population actually grew. Normally, as wealth is created, one expects to see a flight to more leafy locations, but Leeds has become a place for city living. Other cities have lost population as they struggle to adapt, but if people can be attracted to live and work in an area, it means more customers and enterprise. On that measure alone, Leeds is indisputably the 2005 British city of enterprise.

4.10 pm

**The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths):** I congratulate my hon. Friend the Member for Morley and Rothwell (Mr. Challen) on securing the debate and championing the cause of Leeds. As the Minister for small businesses, I had the pleasure of meeting him and his constituents and seeing at first hand some of the leading small businesses in Yorkshire.

Leeds has undergone a remarkable transformation in the past 10 years, from an industrial city in decline to recently winning the title of Britain's best city for business. More than 85,000 jobs have been created in Leeds in the past 20 years—more than any other UK city—representing more than a third of job creation in the region. Leeds has the most diverse economy of any major city in the UK outside London, with 17,500 VAT-registered businesses in a wide range of sectors. In the past three years, more than 100 companies have moved into Leeds, representing key sectors from manufacturing to financial and business services, retail, media distribution, transport and leisure. In the past 20 years, Leeds has become a major centre in the UK for financial and legal services, creating more than 40,000 new jobs, accounting for more than a quarter of the income value of Leeds. Leeds has been a model of economic growth in many sectors. Modern creative industries account for 70 per cent. of local self employment bringing £269 million a year into the Leeds economy. Tourism has grown by more than 30 per cent. in three years, bringing 20,000 jobs and £750 million into the Leeds economy. As well as being Britain's best city for business in 2003, Leeds was named visitor city of the year in 2004.

That success is not accidental. It is underpinned by the stable economic conditions achieved by this Government, which have enabled sustained development of the Leeds economy. However, the true success of Leeds comes from the people. They have built the communities and developed partnerships, especially over the past 15 years, to create an enterprising environment. The Leeds Initiative was set up to bring together the main institutional stakeholders and to set out a development agenda for the city. A strong belief in partnership working and co-operation was instrumental in creating conditions for the transformation of Leeds city centre, from the relocation of the Royal Armouries museum, where I spoke with manufacturers in October, to the remodelling of public spaces such as Millennium square and the Victoria Quarter.

I am grateful for the acknowledgement of the part played in Leeds' transformation by the Government's policies on the regions. The creation of regional development agencies and the increasing funding channelled through them has been instrumental in supporting the transformation of the city centre. More than £15 million from Yorkshire Forward, the regional development agency, has been committed to major regeneration schemes in Leeds, including the £3 million Round Foundry and £1 million for the Leeds city centre masterplan. That regeneration has, in turn, levered in considerable private sector investment and inward relocation of major businesses. In the past decade or so, £2.4 billion of investment has been made in large property development schemes, with a further £1 billion-worth under construction and £3.4 billion-worth in the pipeline—a total of £6.8 billion. As the local strategic partnership, the Leeds Initiative has enterprise and the economy as a key theme in its second vision for Leeds. The vision addresses a wide range of issues that contribute to an enterprising economy.

Leeds has recognised the vital importance of education and skills in achieving an enterprise culture. Partners have worked hard to improve education standards in Leeds. Key stage 2 results for 2004 show that Leeds pupils are now above the national average for English and maths attainment. GCSE results have shown a steady improvement, rising from nearly 40 per cent. of students achieving 5 or more A to C passes in 2001, to 45 per cent. in 2004.

**Mr. Challen:** The thought has just occurred to me that with the announcement from the Government that Bruntcliffe high school is to be awarded the status of a business and enterprise college, this might be an appropriate time to invite the Minister to visit my constituency to congratulate the school on that award and to visit one or two local companies. One company, a small engineering firm called Ace Engineering, won an award against competition from China, which is a tremendous achievement.

**Nigel Griffiths:** It is always a pleasure to visit Leeds. I am reinvigorated by what I see. I thank my hon. Friend for his kind and warm invitation.

The excellence in cities programme was designed to raise educational standards and opportunities in city areas. Partners with the underperforming schools—businesses and community groups—are able to embed enterprise in schools. The Education Leeds Business

*[Nigel Griffiths]*

Alliance, which provides the formal mechanism for the partnerships, is doing a sterling job. Every secondary school in Leeds has been adopted by at least one local business. Department for Education and Skills enterprise advisers also support Leeds schools in disadvantaged areas.

Leeds has been innovative in the development of family learning centres, which link disadvantaged groups to employment and enterprise opportunities. Four family learning centres have been established in deprived areas of the city. At the core of each centre are employment access and training teams, which help people to make the transition from welfare to useful work. The family learning centres work with a wide range of other partners, including local colleges, Leeds Metropolitan university, local schools, Sure Start, Jobcentre Plus, and public and private sector employees. More than 1,000 people have now obtained jobs by such means.

Universities in Leeds are at the heart of developing the enterprise culture. The university of Leeds and Leeds Metropolitan university combined have 46,000 students, who contribute to the local economy and, more importantly, to the quality of life in the city. Some 5,000 students have benefited from enterprise learning at the university of Leeds since 2001. Every year, around 1,500 Leeds Metropolitan university students study modules on enterprise. The result is that 50 per cent. of students in Leeds expect to run their own businesses at some point in their career. The universities are key partners in a range of enterprising activities. For example, the university of Leeds is a key partner in the Department of Trade and Industry's manufacturing advisory service, which operates four of the regional centres for industrial collaboration funded by Yorkshire Forward to develop commercial applications for research. Leeds Met has implemented a graduate business start-up programme in partnership with Business Link. That is now operating across the whole of west Yorkshire to provide business space, equipment advice, mentoring training and resources to all Leeds students, graduates and alumni who seek help.

Businesses in Leeds can access a wide range high-quality business support to ensure the success of their enterprise. Support is available on all aspects of start-up, business growth, export, and inward investment, as well as property search services and sector-specialised advice and networking. That support is provided through strong partnership working. The partners include Leeds city council, Leeds chamber of commerce, Business Link West Yorkshire, the Asian business development network, Asian trade link, which I have visited on several occasions, and many others. Most Leeds businesses are small or medium-sized enterprises. About 20,000 of them employ up to 10 people each, comprising 15 per cent. of the Leeds work force. In the financial year 2003–04, 1,448 individuals inquired about starting up a business in Leeds and 557 businesses were started. Some 3,500 established businesses were given specialist advice.

A range of regeneration funding has come into Leeds to support economic regeneration, including £98 million from the single regeneration budget. Some £12 million has been provided for the first phase of the regeneration of the Aire valley. The project includes the release of more than 350 hectares of land for development and is expected to create about 5,000 jobs and to safeguard a further 10,000. An investment of £20 million has been generated and major businesses are relocating in the Aire valley, including Arla Foods, Alvis Vickers and Royal Mail. To date, the project team has helped more than 500 people get jobs with inward investors. In addition, the Government's neighbourhood renewal fund has provided £37.5 million to help to improve services in the poorest communities in Leeds. For example, in the Beeston hill and Holbeck neighbourhood renewal area, more than £30 million of additional capital investment has been attracted in the past five years, including four new schools and a health centre.

The Government recognise the importance of transport infrastructure to increasing the success of the Leeds economy. That is why they have already provided £16.6 million for integrated transport and maintenance in Leeds in 2004–05. Leeds has also benefited from the £63.3 million spent on transport in west Yorkshire in 2004–05. In addition the Government have fully approved funding for two major road schemes in Leeds—the Leeds inner ring road and the east Leeds link road.

The proposal for the Leeds Supertram is clearly a significant component in the local strategy, which is why the Government agreed in 2001 to provide public funding of up to £355 million towards the Leeds Supertram, of which 75 per cent. was to come direct from the Government. Sadly, since that decision was made, the project's estimated costs have increased to more than £500 million. No Government could simply sanction such an increase without ensuring value for taxpayers' money. Particularly in the light of the National Audit Office report on light rail, we need to consider how light rail can be made more cost effective, and whether it is always the best solution. I assure my hon. Friend that the Department for Transport is currently working closely with the promoters of the Leeds Supertram together with Leeds city council on new costings for the project and alternative proposals. They are in the process of discussing the bid with promoters and obtaining further information from them. Representatives of the Department have met Metro and Leeds city council representatives several times at official level. The main issues that are being discussed at the moment are, I am advised, the scheme appraisal and the promoter's proposed procurement and risk-sharing approach.

At the conclusion of the discussions a final decision will be made, but all the work that is presented will be considered carefully, and decisions will be based on value for money, including wider benefits and affordability, as happens with all light rail proposals. The Government recognise the importance of good public transport for the future development of Leeds, and we are working on cost-effective solutions to the city's transport needs of the 21st century. I thank my hon. Friend for giving me the opportunity to join him in praising the great achievements of Leeds and its citizens.

*Question put and agreed to.*

*Adjourned accordingly at twenty-two minutes past Four o'clock.*

# Westminster Hall

*Thursday 3 February 2005*

[MR. EDWARD O'HARA *in the Chair*]

## Rehabilitation and Healthier Workplaces

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[Jane Kennedy.]*

2.30 pm

**The Minister for Work (Jane Kennedy):** I was going to say that it was an inspired decision of the Whips to choose this subject for discussion today, particularly in view of the fact that my right hon. Friend the Secretary of State published the Department for Work and Pensions five-year strategy yesterday, but the timing is entirely coincidental. However, it allows us an opportunity to compare and contrast the ideas that clearly exist around the House on this important issue. We will see what flows from the debate, which I welcome.

Since 1997, our central vision in government has been to create a Britain of opportunity and security for everybody. I know that that is a sweeping statement of the kind that generally makes people yawn, but it is more than a mere statement of aspiration. Back in 1997, we were criticised in some quarters and accused of irresponsibility for making full employment a key economic policy goal, but I would hope we agree that today we are closer to full employment in Britain than at any time for a generation. Unemployment is at its lowest for a generation and 2 million more people are in work than in 1997.

As my right hon. Friend said in his statement yesterday, this Government believe that an employment rate equivalent to 80 per cent. of the working-age population is achievable in the long term, but if we are to achieve that we face major challenges. Back in 1979, approximately 690,000 people claimed an incapacity benefit. It was not called that then; it was a different benefit and a different rate. By 1997, the numbers had reached 2.6 million. Today, they are in the region of 2.7 million. That equates to 7.5 per cent. of the working-age population, or three times as many as claim jobseeker's allowance. Most of those people have been on incapacity benefit for a very long time: over 2 million have been claiming it for two years and nearly 1.5 million have been claiming it for more than five.

**Mr. Tim Boswell** (Daventry) (Con): I am obviously sympathetic to the figures the Minister is using. Does she agree that, even if the national average is 7.5 per cent., there are areas and pockets where the percentage is very much higher and there is what might loosely be termed a culture of incapacity, which is itself part of the problem?

**Jane Kennedy:** I agree with the hon. Gentleman. I am glad to be debating this subject with him today, and we can explore it with less party particularity than would be the case if others were in his place. We can have a useful discussion and compare and contrast the strategies that we have all been developing as we look at this problem.

I do not think we can genuinely say that full employment has been achieved when nearly one in every 13 of us is out of work and claiming an incapacity-related benefit. That not only represents a huge economic cost for the country as a whole, but places individuals and their families at greater risk of poverty and social exclusion. This is a challenge that is almost unrivalled in its complexity and sensitivity, but it simply has to be addressed if we are to win our fight for opportunity and social justice. To succeed, we must make a reality of that hackneyed phrase, joined-up government.

**Mr. Steve Webb** (Northavon) (LD): While the Minister is still speaking generally, will she reflect on the fact that the fastest growing group of incapacity benefit recipients is those who fail the contribution test? That number has risen by 300,000 under this Government. Those people, by definition, have no recent contact with the labour market. Do the Government have a parallel strategy to that work-related strategy to stop those people flowing on to incapacity benefit?

**Jane Kennedy:** Our primary focus is on people who would qualify for incapacity-related benefits, which means those who would qualify for the pathways at the moment. People who receive income support do not qualify: they would not come through the pathways and they would not necessarily qualify for the pathways programme when it is rolled out. That does not mean that they would not qualify for a range of support, but they would perhaps not formally come within the pathways regime.

Those people already qualify for support through the new deal for disabled people, and as we develop a more flexible approach to the work done through Jobcentre Plus and BOND—building on new deal—personal advisers in contact with such individuals will increasingly be able to offer a more flexible range of support to encourage and enable them to make early contacts with the workplace. They cannot maintain contact, because they have never had contact with the working environment or may not have earned sufficient for contributions to be paid.

**Mr. Webb:** The Minister is being very gracious with her time and I thank her for giving way.

I want to pursue the point a little further, as I have not grasped it. I think that the Minister has just told the House that the credits-only people—nearly 1 million out of the entire case load—do not go into pathways to work, yet they are the fastest growing group. Can she explain why someone who becomes incapacitated because of a bad back but does not satisfy the national insurance rules should not get the specialist pathways-to-work help, yet someone who comes from employment with exactly the same ailment and the same prospects of getting back to work qualifies? Why is there a different approach?

**Jane Kennedy:** I am advised that people on income support on the ground of incapacity are included in the pathways. I apologise to the hon. Gentleman: I had not appreciated that they are included because they get IS top up, and that top-up payment qualifies them for

*[Jane Kennedy]*

inclusion in the pilot. Therefore, they will be drawn into the new programme that we are to develop. I am grateful for the inspiration that has allowed me to correct that misunderstanding.

**Mr. Boswell:** I simply invite the Minister to confirm the impression I have now formed, which is that someone who is incapacitated but of working age will be entitled to the pathways, whatever the route or source of their benefit at that point.

**Jane Kennedy:** I am grateful to the hon. Gentleman for his helpful intervention. He is right.

Central to our strategy will be promoting the idea that we should all work in a healthier environment, enabling access to occupational health support, which includes quality rehabilitation services where appropriate. That is why the title of the debate, which refers to rehabilitation, was deliberately chosen, although our discussions will be much broader, given the wider debate on incapacity.

The objective of improving access to occupational health and healthier working environments represents an agenda that we share with employers, who need to deal with sickness and absence management and occupational health more proactively. We also share the agenda with the trade unions, which work to protect their members' health and safety in partnership with employers, and consider that an increasingly important role. We have a shared agenda with the insurance sector, which should be providing alternative and perhaps more positive routes of redress for those involved in compensation claims; for example, through employers' liability insurance.

We share an agenda, too, with the health service and especially with general practitioners, who deal with maintaining the highest levels of health for all and promoting well-being, including work as a health outcome. Equally, the Department for Work and Pensions has a clear agenda: supporting people on benefits to enable them to return to work. The effective co-ordination of all those agendas is crucial.

**Mr. David Drew** (Stroud) (Lab/Co-op): On the relationship with the health service, Standish hospital in my constituency sadly closed just before Christmas. I declare an interest: some us would like to take it over and do some work on rehabilitation. Ward D at that hospital was a rheumatology ward. During rebuilding about 20 years ago, a specialist flat was provided on the ward for people with rheumatological problems, to help them to be rehabilitated into their homes. Sadly, the flat fell into disuse. That seems to be quite a common story in the NHS. Will the Minister lobby the NHS to ensure that when people have rheumatological problems or osteoporosis, such occupational health support is provided? That provision should be part of all such wards, not an afterthought.

**Jane Kennedy:** I am interested in what my hon. Friend describes and I would like to hear more about that example, because I have a clear view that more could be done. We are in close dialogue with colleagues in the Department of Health about how occupational health and similar support services should be provided to people in work, and also on the possible reshaping of the culture and the advice that general practitioners and other health service practitioners give. Certainly, occupational health needs to be higher on the agenda in the training that GPs receive.

I have already said that this is a complex area and that there is an ever-changing range of issues involved, but our strategy can be articulated simply. First, it is about prevention: ensuring as far as possible a healthy society as well as healthy workplaces. Secondly, it is about retention: helping people who become ill or disabled to stay in the work that they are already employed in, where that is appropriate and practical. Thirdly, it is about intervention: giving active and positive support to those who become unemployed through no fault of their own and claim inactive benefits.

We believe that, with the right help and support, greater numbers of people should be able to retain their jobs or get back to work. What do we do about that and how do we stop large numbers of people who have worked, and perhaps could work, failing to do so?

Effective and timely advice and support would help people with common health conditions to manage those conditions before they became intractable. However, nearly 33 million working days are lost each year to occupational ill health. The Health and Safety Commission and I recognise the importance of improving absence management and increasing access to occupational health and return-to-work support. Such support could have an important impact on reducing the numbers leaving the labour market due to ill health, but only 3 per cent. of companies have access to or use occupational health or return-to-work support. That is a staggering statistic.

Employers, health professionals and the Government must all work together more effectively to create healthier workplaces and to play a bigger role in rehabilitation to enable more people to get into work and to help them to stay there.

The Health and Safety Commission document "Strategy for Workplace Health and Safety in Great Britain to 2010 and Beyond" is aimed at creating the right environment in the workplace and, in particular, at dealing with emerging health issues and the changing world of work.

We recognise that the Government need to provide leadership and practical support to achieve that ambition. Yesterday, my right hon. Friend the Secretary of State announced the Government's plans—alongside the extension of pathways to work—to develop and trial Workplace Health Direct. That is a Health and Safety Executive-led project, which will provide occupational health advice and support for small and medium-sized firms. It will be primarily a telephone helpline.

Workplace Health Direct is an important development that will make a real contribution to preventing incidents of illness and injury in the workplace, to managing sickness absence and to securing an early return to work. Those pilots will build on the considerable work that the Health and Safety Commission has already done in tackling sickness absence.

The Government want to enable more people who have a health condition, impairment or injury to remain in or return to work for the benefit of everyone concerned. Offering appropriate and effective support is clearly critical. We feel very strongly that vocational rehabilitation has the potential to contribute to help us and other stakeholders to deliver those goals.

However, although there is good evidence on restoring function, especially for some specific health conditions, evidence on effective vocational rehabilitation is contradictory and inconclusive. We have already started to resolve that by improving the evidence base, and the job retention and rehabilitation pilots that we have discussed in the House before, as well as our evaluation of the pathways to work pilots, will provide important new evidence.

We intend to drive forward that work through the Department for Work and Pensions framework for vocational rehabilitation, which will act as a focal point and provide a mechanism to develop that agenda.

We are keen to increase the number of people with health conditions and disabilities who stay in work. However, as we discussed earlier, our immediate focus is on ensuring that significantly greater proportions of people on incapacity benefit avoid an unnecessary slip into long-term incapacity. The systems that interact with such individuals have so far failed to come together and work to their mutual benefit. Were those individuals given good return-to-work advice from the outset from their employer or their general practitioner? If they were equipped by the NHS to manage their health problem, and perhaps pressed by the Department for Work and Pensions to address any obstacles they might face and helped to find work, I am sure that employment outcomes could be massively improved.

That represents a fundamental transformation in how people with health conditions who are not working are treated. Everyone with the capacity to get back to work should be supported, and helped to recognise their capabilities and responsibilities. The main way in which we are taking forward reform of the systems of supporting such people is the pathways to work pilots.

I do not know whether hon. Members have visited a pathways pilot, but we are implementing a completely new framework that starts to get claimants and all key stakeholders together. In particular, we provide support from a highly skilled personal adviser when people can most readily be helped back to work—primarily, those first weeks and months as they begin to claim benefit. However, it is gratifying to see in pilot areas such as that represented by my hon. Friend the Member for Ogmore (Huw Irranca-Davies), who is sitting quietly behind me, almost 1,000 people who had been on benefit for a long period volunteering to participate in the pathways to work programme.

We also provide groundbreaking NHS rehabilitation support, so that people can learn to manage and cope with their health condition—the condition management programme. Again, this is a revolutionary approach to encouraging people to think about their health condition. There are elements of the expert patient programme that the NHS has had in place for some time, but this is much more proactive.

**Mr. Drew:** I thank my right hon. Friend for giving way again; she is being very generous. She may be coming on to the important issue of companies that choose to test their employees for both alcohol and drugs use—or, dare I say it, misuse. Have the Government a clear perspective on whether that would be appropriate if counselling and support were available to employees who were deemed to have a problem? Is that something that we should be encouraging in the world of work?

**Jane Kennedy:** There are clear arguments for some employers to do the testing that my hon. Friend talks about. In some occupations, there is a prudent case for it. However, as he rightly points out, when a problem with an employee is discovered, the proper approach is to work with them to overcome it. I am confident that the best employers are developing that best practice. That was not an area that I was going to touch on, but I am grateful to my hon. Friend for drawing it to the attention of the House.

Through the pathways, we have developed strong local partnerships with the voluntary and private sector employment advisers of the new deal for disabled people. This is where the policy outlined by my party and that of the hon. Member for Daventry (Mr. Boswell) almost coincide. There is a certain overlap in our objectives, although his party is driven down this route by ideology rather than what is practical in the circumstances, and I look forward to hearing about that shortly.

We have encouraged part-time work and work trials for people in receipt of the benefits in pathway areas, and introduced a return-to-work credit, so that it always pays to get back to work. We provide in-work support to help people to manage the transition back to work. Finally, we are working with local GPs in the pathways areas to help them to understand the importance of avoiding long-term absence from work from a patient care perspective.

The totality of our approach is based on best practice from occupational health research and clinical management. The research shows that early intervention and modified work in the workplace are two of the most effective tools that we can devise to enable people to remain in or get back to work. These are early days, but the approach appears to be paying off. Jobcentre and health service staff have responded well to the new service. We are already starting to see the fruits of that response in the number of people being helped back to work. Anyone who visits a pathways area will be profoundly impressed with the enthusiasm of staff as they engage in the complex and sensitive role that they are being encouraged to undertake.

**Mr. Webb:** The Minister makes a strong case for the success of the pathways to work pilots, and the five-year plan that was published yesterday includes a graph that shows that incapacity benefit outflow rates are enhanced in pathways areas. Therefore, I am puzzled why the Government are not applying the scheme everywhere. Why are they rolling it out to only a third of the country and why will that take some years? If it is so wonderful, surely we should be doing it for everyone now.

**Jane Kennedy:** We are still in the early days of testing different methods of engaging people in the pathways areas. Not all pathways areas are offering exactly the same package of support. For example, in one area, to test what worked, the first contact that personal advisers had with individuals was a mail shot. In another area, first contact was made by an adviser telephoning the individual, talking them through what pathways was, and following it up with a mail shot inviting them to an interview. Perhaps unsurprisingly, the response to the second approach was much more positive from those in receipt of the benefits.

We are still testing to see what works best and what gives best value for money in what is a resource-intensive approach. We need to be sure that, when we expand the scheme across the country, we expand the most effective and appropriate approach for the customers whom we are dealing with.

**Mr. Boswell:** I am glad that the Minister is taking into account the evidence of pilots, because that has not always been her Department's practice. However, if her case for not rolling out the pathways scheme nationally is that she does not yet know which is the best model, although she has indicated that some evaluation has already taken place, can she tell us when she will back a particular model, with the inference that it will be adopted nationally?

**Jane Kennedy:** We intend to roll out the next phase of pathways areas this October. That will consist of four or five districts. We will roll out beyond that in the subsequent six months.

Over the next six months, we aim to put in place the framework that works best, but we will continue to test other ideas as we proceed. From talking to staff in the pathways areas, I have no doubt that, even as they work, they continue to think of new ways of engaging with people. The project will evolve as we develop it. I am grateful to have the time to do that. We will reform the whole structure of support. Legislation will be required to do that. The time involved in debating and consulting on the legislation and taking it forward will allow us to continue to test what is the best way of enabling people in this group to return to work.

**Mr. Drew:** Will my right hon. Friend give way?

**Jane Kennedy:** I shall describe some of the outcomes that we are already getting after I have given way to my hon. Friend.

**Mr. Drew:** My right hon. Friend is being more than generous.

I take a close interest in those with mental health problems. I work with a group of mental health practitioners; by chance, I am meeting them tomorrow. I am interested in how people who have had mental health problems get back into work, often via the stepping stone of the voluntary sector. It would be good to know that employer perceptions of people with mental health problems are changing, and I think that they are. One would also like to think that the public sector is better than the private sector, but in my experience that is not always the case. Is something going on in the particular projects that have been talked about to examine the needs of those with mental health problems? They are often the most difficult people to get back into work, but they do want to get into work.

**Jane Kennedy:** I agree. Not only do people who have mental illness in their background often prove to be the hardest to help, but employers sometimes have a high degree of suspicion—if we want to call it that—of such people. Often, they are particularly reluctant to employ them.

In the pathways areas, condition management programmes and the interaction with the health service enable support to be tailored to the circumstances of the individual. I have met people in Blackburn, in the east Lancashire pilot, with the background of a mental health condition.

2.57 pm

*Sitting suspended for a Division in the House.*

3.11 pm

*On resuming—*

**Jane Kennedy:** I talked earlier about the enthusiasm that Jobcentre Plus staff were displaying, the partners involved in pathways areas and the response that we have had as a result. Hon. Members will have seen the five-year strategy. It draws attention to the fact that, in the pathways areas, the improvement in the number of recorded job entries is about double the improvement in other areas. In pathways areas, six times as many people take up further help to get back to work compared with the national average. There is between an 8 and 10 percentage points increase in the rate of people coming off incapacity benefit after four months of their claim compared with non-pilot areas.

To the end of October 2004, we estimate that the pathways pilots have helped more than 9,000 people into work. All those encouraging signs are why we have determined that the pathways project is the way to assist people who are in receipt of benefits to return to work.

On 2 December, the Chancellor announced that the pathways to work scheme would be extended. We have discussed how that will be done to cover about one third of the country. The pathways approach will be available to about 900,000 people on incapacity benefit.

A considerable amount of work is under way, which is beginning to have an important and positive impact. It is important to ensure that we maintain momentum and build on the progress so far. This is the right time to consider change. The proposals set out in our strategy plan are the right starting point to create a better model for people who are at risk of losing their job, or who have difficulty finding one because of ill health or disability.

I reaffirm what my right hon. Friend the Secretary of State said about the principles that will guide our work. He said that for those with a health condition so severe that a return to work would be very difficult, we will provide real financial security for the long term. For those who can work, we want to provide the right help and support to get back into work, while offering the right rewards for engaging with the labour market.

I hope that I have made it clear through this fairly broad speech that this is not just about reforming incapacity benefit. We need a concerted effort to make changes on a number of fronts if we are to maximise the opportunities for people with disabilities and health conditions not only to stay in work, but to return to it. I will be interested to hear from the hon. Members for Daventry and for Northavon (Mr. Webb) in particular what their alternatives are. Constructive criticism is always welcome, but new ideas will also help us as we take forward this big project. I look forward to hearing the rest of the debate.

3.14 pm

**Mr. Tim Boswell** (Daventry) (Con): I thank the Minister for introducing the debate and for the tone in which she did so. She sought to de-fang any criticism; there will be a little later on, but it is right that we should have a constructive debate about important issues.

I am also glad that the Government initiated this debate. When they did, I was initially a little puzzled, although matters became clearer yesterday. Of course, I accept the Minister's assertion that the debate was not timed to phase in with the five-year plan announcement, which we shall be pleased to discuss on the Floor of the House.

We debated the Health and Safety Executive in this Room only a couple of weeks ago, and I wondered whether we were going to replay that debate. We might have had the famous speech made by a parliamentarian in the 18th century, who said "Ditto to Mr. Burke", and then sat down. However, this debate goes wider, although there are important linkages. I hope that the Minister will allow me to expand on my thoughts about healthier workplaces, which she did talk about.

If I may, I shall begin with a particular—the rehabilitation issues—and move on to the general. I do not think that inappropriate any more than I think the title of the debate inappropriate, because there is a strong community of interest. Some rehabilitation issues for people with disabilities or medical conditions are equally applicable to persons who are hard to place, and who may have been involved in incidents that mean that they require rehabilitation in some sense. An example would be alcohol abuse, to which the hon. Member for Stroud (Mr. Drew) already referred.

I would argue strongly—as I always have done on disability issues—that if employers generate an environment that is friendly towards disabled people then, almost ipso facto, it will be a better workplace for everybody who goes there. We should not think of that as being antagonistic, and we should not think that making special provision does not make it necessary to consider wider issues; it should all go together. I do not know whether the Minister has yet seen Ford's Mobility and General Information Centre at Swindon, where people are advised on car modifications and so forth. It is a showpiece site. I went there two or three years ago. It is exemplary, and a very attractive place for anyone to work, not just the 40 per cent. of the work force who are disabled. Those are general points.

If I express a certain enthusiasm for the issue of rehabilitation, it is because I have taken a personal interest in it over a number of years.

**Jane Kennedy** *indicated assent.*

**Mr. Boswell:** The Minister is kind enough to nod, but it is genuinely the case. I have done some work with the British Society of Rehabilitation Medicine. A few years ago, when the Department was beginning to get into the swing of preparing for pathways, I peppered the Minister's predecessors with a healthy number of parliamentary questions about rehabilitation issues, some of them arising from British Society of Rehabilitation Medicine reports. I think that the matter is of general importance.

The moves that the Government have made are desirable in principle, even if we do not necessarily agree with them all in detail. They may certainly be described as being in the right direction. If nothing else, we have established a common understanding that there is a problem, and that it has to be attended to, often in detail. Above all, it must be done with reference to the interests, needs and requirements of the individual, rather than by taking some sort of global approach that will leave us with a solution for the global situation.

In the spirit of the debate, I will quote verbatim from the Secretary of State's statement yesterday, because I agreed with him so much. He said:

> "There is growing medical evidence that for many conditions, such as back pain and depression, working is much healthier than being inactive".—[*Official Report*, 2 February 2005; Vol. 430, c. 842.]

That is not the voice of some Victorian employer; it is a perfectly reasonable clinical judgment—something that I think we all know more about now. It echoes our own experience. People retreat into hopelessness, and that does no good to them, the economy, the Treasury or anybody. We have to find ways of unlocking their despair without censuring them or playing cheap tricks, and we should provide practical help.

The Minister will have heard the exchanges between the Secretary of State and my hon. Friend the Member for Havant (Mr. Willetts) across the Dispatch Boxes yesterday, and I do not think it necessary to reproduce them all here. Of course, I agree with my hon. Friend, and I think it right that Ministers should justify their policies. They need a little justification, and I shall explain why.

The Minister made the point that there had been a welcome increase in employment and a reduction in unemployment. She boasted about that and I do not blame her for doing so. However, it is incumbent on her to ask why, when there had been a big historic increase in the numbers of people on incapacity benefit under the previous Government, the present Government are now apparently complacent about the stasis in those numbers since they have been in power.

Whatever the explanation is—and we do not want to have a general economic debate here—despite the fact that there have been several years of strong employment, the numbers on incapacity benefit have stuck, or slightly increased and so far there is no real sign of a reduction. Perhaps we will begin to see some improvement, but we have not seen it to date.

**Jane Kennedy:** Does the hon. Gentleman accept that the fact that the rate of increase has dropped off remarkably since 1997, that a large number of people have gone into work—partly through the new deal for disabled people and partly because there is more opportunity to do so—and that we have developed pathways and are piloting that approach, already indicates that we have not accepted a degree of stasis around this policy area?

**Mr. Boswell:** I accept that the Government have done something. However, they have also announced quite a lot, which was the substance of the remarks made by my hon. Friend the Member for Havant yesterday. Not much has got better yet. There have been initiatives, there are now more and we all hope that the Government mean it this time and will carry the current initiative through. If they have collected evidence under pathways, and so forth, and find out what works, I shall be the first to cheer.

First, I want to register a note of reservation about whether there has been an improvement to date. Secondly, in order for there to be a real improvement, the Government and the system generally—although the Government will have to drive, or manage, the process—have to have all their ducks in a row and ensure that all the agencies, rather than some of them, are contributing to dealing with the problem. They have, particularly, to avoid any tendency to perverse counter-incentives, which my hon. Friend mentioned yesterday. I will touch on that again in a moment. That is particularly the case where people may be reluctant to go off benefit because they may feel that any return to it—if their attempts to work prove unsuccessful—may result in their having to come in at a lower rate. That is a serious issue for any Government.

I need to record that the Government are not intending to introduce the system until 2008; the Secretary of State's phrase was that its main elements would be in place by then. We still have quite a long time to wait for the system, let alone the time that is required to evaluate it. Indeed, there was some rather strong briefing in today's press, saying that it would take many years—over a decade and perhaps up to 20 years—before there were significant inroads into the number of people on incapacity benefit. If one takes a conventional target of, say, taking 1 million people off the benefit, which would still leave 1.7 million on it, and if it will really take 20 years, progress will be glacial. If the process goes in one direction and is making progress, I will not object to that, but the rate of progress needs to be looked at and accelerated if possible.

In saying that, I realise that that there are still some real questions to be asked and definitions to be found, which, no doubt, will have to be consulted on. That may be behind the Department's reluctance to rush forward into the new strategy that was touched on yesterday and to which the Minister of State has spoken today.

3.24 pm

*Sitting suspended for a Division in the House.*

3.35 pm

*On resuming—*

**Mr. Boswell:** I was saying to the House that my point was about difficulties that the Department will have with decisions to be made.

One difficulty will be to find a functional distinction between those who are entitled to a rehabilitation benefit and those who receive the higher-rate disability and sickness allowance, because the latter are in a particularly difficult position. We all understand the kind of distinction that the Minister is making. Whether she will succeed in putting such a watertight distinction through remains to be seen.

The second issue is whether or not people—particularly disability interests—will accept such a distinction. There are already signs of a good deal of disquiet about what was announced yesterday, which no doubt she will have to consider in due course.

From that, I pass onto the major constraints on rehabilitation services. I use that term generically, in the widest sense, including not simply medical rehabilitation but also what might be termed social rehabilitation—support for people returning to work and, more generally, the mechanisms for doing that.

The first question, a reasonable one, is whether the rehabilitation services are in place. The answer, I think, is that they are fairly patchy, do not always operate to the same extent and are not always easy for potential clients to be referred to.

Taking a specific area—which is still a significant component of the total, as the Minister will know from the incapacity benefit figures—it has been reported only today that there is, if I may use the word, an acute shortage of NHS facilities for rehabilitation of people who have broken down in work with cardiac or circulatory conditions. That is the sort of difficulty created in establishing the pathway for a return to work.

I will give another example from my own constituency. A number of years ago, in the course of visiting, I was talking to a police officer, who was off work because of an accident in which their cartilage was injured. At that time, although I have no reason to think that that is applicable now, the waiting list for consultation at the general hospital was 72 weeks. Effectively, that was at least two years of highly paid and skilled manpower being denied to the police service while the national health service failed to provide the necessary facilities.

Our wish is to reinforce the Minister in any representations she makes on the provision of facilities to her counterparts at the Department of Health and to the management of the NHS. What would happen to claimants who were prepared to accept a course of rehabilitation but were then unable to access one and, therefore, continued on benefit beyond a certain time? Any risk of a benefit cut for not having accepted rehabilitation owing to matters beyond their control would be objectionable.

My second question is about the interaction of the health service—rehabilitation—with a wider range of social provision. That could, traditionally, be social services, departmental responsibilities or work schemes, which most of us know are sometimes a little difficult to

get to and sometimes said to be bureaucratic, but are clearly important. They provide the mechanism at work and the safeguard or assurance to the employer that that will be provided.

A third issue is that of special cases. I am particularly thinking of conditions that may fluctuate—that may relax or remit. The hon. Member for Stroud has rightly reminded the House of a major part of the incapacity benefit problem—mental conditions. A whole range of physical symptoms and mental attitudes and conditions can make it difficult for people to know whether or not they will be confident in returning to work. Special attention may well be needed, even in relation to the benefits system itself.

I turn to the question of the effective management of cases. I was in conversation only a few moments ago with a colleague who has knowledge of the pathways system, who expressed the concern that, if anything, there was a concentration within Jobcentre Plus, rather than an extended use of outsourcing. That reflects what was said in conversations with some of the private sector providers.

The Minister was generous enough to say that in some respects the thinking of my colleagues who specialise in the rehabilitation side now and of myself in wanting to use the private sector might be consistent with her thinking on this matter, but she went on to fall below that comment by suggesting that there was an ideological basis for that. To borrow the Prime Minister's phrase, so far as I am concerned what works is best. That is important. I say to her, not in an ideological way, that there is a good deal of evidence, particularly with regard to people who are severely disabled or hard to place for other reasons, that the services of specialist providers from the private sector—as that is generally interpreted, so that it includes many people from not-for-profit organisations—can be invaluable, and that, in the Minister's terms, they could supplement the work done by the public providers.

From the days when disability was my lead responsibility, I still have a worry about the idea of personal mentors—not, of course, because they do not work hard—or, indeed, of disability employment advisers. Sometimes, it is important to have access to the specialist service that can deal with the particular case. We all need a GP, but we also need to be able to get to the specialist if that is required.

**Jane Kennedy:** Let me explain one of the things that puzzles us about the hon. Gentleman's "opportunity first" proposals for IB. It is easy to understand the proposal to use entirely the voluntary and private sector, but we do not understand how using those sectors—and, largely, the new deal for disabled people—will achieve his party's objective of having 900,000 people moving into work over a four-year period. What will have to change in the new deal for disabled people to enable the private and voluntary sector to make that difference?

**Mr. Boswell:** I might refer the Minister to the basic principle that we adopt in this, which is that there should be an encouragement to voluntary and private organisations to help those on incapacity benefit to find work. The essential issue is the nature of the contracts and incentives, and the run-on incentives over a longer period, for securing placement; we might need to debate that on another occasion. From my own work and studies in relation to hard-to-place individuals without disability, I have uncovered a lot of interesting comments and input from experts in this area. Some of that has also been made available to the Minister's Department, and I have no problem with that. Those experts would say that the whole issue inheres in the contract structure.

We will not resolve this matter this afternoon—and, as the Minister has suggested, nor will we resolve the ideological issues contained in it. However, she needs to take a hard look at the pattern of those contracts to ensure that they provide people with the best possible pathway and incentive to place. There is a tension—not a difficulty—that has to be resolved. This might not work if she simply does things on the basis of a gateway assessment by saying to the training or rehabilitation provider or placement person, "This is a hard-to-place person, or a severely disabled person, and it will cost you, so you had better have more money up front". What one has to do is provide a reasonable population of cases from which it is possible to make placements, and for the system to give proper acknowledgment of and remuneration for the placements of those people who turn out to be the hardest to place. That is a long debate to which we shall no doubt wish to return another time.

I have one other point for the Minister on rehabilitation issues, which goes slightly wider. We need to consider whether the benefits system helps or hinders the process. I touched on that in relation to incapacity benefit. One of the better things that the Government did a few years ago was to relax the linking rules, but that is not sufficient to deal with the difficulties of some intermittent conditions in particular. Certainly my experience as an employer, which the Minister knows is in agriculture, has been of many people who are off sick, but not after suffering a serious and disabling accident. They are, however, temporarily unable to work. At some point they may feel that they could work, but they are still on benefit, and formally doing something as simple as getting on to a tractor and seeing whether it is possible to stretch a leg and to work comfortably for a couple of hours without pain is, in itself, a breach of the benefit conditions. That needs consideration.

I used to use an analogy relating to a rather shocking photograph that appeared in the press many years ago. The piece showed just a key and said, "This is the key that controls the nuclear deterrent. It has two positions: the top position is peace, and the quarter turn gives you war." In rather the same way, the Department has traditionally taken the view that someone is either ill and on benefit, or fit to work and working or available to work. That view is being softened, but the transition from one to the other is to be encouraged and, above all, should not be subject to sanctions.

That is what I wanted to say to the House on rehabilitation. On transition, quite a lot of the debate has a wider application to persons who are hard to place, persons who may need other types of rehabilitation and persons who may need help, encouragement or mentoring to get into work. The issue goes wider and relates to people's workplace

*[Mr. Boswell]*

existence too. For the process to work, we need a public discourse that is alert to the issues and we need all people moving in broadly the same direction.

The first issue is a safe workplace. That relates partly to persons who might have an accident at work. Too many still do, which is always regrettable. Such people might incur a disability as a result, which would put them off work. The issue also relates to persons whose health condition may deteriorate while at work. I have always said on rehabilitation issues that almost the most important thing that employers and, I hope, their public sector support can do is to ensure that people are protected in work and that the necessary adjustments are made—that "aceess to work" or whatever is appropriate cuts in, which need not be at excess cost—rather than simply letting people go sick and disappear from the labour force. That is important.

The wider issue, to which the Minister referred, is the management of sickness absence more generally. I am pleased that she is considering that in relation to the public service. I remember vividly a conversation with my then local chief constable. His police force, like many others, had resource difficulties, partly because of pensions obligations. I talked to him about sickness absence and he said, "We have actively managed that and now have a particularly good record, almost an exemplary record." All employers, in the private and the public sector, should be doing that. It has nothing to do with forcing people to work when they are not fit to do so and with encouraging presenteeism. It is about saying, "Let's find out what the causes of sickness absence are and whether we can take them, as far as possible, out of the system."

With regard to all these issues of workplace safety and attitudes to creating or protecting a healthy work force, there are three categories of employer. Some are exemplary; they are closely involved with all the issues. They are probably in the 3 per cent. that the Minister mentioned, who run their own occupational health scheme. Other employers will be delinquent, and I hold no brief for them, but many employers, including some small and medium enterprises, will be in the middle and it is important to give them the right kind of incentives and encouragement. I welcome the fact that the Health and Safety Executive is anxious to participate in these issues and to advise, as well as admonishing or regulating.

There is an important need throughout industry—public and private sectors—to integrate risk management with the regulatory environment. In some cases, that can be reinforced by market factors; there is a strong business case for a healthy work force. As the Association of British Insurers pointed out in its "making the market work" initiative, it can be helpful to ensure that employers get acknowledgement for the health of their work force and that they do not pick up the tab of the average performer. The management of the workplace must also be considered. Those issues are all related to securing a healthy work force.

Further on in that train of thought is management of the claim, which we must ensure is not spun out or attenuated by a poor claims-handling process, often to the great distress of the claimant. Whenever possible, there must be some understanding of the importance of the mutuality of interest in the mediation process. Then we loop back to the rehabilitation side. It is no secret that many of us looked with interest at the American model of workplace insurance, because it puts the economic incentives in the hands of the insurer, who has the difficult choice of whether to pay out benefit or to provide rehabilitation services. That model does not necessarily translate literally to the United Kingdom context, but it is an example of the blending of regulation and the use of market forces and reputation to try to drive towards a better conclusion.

I have already mentioned the interface between the Minister's Department and the Department of Health in the provision of rehabilitation services, but I want to relate it also to organisation. I used to take what I thought were easy, if not cheap, tricks from the Minister's predecessor by saying, "Ah, isn't it interesting? If you are concerned with vocational rehabilitation, that's your Department, but if it's occupational health, it is the Department of Health." At that time, workplace safety came under the then Department of the Environment; we got two under the same roof, but not three. I do not ask the Minister to magic that little distinction away overnight, and there may be reasons for not doing so, but it is terribly important that in addressing these issues the Minister does so in genuine partnership with the Department of Health, not least because otherwise it will not carry credibility with the private sector.

I would like the Minister to say a bit more about the national framework for vocational rehabilitation and how it will be affected. I would also like her to say something about the integration of activities with the occupational health strategy in the Department of Health, which I accept go wider than the workplace. It is interesting that that Department is still offering NHS Plus as an occupational health service. The Minister's Department, through the Health and Safety Executive, will offer the workplace Health Direct, and I would very much like to know how they will tie up, if only because employers will get confused if they do not understand where to go.

In conclusion, I want to say a word about wider occupational health issues involving the work force as a whole, and to get away from rehabilitation as a detailed issue. As I said in this Room two weeks ago when we debated the Select Committee report on the work of the Health and Safety Executive, it is fair to say that health is now as important as safety. I hope that no one will misinterpret that as a vote against safety, which of course it is not; it is a serious comment on the need to upgrade the importance of occupational health. There are important elements, some of which were identified in that debate, which we all need to bear in mind, particularly in relation to the changing character of the work force.

There are more women in the work force. The Minister will have seen today's interesting Equal Opportunities Commission initiative on women who are pregnant at work. I could and would not condone people being sacked, in defiance of law, for becoming pregnant. It worries me that employers still think that an appropriate thing to do. There is more self-employment, which can create difficulties, more contract employment and there are more migrant workers. The situation is far more complex. The

Beveridge model of a man working in a factory environment with large numbers of fellow males in extended employment, from apprenticeship to retirement, has evolved for the better. However, that means that earlier appraisal of problems is more difficult. That is accompanied by a change in the pattern of risk and the kind of occupational issues that arise.

As most farmers know, it is still possible to damage one's back or pull something by lifting too much or badly. We should never forget that manual work still takes place and must be carried out safely. However, many people do not experience such work. They may work in an office and be worried about repetitive strain injury or sick buildings. The fact that the risks have shifted does not mean that they are not significant, and that emerges from the incapacity benefit statistics on the changing nature of the work place, which show that there is as much stress as muscular-skeletal problems, and cardiac problems are not far behind as major causes of sickness in working age.

I say to the Minister firmly that we on these Benches want to use all available resources. The expertise, enthusiasm and resources of the private sector should be used to the maximum effect. It is also important to ensure that both sides of industry – employers and unions – are engaged in an active programme to improve the quality of life in the workplace. The Government must consider their role in leading a partnership model. We will not agree about how that is to be delivered, but I think and hope that we will agree that there is an essential problem of people not working when many would wish to, and of incentives not getting people back to work. There is also a wider underlying problem about whether workplaces are the places we would like to work in.

The problems will be solved neither by anybody grandstanding here, nor solely by government initiative, and certainly not by opposing the inclinations of the private sector. We must show that it is in the best interests of employers as well as workers and taxpayers to ensure that the approach is understood by all parties and that we bring our own thoughts to the debate and reach a better conclusion than we have so far.

3.59 pm

**Mr. David Drew** (Stroud) (Lab/Co-op): I am delighted to take part in this debate. I feel a bit lonely at the back here, but I would like to think that the debate is about quality rather than quantity. Some of my colleagues have missed an opportunity. Perhaps the debate should have had a slightly different title, because if we had done a vox pop on what my colleagues thought would happen this afternoon, we might have got some interesting answers.

Although the title may sound nebulous, this is a vital issue, not only because of yesterday's announcement by the Secretary of State, but because it gets to the crux of what I believe is the good part of this Government's programme: getting people back into work and giving them quality of life and hope. More than that, it concerns what most of us think about day in and day out, which is what we do in our place of work, the appropriateness of that place, whether we enjoy going to work, whether it is worth getting up in the morning to go to work and the links to what we do outside work.

I shall come back to that point, but, given your liberal tendencies – not with a big 'l' – Mr. Deputy Speaker, I would like to talk about what I see as rehabilitation, which involves how people live their lives at home and how that affects their ability to go to work.

I make no apology for starting – partly because I received a briefing from the Chartered Society of Physiotherapy, as, no doubt, other hon. Members did, so I shall not read from it – by paying tribute to those who work in that area, whether physiotherapists or occupational therapists, community psychiatric nurses or mental health teams. As I said in an intervention, I am interested in the problems of mental health. Those professionals are trying to do their best, sometimes in difficult circumstances, to give their clients a quality of life and to move on. So often, people with mental health problems get stuck in a rut and find it difficult to move on. Judging from all my experience, apart from those who really are disabled and see no way of overcoming their disability, the vast majority of people genuinely want to improve their quality of life, largely through their ability to earn income. Of course, that starts and ends with whether they are capable of going to work. We must consider this in the round.

As I said, I make no apology for starting with a matter that has not been touched on as much as it might have been. That is understandable: where do we start with this debate? Where people live affects the rest of their lives. I have always been a strong believer in home improvement agencies, and I have been a member of the Stroud Care and Repair Board for more years than I care to remember – certainly for more than the last decade.

I have seen at first hand how small repairs to people's homes allow them to stay at home, which, of course, means that they are much more likely to be able to stay in work. It gives them a quality of life, which, for a cost of a few hundred pounds – sometimes less than that – makes an unimaginable difference. One of the problems is the laborious process of engagement with such schemes and how to gain access to the improvements that we all know are needed.

Whether people are in public sector housing, including housing association stock, have their own property or rent privately, there are some difficult hurdles to overcome, not least getting an occupational therapist to do an inspection.

The hon. Member for Daventry (Mr. Boswell) was right to talk about how long it can take for somebody with a physical injury to get a physiotherapist. I am talking about people needing adaptations to their property, which is just as important. It is, dare I say it, even more "in your face" and it can have an enormous, depressing impact on people's ability to organise their lives. They can put up with the pain, but not with the fact that their house is completely unsuitable, they live in one room and they cannot do the garden. They gradually draw into themselves – perhaps giving up work, perhaps becoming incapable of getting back to work. I put that on the record because it is important that we consider things that really matter to people. Home accommodation cannot be separated from work accommodation.

I pay [illegible] regard to the trade unions. I have already mentioned the Chartered Society of Physiotherapy, which is a trade union of physiotherapists. I would also

*[Mr. David Drew]*

like to mention my own union, Unison, and some other manual workers' unions such as the Transport and General Workers Union and the GMB. I pay tribute to the fact that they are very interested in this issue. The Fire Brigades Union has a long track record of having to deal with members who have been injured at work, as a result of their work or because of general wear and tear on their bodies.

That has an acute resonance because of the pensions issue and the fact that, understandably, the Government are considering how to face up to it. We may have some arguments about how they have gone about that so far, but we cannot duck the issue. It relates directly to how and where people work and whether they are able to stay at work.

Since I was elected nearly eight years ago, I have always made a point of saying that the difficulties caused by early retirement are coming home to roost. Sometimes, no doubt, Ministers would prefer that I had not done so. I am sure that they would prefer to be deaf to what I am saying. Sometimes, people take early retirement for positive reasons. It would be nice if we could all take it, but things are going in the other direction. However, people often take early retirement for negative reasons, usually because they are not capable of continuing to do their job or they have been injured or suffered some problem.

As a former teacher, I think that teachers have a certain view of how hard their job is. Looking around, we do not see many teachers reaching the age of 60 in their job because of the arguments that they always advance to me: the stress in the classroom and worsening discipline. I do not agree with that, but I know that teaching is a very stressful job. All those things come together: if people do not value the quality of the job and the workplace—that is directly what this debate is about—they will leave. We have to improve the situation because, quite simply, we need them to do the work. We cannot afford for them to continue to leave in such numbers. More particularly, we need their expertise.

It is a disgrace to the public sector, but also to the private sector, that we have devalued older workers. I very much welcome what we have done on age discrimination, but one of my friends, who is 67, gave me a real flea in the ear at a party meeting on Friday. She said, "It is all well and good, but I am 67 and you have protected me only up to 65. I want to work. Why am I not allowed to? Why is it that when I put my name forward for a job, I get no protection at all?"

I know that on this issue, as with anything, the glass is half full or half empty. That lady feels strongly that it is half empty. We have gone part of the way, but she wants to work and feels that she is being prevented from doing so because she gets no protection. We have to face up to that issue. As much as the general view is that most people want to leave work at the earliest possible opportunity, there may be strange people out there—although my friend is not strange at all—who feel that work is important. My friend does not have a pension to fall back on, so she must find other ways to bolster her income on top of the state pension. That, too, is worth putting on the record.

Stroud being Stroud, it is not one of the pathway areas. However, to be fair to my right hon. Friend the Minister, I would like to give plaudits to Jobcentre Plus for the work that it has already done, particularly on mental health, which I am interested in. It has worked hard to find ways of helping people to make the transition back to the world of work. There are some good examples of that, but I do not have the time to refer to particular cases. The general feeling is that things have got better, but that they still need to get a lot better to make a difference.

That impinges on another aspect to which we should pay due regard—the work of the voluntary sector, which we often take for granted. I always argue the case for compulsory volunteering. Some people laugh at that and some think it is a completely ridiculous notion, but I believe that everyone should be a volunteer. Even if they spend only half an hour a week volunteering, it is good for the soul.

The hon. Members for Daventry and for Northavon (Mr. Webb) will know, because we share the same faith, what we think the role of people is in terms of trying to do things for others. I think that volunteering is important because of what it does to the individual and the way it builds their self-esteem, as well as being fundamental to keeping our society going. Without the work of those volunteers, our society would collapse. It would be interesting to know which would be more damaging—the collapse of statutory employment, leading to mass unemployment on a scale that we have never seen, or the voluntary sector saying, "We are not doing this any more." The role of the voluntary sector in this area is very important.

That is a link back to mental health, and the work that I have done in that area. In that context, I will mention a particular organisation and an individual who has taught me an awful lot. The organisation is Scout Enterprises, which works with people recovering from mental illness, and the person is Chris Gascoyne who, over a long time, has taken me through the case histories of people who have lost jobs on the back of a period of mental ill health, explaining the importance of rebuilding their confidence. That can be done only by arranging for them first to work part-time in the voluntary sector and then gradually reintroducing them to a more formalised setting. There are some wonderful examples of how people have got back into full-time employment, even if they have not gone back to the jobs that they did previously because that would be too difficult.

The role of the Department for Work and Pensions is to be as sensitive as possible in devising a benefit system that gives people incentives, rather than imposing penalties, so that they can take their time. Moreover, there must always be a safety net. The one thing that people with mental health problems or other conditions such as ME—I see that there is a reception next door on that topic—really want to know is that if things do not work out, there is a net that will catch them. If they fall through the net, we all know that that could be it and that they might never get back into the world of work again.

I welcome this important debate. I made three interventions earlier and I shall finish my remarks in relation to what I said in the first of those concerning the relationship with the NHS. The Department for Work

and Pensions is doing some exciting work, but that will pay dividends only if we can lock it together with the NHS being more proactive in how it works with people to deal with the matters that the hon. Member for Daventry spoke about.

The NHS must cut waiting lists so that people can get treatment much more quickly, but, in addition, it must rediscover rehabilitation—some of us used to call it convalescence, but the NHS does not seem to like that term any more. People need time to recover, and then help to move back. I gave an example of how that is important in relation to where they live, but I also want to talk about how they get back to work.

The NHS must be better at rehabilitation. It cannot just examine the physical bearing of the individual, but must consider how it can help their mindset. It should also consider the fact that much more investment in occupational health and things allied to it could give people back the confidence that they can achieve the things that they might have achieved but for events outside their control, where things have gone wrong.

I hope that following this debate the Minister will be involved in Cabinet Committee discussions with the NHS and Department of Health Ministers to consider how we can make this situation better. All sorts of Departments could be linked in, but I highlight the NHS because it is the most important nexus. If that were to happen, we could say that we had achieved rehabilitation and healthier workplaces.

**Mr. Steve Webb** (Northavon) (LD): It is always a pleasure to follow my constituency neighbour, the hon. Member for Stroud (Mr. Drew), whose contributions are profoundly humane and thought provoking. They have broadened the scope of what we have been talking about this afternoon. I could not help reflecting that his 67-year-old friend who sees a half-empty glass is being an optimist, because we have not even got age discrimination legislation yet.

4.16 pm

*Sitting suspended for a Division in the House.*

4.26 pm

*On resuming—*

**Mr. Webb:** To resume where I left off in my response to the hon. Member for Stroud—as he is not here to answer me back, I will put this more strongly than I was about to. I simply observe that age discrimination legislation has not even been introduced yet, and when it is it will be very limited in scope. The relevance of that observation is that it relates to how long it takes us to start saying things that we really ought to have said a long time ago.

It would be churlish to say anything other than that the Minister's speech was analytical, calm and fairly non-partisan. However, I sat listening to her and thought, "What can I possibly disagree with in what I have just heard?" Sometimes, when I hear a speech with which I can barely disagree, I wonder—with no disrespect to the Minister—what the point is in a statement of the blindingly obvious. There is a reason for what I say and I will come back to it.

When we make statements such as, "Early intervention is better than late", "If we can stop people getting stuck on benefits by intervening early, that must be better than just leaving them to rot", and "It's better to tackle the causes of incapacity at the workplace rather than let people become incapacitated and pick them up at the end", everyone in this Chamber just assents. It is so obviously true. The question is: why are we asking only now?

It is to praise the Minister—although it may not sound like it—to say that finally such issues are being discussed and something is starting to be done. But why was it not done seven years ago, or indeed 27 years ago? What has changed? I recall a conversation in the early 1990s with a senior official of what was then the Department of Social Security. I was an academic doing research into the growth in the number of people on invalidity benefit, as it was then called. The senior civil servant said to me, "Once they're on it, we just leave them to rot. We don't attempt to rehabilitate them; we just leave them." It is not surprising that the total rose remorselessly, year after year. He had that insight 10 or 12 years ago, yet here we are today, having almost just discovered that we should get to people early, intervene, pick them up when they have just lost their job, and look into workplace health and safety. We have almost just discovered that prevention is better than cure.

Therefore, I suppose that one question for the Minister would be: why has it taken us seven years to discover those self-evident truths? I guess that her argument will be that the new deal, and all of that, started with the unemployed, not the incapacitated. I think that the rhetoric is that one deals with unemployment first and gets it down to, say, 900,000—whether that is full employment I do not know, but down to a much more reasonable level anyway—and then one looks at the harder-to-help people. But is not that the wrong way round? Would not many of the unemployed people have got jobs anyway?

I know that there is a big debate about the new deal and so on. I think that work programmes have a part to play and that they need to be reformed rather than abolished. The Minister will know that practically none of the new deal money went to disabled people. It was massively focused on the unemployed and lone parents. What happened? Disabled incapacitated people got stuck on incapacity benefit, of course, because no one did anything for them.

Why did the Government do things that way round? Why was the vast bulk of the new deal not focused from day one on the incapacitated, who might otherwise get stuck and rot and never work again, rather than on the unemployed? Many of the unemployed, frankly, were fit, well and able. With perhaps limited support or as the economy grew, they might have got jobs anyway.

I will be interested in the Minister's comment on that strategy. Also, why are we only coming to where we are—rolling out the pathways pilot—seven or eight years down the track? Even the pathways pilot, we read, will only be rolled out to a third of the country in a few years' time.

There is a bit of a paradox here. I understand what the Minister says about a pilot—seeing what does and does not work—but she seemed to be saying two things that were inconsistent. She was saying that pathways to work

*[Mr. Webb]*

is the best thing since sliced bread and that there were all these good results and so on. However, she was not sure whether pathways to work is good value for money, so the Government are not going to do a nationwide roll-out. Does that mean we think that it is fairly good value for money?

I do not think that holds. To say that pathways to work is being piloted and works in general, but we are not sure which bits work, so two thirds of the country will get nothing, is not credible. Surely, the pilots are showing that, in the round, these measures are beneficial. It seems self-evident that these early interventions and so forth will be, so why not have the nationwide roll-out? Is it capacity? Is that what is going on? If so, I think the House would accept that from the Minister, but that was not her reply. She spoke of a testing period, piloting and all the rest. That is not credible.

The focus of this debate is rehabilitation and healthy workplaces. One of my dilemmas is that a lot of this makes sense for big firms. Occupational health and welfare is, on average, better in big firms. They can probably afford to devote the resources and even have staff who can work full-time on such things, whereas, for the one-man band, the contractor, the self-employed and so forth, they are inevitably a much lower priority.

If we are concerned about occupational welfare, one of my key questions is how does the small firm—small and medium-sized enterprises and so forth—fit in? I think that the Minister's answer to that is a phone line—"Workplace Health Direct". That is great. I have no problem with a phone number to ring. It will be interesting to see in six months' time how many people have phoned, but it is better it is there than not, although I suspect that it is of marginal value.

Beyond that, the good guys are often the ones who ring the helplines. The people who really ought to be doing something—who are sloppy about occupational health, who let their workers work in poor conditions or get bad backs because of poor lighting or computers—do not ring the helplines until something has gone wrong. What is the Government's strategy for making sure that those smaller employers take the proactive approach that all hon. Members want to see?

Presumably, the Health and Safety Executive has to be part of the process—doing inspections, having a statutory role, going in—*[Interruption.]* The hon. Member for Stroud has returned. He can read my words of wisdom in the *Official Report* tomorrow. I think we pre-empted him.

On the health and safety front, the Government's record does not look so good. The Select Committee on Work and Pensions has made some strong criticisms of the Health and Safety Executive. It flagged up no fewer than five areas of concern, beginning with the total budget, which is down on 1997 in real terms. The performance of the Health and Safety Executive against its 2004 targets is best described as mediocre. There is a lack of progress on the commitments on legislative change that were made in the "Revitalising Health and Safety" document. There is what the Committee calls inadequate coverage of occupational health support, which is what we are talking about today, and inadequate strategies to reverse the threatened decline in consultation with workers by employers on health and safety issues.

That is a whole shopping list of areas where the Select Committee is worried about the performance of the Health and Safety Executive. It is not properly resourced to fulfil the very agenda that the Minister has come up with. What reassurance can the Minister offer that the Health and Safety Executive will be properly resourced to ensure that small firms, not just large ones, buy into the agenda that she mentioned?

It is all very well to say, as the Secretary of State did in a speech in December, that it makes good economic sense to take action such as talking to workers when they have gone off sick for a week rather than not phoning them for a month, so that they are far more likely to return soon and the companies save on sickness payments. It is another statement that is obviously true but, clearly, it frequently does not happen. How will the Government make that happen in the many workplaces where employers are short-sighted, think that they will never face that situation, or have not bought into the proactive agenda and hope that things do not go wrong?

In a sense, we have heard warm words but where is the beef? Where are the enforcement measures for employers who do not see that enlightened self-interest should take them down this track? Where are the teeth to ensure that that happens? If I work for an employer who is not terribly enlightened, what protection do I have if the enforcement body has its funding cut in real terms and there are many other concerns about its activities?

We would all agree that one critical aspect of rehabilitation is part-time work—a stepping stone and some re-engagement with the disciplines and routines of work but at a less demanding level than going straight back into full-time employment. My nagging doubt about the Government's incapacity benefit agenda is that sustained part-time work does not seem to fit. The hon. Member for Daventry (Mr. Boswell) used the analogy of the nuclear button being off or on. Part-time work on a sustained basis does not seem to fit, but it might be the answer.

I stress the phrase "sustained basis". I think of the example of local authority councillors only because I receive letters from around Britain about it. In the past, they could draw allowances for being councillors. Their health may not have been brilliant, but the one thing that they could do was be a councillor—they had the time and energy to do that. As their allowances were modest and they were not doing that many hours, the old therapeutic earnings rules came into play and they had a sustained existence through that combination.

My understanding is that the therapeutic earnings rules have gone and that the Government's position is that such therapeutic work cannot be done indefinitely. I am open to correction by the Minister, but I think that the current rules say that someone cannot continue to describe what they are doing as having therapeutic value. At some point, the crunch comes: the Government say that the person has proven that they can work week in, week out, albeit for not many hours, and that they should make their mind up—either they are incapacitated or not.

There must be a set of people for whom sustained part-time work, which might be 10 hours a week or variable, is best. If the Government have an all-or-nothing approach, we do not end up with the best situation for those people. I refer back to the Chartered Society of Physiotherapy, which the hon. Member for Stroud mentioned. One concern in its briefing was:

"The CSP is concerned that the emphasis on returning to work as the ultimate goal could be counterproductive".

In other words, if there is an over-obsession with work, by which I think the Government mean full-time work or something approaching it, there could be problems. Interestingly, the Department's own research bears out that personal advisers on incapacity benefit have the same concern. Let me quote a report entitled "Incapacity Benefit Reforms—early findings from qualitative research", in which incapacity benefit personal advisers were asked what concerned them about the new arrangements. Those advisers expressed

"worries about encouraging moves into work which could be detrimental to the customers' health condition".

Although I am sure that the Secretary of State was right to say yesterday that the best thing for a bad back is not necessarily lying in bed all day, but doing a bit of work might be—there is a kernel of truth there—I am worried that such a statement of the blindingly obvious might be taken to extremes and that the Government's approach does not allow for the possibility that the answer might be different for different people. Sustained part-time employment, perhaps of variable hours, but typically a fairly small number of hours, might be the long-term answer.

My key point is that the national insurance system does not lend itself to shades of grey—it was never meant to. National insurance was about replacing lost earnings when people lost their job, whether to old age, sickness, or, in the case of widowhood, if their partner lost their job and was no longer an earner. The point of that was that, although the earnings had gone, people knew that they had a national insurance benefit, and when earnings came back—because work was basically synonymous with full-time work—they went off the national insurance benefit and into work. However, the world does not look like that anymore, which is why I am worried that the reformed incapacity benefit that the Government have proposed still does not allow for that.

The basic £50 a week, or whatever it will be, is still an all-or-nothing payment and could not be gradated so that, for example, someone could do eight hours a week at the minimum wage and get £35 or £40, and then perhaps have some partial capacity benefit on top of that, whether £20 or whatever. That would provide a package allowing them to do some work, perhaps over a long period or indefinitely, and draw less, but not nothing, from the taxpayer.

I will not keep repeating that point, but it is the kernel of one of my concerns about the present system and the Government's reforms, which are still modelled around national insurance—and national insurance is still all or nothing.

**Jane Kennedy:** I am listening carefully to what the hon. Gentleman has to say and I am interested in his probing into our proposals. We have had some brief discussion about the Conservative party's proposals, but will he take this opportunity to let us in on what his party's ideas on this matter might be? There has been a lot of criticism and comment from him on our strategy so far, but the Liberal Democrats have to do slightly better than saying, "We are going to replace it all with something that works better", which is broadly what he has said.

**Mr. Webb:** That is an unfortunate intervention, because I have, in a sense, already made two specific suggestions, but perhaps the Minister was not listening at the time. I pointed out that the balance of the new deal was massively towards the unemployed, not the disabled. That balance is wrong and needs to be redirected far more towards disabled people, which is far more cost effective, because more money is saved for each person who is moved off incapacity benefit, for example, than for someone who is moved off jobseeker's allowance. Within the total budget, the balance is wrong.

**Jane Kennedy:** Does it follow, then, that in the event of the hon. Gentleman's party being elected to Government, it would abandon the new deals and replace them with a revamped new deal for disabled people, which is broadly like the Conservatives' proposals?

**Mr. Webb:** No, it does not remotely mean that. The Conservatives propose scrapping the new deals, whereas we are talking about the same total budget with a different prioritisation. In other words, there will still be the new deal programmes as budgeted by the Government in the forthcoming spending profile. We will match that spending, which is already in the Government's spending plans, but we will reprioritise. We are talking not about scrapping the new deal for the unemployed and spending it all on the disabled but rebalancing.

I think that I am right in saying that disabled people have had less than 5 per cent. of the whole new deal since Labour came to power, but I am open to challenge on that. I hope that the Minister will say why that is so. Why have disabled people been so far at the back of the queue for new deal money, when they were the people who the tailored, individualised support could have done far more to help?

The Minister asked what we would do. I think that she jumped up because I used the phrase "partial capacity benefit". We use that phrase because it summarises another strand of our approach, which is as I just described—not the national insurance benefit, which is all or nothing. That approach recognises that people have partial capacity—capacity to do a certain number of hours, perhaps combined with a lower rate of benefit, but more flexibly than the present all-or-nothing system. That is a second concrete positive suggestion for how the system might work.

The importance of the part-time work issue was highlighted by the Secretary of State in a speech that he made to the Commercial Occupational Health

*[Mr. Webb]*

Providers Association conference on 1 December—I have to say that I missed it. Paragraph 34 of his speech stated that good practice can involve

"a gradual return to work, for example, starting initially with shortened hours; it can involve the employer making adjustments to the working environment—and/or setting up rehabilitation programmes".

I agree. The gradual return to work and the period of part-time employment could be a good thing. My point is that the system does not accommodate that fantastically well. The things that the Secretary of State applauds do not fit very well with the all-or-nothing system, particularly if they are prolonged. I am aware, and I welcome the fact, that some of the pilots and the individual stuff allows greater flexibility. Even in those cases, my understanding is that they are time limited; at some point, there is not exactly the "get on your bike" message, but something akin to it. I am not sure that that will be right for everybody.

I want to touch on a point that I raised in an intervention. The context of this debate is the apparently stubbornly high number of people on incapacity benefit. The 2.7 million figure includes, as the House will know, about 300,000 people on severe disablement allowance. If we ignore them—not because they are not important, but because they are a different category of people—and focus on incapacity benefit, the 2.4 million who are currently on it is pretty much the same number as 10 years ago. It has not fluctuated much in the past 10 years. It tripled under the Conservatives, but since the mid-1990s the number has been flat. What has changed is its composition.

**Mr. Boswell:** Before the hon. Gentleman leaves that point, and in a sense reverting to a comment made earlier by the Minister, does he not agree that within that relative stability of the past 10 years, even if there has been a reduction in claimant numbers, as the Minister claimed, that has been matched by an expansion of the period in which claimants are claiming? There have been fewer coming on to the benefit, but those who are on it are staying on it longer.

**Mr. Webb:** I think that, if average durations were rising, other things being equal, the stock would tend to rise. I could not comment on whether the fall in the inflow has offset the rise in the average durations.

The point that the Minister made is right: a large number of people are on incapacity benefit who have been on it for a long time. I do not think that any of us would dispute that. I will use the 2.4 million figure and leave the severe disablement allowance people out of the picture. The composition has changed dramatically. In the mid-1990s, only just over 500,000 were the credits-only people—the people who do not actually get the cash. Now the figure is nearly 1 million, out of the same grand total. That means that the number of people who get cash from incapacity benefit is dropping quite dramatically.

The Minister seeks reassurance on that point, which is interesting. I do not think that the Government have got a clue what is going on, although that is probably rather rude. About two years ago, when I last saw the figures, I asked another Minister from the same Department what was going on with the rise in the numbers of credits-only people. He said, "I haven't a clue". Yet they are now one third of all the incapacity benefit recipients.

I tabled a parliamentary question earlier in the week asking what research the Department has undertaken about those people and whether it will undertake some, because something rather worrying is going on when nearly 1 million people pass the incapacity test, prove they are incapable of work and do not get any money. That is partly because the national insurance rules have been tightened, but mainly because they are not coming from the workplace.

Bizarrely, we are having a debate this afternoon about stopping people flowing from the workplace on to incapacity benefit, which is entirely legitimate—I would not want to be quoted as saying that it is a sideshow—but it is not the biggest problem that we have. That is people coming from spells of non-employment, broadly defined, on to incapacity benefit.

I have not heard anything from the Minister so far. One cannot expect her to know the minutiae of these things—I certainly do not—but at the start of the debate she was under the impression that those people about whom I am talking did not even qualify for the pathways to work assistance. I do not get the sense that the Government have a grand strategy for the fastest-growing group, and that worries me. It would be great if we were to have all the things we have been talking about—the workplaces where people are prevented from falling sick, or where when they fall sick there is quick intervention—and more power to the Government's elbow on that. However, what will happen with the fast-growing group that will continue to grow? I ask that, because I cannot see that a lot is being done for it.

In a sense, that is the broad outline of my concern. There is almost nothing that I disagree with in what the Minister said. One wonders why it took seven years—or 27 years in some regards—to make a start on this agenda. However, having said that, I cannot point to a speech I made 27 years ago where I demanded it, so we all have the benefit of hindsight, and better late than never is my response to what the Government are now doing. However, there are two big gaps in what they are doing. First, there is a failure to recognise that part-time work for a long period might be the best answer. I do not think that even the reformed system addresses that issue. Secondly, if we are worried about people getting stuck on IB—or incapacity more broadly defined—we should address the fact that there is a rapidly growing group about which we know precious little, and about which we appear to be doing even less.

4.51 pm

**Jane Kennedy:** With the leave of the House, I will reply briefly to this interesting debate. My hon. Friend the Member for Stroud (Mr. Drew) talked about the stress teachers face in the classroom and how that affects the likelihood of their retiring from work early. There is a little known fact that hon. Members may be interested in; the esteemed mother-in-law of the hon. Member

for Daventry (Mr. Boswell) was partially responsible for the education of my hon. Friend the Member for Ogmore (Huw Irranca-Davies). *[Interruption.]* Indeed, his political education. I am sure she could give testimony to the stress related to that task.

**Mr. Boswell:** For the avoidance of doubt, I should say that I was trying to tell the Minister that my mother-in-law was in no sense responsible for the political education of the hon. Member for Ogmore (Huw Irranca-Davies). I ought to put that on the record.

**Jane Kennedy:** My hon. Friend the Member for Stroud made a very thoughtful contribution. He rightly pushed back the boundaries of the debate by considering issues around the rehabilitation of people with particularly chronic illness. He also described the experience of his local hospital, where he believed that the health service was withdrawing from important services. I will ask for further details on that. However, I want to respond now to an important point that my hon. Friend made. It relates to the habit of our comrades in our constituency parties of raising particular issues whenever they get the opportunity; there was a lady who raised a concern about not being allowed to work longer. My hon. Friend is correct that we have not yet implemented that measure, but we will do so. The right to request to continue to work beyond retirement age will come into force in about October 2006, so if she had been 18 months younger she might well have been in a position to argue that her employer could sustain her in employment.

I am a little clearer about the comments of the hon. Member for Northavon (Mr. Webb), and I will read with interest his comments in *Hansard* on what he would do in our place. His last point was about the flow on to IB—where the increasing numbers are coming from, and the fact that they are from the group he referred to. He was right about that; we have many different categories of client, and I apologise for my earlier mistake. Let me explain my immediate response to his point. What we are experiencing with our personal advisers should be seen in the context that that this new approach to dealing with benefit customers is still being rolled out; we are still only about just over half of the way through the roll-out of Jobcentre Plus. Therefore, the bringing together of the two services is not yet in full effect in integrated offices throughout the UK. We are only beginning to see some of the effects of this work.

What happens now is completely different to what used to happen in the past. When people present themselves to Jobcentre Plus in the first instance, whether to claim jobseeker's allowance or any other benefit, they undergo a financial assessment and their circumstances are assessed by Jobcentre Plus staff. That is a new departure. Previously, the old Employment Service and the Benefits Agency would simply have responded to an application made by an individual and no check would have been made of their circumstances to assess whether other benefits that they might get, but for which they had not initially applied were appropriate.

We are looking at the circumstances that the hon. Member for Northavon describes, but my sense of what is happening is that as people come in for advice through the jobcentres and Jobcentre Plus, they are being directed, in some cases, towards incapacity benefit as something to which they are entitled by virtue of their circumstances, except that they do not get IB, but the related benefit, even though they have not been in work. There are other factors in play that we are still studying, but we are interested in this matter—we are not unaware and uninterested. There are other trends in the benefits field that are of interest and which we are also studying.

The hon. Member for Northavon made a great play about saying, "If it is all so great, why didn't they start doing it seven years ago?" I have already said that the development of Jobcentre Plus continues and by this time next year we should be approaching the end of its roll-out. It has required a huge investment of resources, not just in the physical infrastructure of the offices but in the support, management and reorganisation of staff. That has been a major task and has taken up a lot of the energy and resources that were available.

The hon. Gentleman is right. When we came into office, our priority was unemployment and dealing with the legacy of the Conservative years, from which we inherited crippling levels of unemployment. We focused rightly on how to enable people to move back into work who could, perhaps, easily be described as the easiest to help. Although the new deal for disabled people was developed relatively quickly, it still helps only about 3 per cent. of the population who are in receipt of these benefits, primarily because it is a voluntary scheme. We have to go through a huge process of re-education with a lot of people who have been told by their doctors that they are incapable of working.

The hon. Gentleman talked about people passing the incapacity test so that they are deemed incapable of work, yet he and I would probably agree that there is a significant proportion of people in receipt of such benefits who could work if they were in receipt of the right support and help. That is why the strategy in which we are engaged and which we have published is the right one.

It is true that we had the principles in place from an early stage. Early intervention was the right principle. However, for the reason that I have just described—broadly, capacity is one reason—we never tested the model that we are now testing in pathways; it has never been done before in a social security context. For the first time, pathways is giving us a unique model that is proving successful in its early days and will provide us with the framework on which we will build further. However, we need to be careful.

My quick response to the intervention by the hon. Member for Daventry on my earlier speech, was that we still need to be careful, evaluate what we are doing and ensure that we get the most effective intervention for the resources that we are investing.

The hon. Member for Northavon questioned me about the workplace health direct pilot. He said that he was not being disparaging. However, the service is not merely a telephone helpline, although it will provide important advice. He might want to consider the experience in Scotland, where that service has been piloted for two years. That pilot is coupled with pilots

*[Jane Kennedy]*

running in regions, which will test what occupational health support people can be encouraged to develop in the current environment, but we are trying out different ways in different regions and the Health and Safety Executive is taking it forward.

The Scottish example is small in scope, but we will learn valuable lessons from it. Clearly, it must still be a partnership-based approach; it is not a whistleblower's telephone line to report employers for bad practice, but a matter of getting advice about a set of circumstances that can be raised with the employer in a sensible, constructive way that encourages them to behave responsibly and to deal with the risk that is identified.

On the matter of sustained part-time work being best for some people, what we intend as we develop the new strategy is that everyone on IB will be able to do part-time work for periods of 52 weeks as it stands, but people on IB with the greatest health-related barriers to working full-time will, as a result of the changes that were announced in the pre-Budget report, be able to work part-time permanently—the change to the linking rules to which the hon. Gentleman referred earlier. People with advanced progressive conditions or severe mental illness will be acknowledged to be in the categories that he described. I hope that that has clarified the point for the hon. Gentleman.

The hon. Member for Daventry, in a very interesting contribution, described our progress as glacially slow. I think he and I share some frustration on that score, but we must consider how far we have come since 1997. It is important to remember that new claims are down by a third and numbers in the case load have peaked; it is a small fall, but the latest figures suggest a 9,000 fall in the overall numbers. If it is sustained, we will be able to say that we have established a trend. I am looking forward to the next figures with great interest.

The hon. Member for Daventry might also be interested in considering the international situation. In the US, the experience is of a rapidly increasing case load of those who are economically inactive for health reasons. New Zealand, too, has a similar experience. These are complex problems, which have been created over a generation; they will not be resolved easily and we should take pride in the fact that the UK Government are seen as a world leader in this respect. We are in the forefront of Governments who are trying to tackle the problem and we have developed a highly imaginative and innovative way of dealing with it. The hon. Gentleman asked how we would draw the line between the rehabilitation and support allowance and the disability and sickness allowance. Hon. Members will be reassured when I say that much detailed work and consultation will be undertaken on the issue.

In a statement yesterday, the Chairman of the Select Committee requested that the matter be given pre-legislative scrutiny, and my right hon. Friend the Secretary of State will consider that request carefully. However, in general terms, the rehabilitation and support allowance will be for people with less severe impairments that can be managed, with the right support, so that they are not a major long-term obstacle to getting back to work. For example, people with conditions such as lower back and neck pain, angina and depression are likely to receive the benefit.

The disability and sickness allowance will focus more on those with the most severe impairments, where the health problem or disability will form a very significant obstacle for some time. The hon. Gentleman and I can think of the kinds of cases that that will include. We know of many people who still work with severe impairments, so we are not saying that they will not be entitled to work.

**Mr. Boswell:** I seek the Minister's elucidation on two matters. First, I take it that the distinction between the two allowances will arise from the personal capacity assessment, so it will itself have to be altered to differentiate between them. Secondly—this is a matter of principle—if an action plan is drawn up following a personal capacity assessment and the person is compliant in trying to get back to work, it will send an extremely bad signal if the benefit is scaled down for failure to complete the action plan as a result of circumstances outside the claimant's control—for example, a failure to receive treatment in time.

**Jane Kennedy:** The hon. Gentleman's second point is entirely valid. The answer to his first point is yes: a personal capacity assessment will still be made. In a sense, the people with whom we will be working will drive this agenda. There are people with severe health impairments who will none the less say, "I still believe that I can work". It is important to say that we are not writing anybody off.

The hon. Gentleman asked about the vocational rehabilitation framework. I shall try briefly to summarise what that is about. In October last year, I launched the framework document, which stresses that the current inconclusive evidence base on vocational rehabilitation should not preclude considering how we can move forward on this issue. The document helps stakeholders who are considering introducing vocational rehabilitation, highlights the key messages in research and allows stakeholders to influence current practice and encourage the development of good practice.

I am sure that hon. Members will agree that there are a large number of Government strategies and initiatives focused on people not in employment. The work to help people with health conditions or impairments retain employment has started only recently. Do not ask me again why it did not start before as it is such a good idea. Clearly, that work is just beginning. Momentum needs to be generated. The framework suggests that the initial efforts flowing from the initiatives should be focused on helping people in employment remain in employment.

We can supply the hon. Member for Daventry with a copy of the framework, which might help him. He talked about the confusion that might arise in the minds of employers about the range of rehabilitation services available; confusion about, for example, competition between the Health and Safety Executive and the Department of Health. He is right. The various teams and agencies involved in providing those services are already being co-ordinated. There is a great deal of interest in the issue across Government because we see

benefits flowing, not just for the Exchequer but for the general health of the nation. There will be benefits for employers, too.

I have already said that the linking rules will remain an integral element of the new scheme. If I may say so, I am still not much clearer about the Conservatives' plans on their "opportunity first" programme. We shall continue this debate on other occasions, and I am sure that public interest will remain focused on this issue.

*Question put and agreed to.*

*Adjourned accordingly at seven minutes past Five o'clock.*

# Westminster Hall

*Tuesday 8 February 2005*

[MR. JOHN MCWILLIAM *in the Chair*]

## East Coast Rail Franchise

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[Mr. Jim Murphy.]*

9.30 am

**Mr. Mark Lazarowicz** (Edinburgh, North and Leith) (Lab/Co-op): I am grateful to have secured this debate. I see that a number of hon. Members who represent various constituencies along the east coast are present; doubtless they wish to speak about their particular interest in the subject. I shall try to be reasonably succinct, so that they have a chance to take part.

I start by declaring my interest in the subject, not in a formal or financial sense, but as a regular user of the rail services on the east coast main line. I share that interest with many of my constituents, who use the line south to London and north to Aberdeen, Inverness and Glasgow. Like many of those constituents who have recently contacted me by e-mail or letter, I am generally impressed by the quality of service offered by GNER, the current franchise operator. That fact certainly forms part of the background to a debate about the future of the franchise for the east coast main line.

Obviously, as with any operator, things can go wrong from time to time, and my experience of the line has not always been of the highest, but I have generally experienced a good service under the present operator. My starting point is therefore to say that I hope that the Strategic Rail Authority and the Department for Transport, in their respective roles in awarding a new franchise, will allow GNER to continue to operate it. I know that that view is shared by the nearly 50 hon. Members who signed the early-day motion on the subject tabled by my hon. Friend the Member for City of York (Hugh Bayley). It is pretty unusual for MPs to support the continuation of a franchise in such a way. We normally see people demanding that franchises are removed. That is a reflection of the quality of the service provided by GNER.

**Mr. Iain Luke** (Dundee, East) (Lab): My hon. Friend makes a valid point about the SRA's involvement in awarding the franchise for the east coast main line. Does he accept that, with the SRA's involvement in reducing the strategic value of the line from Edinburgh to Aberdeen, the franchise should be framed so as to ensure that the good service that we seek serves all the communities on the east coast, from Aberdeen, through Dundee, to Edinburgh and the south?

**Mr. Lazarowicz:** I know that my hon. Friend has been a consistent champion of the rail service north of Edinburgh to Dundee, including the long-distance mainline services. He makes a valid point, and I agree with him.

There has been speculation in the press that, in the process leading to the awarding of a new franchise, the Treasury is trying to extract the maximum return to the taxpayer from whatever arrangements are eventually made. It is clearly the Treasury's job to extract the maximum return for the taxpayer; and one would expect such thinking to be going on in government, but I hope that today's debate will make it clear that it would be unacceptable for the Treasury's interests to override the importance of maintaining a high-quality service on the line. The message that must come out of the debate is that we do not want the quality of the service offered to the customer to be reduced; it would certainly be a seriously retrograde step if the current GNER service were replaced by a poorer service offered by another operator or, indeed, if the existing operator were forced to run a poorer service as a result of the eventual franchise arrangements.

**Mr. Luke:** My hon. Friend makes a valid point about the integrity of the service. I know that he reads *The Scotsman* intently because it is produced in his home town, and he will have been upset by a report on 8 October—my birthday—that some of the proposed options include the possibility of longer journey times, unregulated non-core fares and replacement bus services. Many people along the line in the north-east of Scotland will see that as a clear threat to their direct services to London. Does he accept that such things should play no part in the final decision on who gets the franchise?

**Mr. Lazarowicz:** I certainly accept my hon. Friend's point; indeed, I hope to deal in a second with some of the specific service issues to which he referred.

There is also concern about the possible effect of a change in operator on the passengers who use the existing services. Where there has been a change of operator elsewhere, there have sometimes been difficulties in the changeover period, and there is a worry that the service could be disrupted in the transition to a new operator. That in itself would drive passengers away, and they might not return in the long term, whatever services then prevailed.

There is also concern about the position of the staff who currently work for GNER; the issue has a particular constituency interest for me and for other hon. Members with constituencies along the east coast line. Almost 400 staff, many of whom live in my constituency, are employed in various operations in the Edinburgh area, and they are concerned about what a change of operator will mean for the future of their jobs.

I accept that it is in the nature of a franchising process that the Government have to consider all the proposals made by the various bidders. If another operator suggested a wonderful alternative, it would certainly not be right to rule it out, and any such proposal will no doubt be given proper consideration. However, given what we know of the various options unveiled so far, there is no reason to change the operator on the east coast main line.

The right way forward is to build on the strengths of the existing operator, enhance the services offered to the passengers who use the route at the moment and attract more customers from the airlines and the roads. If we are to ensure effective competition, particularly with air travel, there must be a high-quality service, which is another reason why any moves that would result in a poorer service should be resisted.

*[Mr. Lazarowicz]*

I want briefly to highlight the improvements that I would like to see on the agenda, particularly to meet my constituents' interests. First, we need to consider the timings for the duration of journeys from Edinburgh to destinations further south. It is technically possible for trains to make the journey to London in four hours, but those of us who have used the service in recent decades notice that journey times have not been reduced; in fact, with one early morning exception, they have actually increased in recent years. That trend must be reversed if we are to provide an attractive alternative, particularly to air services.

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): I am sure that the hon. Gentleman would want his constituents to be able to reach Aberdeen as well. However, in terms of journey times, Edinburgh is almost halfway between London and Aberdeen, so it is important that the operator of the east coast franchise recognises that the line goes all the way to Aberdeen, especially when it tries to improve journey times.

**Mr. Lazarowicz:** Indeed. The franchising process must see how maximum advantage can be gained from the franchise operator working with the Scottish Executive in the exercise of their responsibility for rail infrastructure north of Edinburgh, following additional powers being given to them recently by the Secretary of State for Transport. Journey times, particularly for trains going south from Edinburgh, certainly need to be shorter, but I fully accept the point about services northwards and westwards.

Secondly, there needs to be greater integration between the mainline services and local rail and bus services. Integration is not as good as it could be, and work needs to be done to make the most of proper integrated transport services so that passengers can transfer from mainline express services to local services and make bus connections.

There also needs to be more imaginative use of the timetable to provide links and direct services, not only along the main line from Aberdeen and Edinburgh southwards to London, but to other cities that can be served by the line. Services to Leeds could certainly be improved, and connections to cities such as Nottingham and Sheffield could be better integrated with the mainline services.

Several constituents raised the issue of smoking carriages on the east coast service, which they do not believe to be conducive to their health. As has been pointed out, presumably the possibility of separate legislation in Scotland on smoking in public places will have to be considered, or there will be difficulties when the trains reach a spot 400 yds north of Berwick.

It is essential that the franchise is for a long period, whichever company wins it. We cannot have the sort of two-year extension of the franchise that we had in the previous round, which would clearly create uncertainty for any operator. I understand that a franchise of up to 10 years is suggested. That is the sort of period that should be covered in the current round.

Certain associated improvements to the infrastructure could be linked to any bid. During the previous franchise round, some major upgrades to the network were suggested as part of the bid. Obviously, upgrades to the network or anything else that is done in the right place in the right way would be very attractive to us all, but I would be concerned if part of the price of the final successful bid was to link the franchise to excessively complicated changes to the infrastructure. We have learnt from the experience of the west coast main line, and we should be wary of major improvements to the infrastructure on lines on which services are operating.

It would be far better to return to the agenda the possibility of a north-south high-speed line. That is the way forward for the UK as a whole, and we need to pursue it. We need a 20-year vision for direct high-speed links from London to the north of England and to Scotland—the vision, and the links, that exist elsewhere in Europe. Such a network might make possible a three-hour journey from London to Edinburgh, and needs to be constructed in a way that does not cause disruption to existing services for an extensive period.

I am pleased that the Secretary of State for Transport indicated in a speech last week at a conference that the issue of a north-south high-speed line is back on the agenda. I hope that he will take that idea forward, as such a development is needed if there are to be real alternatives to air travel to Edinburgh and Glasgow, not to mention between Aberdeen, Dundee and London.

If the Treasury is to harvest more return from the new franchise, whichever operator it is granted to, what better way to recycle that extra income in its coffers than to use it to develop the first phases of a north-south high-speed line of the type that I have described?

9.46 am

**Sir Robert Smith** (West Aberdeenshire and Kincardine) (LD): I welcome the debate on this subject, because, as our interventions may have shown, it gives us the chance to get assurances from the Minister that the Government see the east coast main line as one that connects Aberdeen to London, not just Edinburgh to London. There is a long history of concern that the Aberdeen to Edinburgh line is beginning to be seen as a branch line. At times, companies have not helped, especially with their advertising: they have failed to produce correct maps of the services that they provide to the whole of Scotland, and failed to recognise that Inverness services also go to Glasgow. The east coast main line should be seen as one that runs throughout the United Kingdom, not just one that connects Scotland to the rest of the UK.

I echo the comments of the hon. Member for Edinburgh, North and Leith (Mr. Lazarowicz) about the quality of service to date. Obviously, a franchising process is about competitive bidding and recognising who has made the best bid, but I am pleased that a franchisee's record can now be taken into account. Unusually, there has been a write-in campaign in support of GNER by users of the service—I am sure that other Members will have received letters. When users of the service recognise its quality, that should be taken on board. If someone else says that they can provide a better service, that must be recognised as being important for our constituents, but they must also be seen to deliver.

The east coast main line was a jewel in the crown of British Rail even before privatisation, and the operators had the chance to work with that. As the hon. Gentleman said, when things have gone wrong, there has been support to assist customers with any problems that crop up, and the company has often been able to put things right.

The Campaign for Rail Electrification from Aberdeen to Edinburgh, CREATE, was established by local government and economic development organisations in the north-east of Scotland down to Edinburgh, including Fife and Dundee, because when the electrification of the east coast main line was planned, it was to go only as far as Edinburgh. That rang alarm bells in people's minds about the economy further north, and caused concern that it would create a two-tier service because investment would go into new stock that could use the electrification, and investments in line speed and improvements would go to the electrified route. There was also a practical recognition that it is far easier to carry on electrification with the system up and running than to have a stop-start process. The campaign was established with that in mind.

There has been a lot of professional and technical advice, and history, since the campaign began. Obviously, electrification stopped at Edinburgh. The campaign still exists, and it has stuck to the original issue: preventing Aberdeen from being seen as simply at the end of a branch line from Edinburgh. There are improvements to be made to the line north, so that whoever gets the franchise can provide a better connection from Aberdeen to London. Such improvements will help with people's journeys from north of Edinburgh to London.

**Mr. Luke:** Does the hon. Gentleman accept that in an earlier debate on the matter—I think it was on 26 June 2002—the Minister who responded made it clear that electrification was no longer an option for the line north of Edinburgh, and that the way forward was for improvements through Fife, north of Dundee and up to Aberdeen, to ensure that the speed that we had hoped for could be reached and that the time of a journey between London and Aberdeen could be cut significantly? Although electrification was a goal of CREATE—I have attended many CREATE meetings—it is no longer on the table.

**Sir Robert Smith:** As a former member of CREATE, I recognise the transition to a campaign for achievable improvements on the line north of Aberdeen, the point having been established that Aberdeen to London is a mainline service. We want the Minister to say that the Government still recognise that the main line runs all the way to Aberdeen. I hope that that recognition not only exists on a piece of paper, but has practical consequences, so that the line will be managed as a main line north to Aberdeen and the line improvements will be delivered, making it possible for the franchisee to offer an improved service. No matter how good the service is or how much less burdensome the journey, if trains are trundling around on old, inefficient and crowded lines, the competitiveness of the railway will not increase.

The hon. Member for Edinburgh, North and Leith was right, too, to say that we have to be more ambitious in this country if rail is truly to deal with the problems caused by unnecessary air travel. Establishing a new north-south route must be the long-term goal. Incremental improvements south of Edinburgh which disrupt journeys will only drive people away from the railways and will not achieve the substantial achievements that we want.

Rail has a lot to offer. I should also like to hear from the Minister that the franchising process will not disrupt other developments on the line. In my constituency, the reopening of Laurencekirk station is closer than it has been for many years, with the Scottish transport appraisal guidance analysis showing that it is a financially practical proposition. I would like to be reassured that the franchise will not in any way disrupt either the reopening of stations on the route or the proposed Crossrail service in Aberdeen to create a commuter rail link from the north and south of Aberdeen, which would make use of existing infrastructure. Can the Minister also assure us that freight will not become a Cinderella service as the franchise is established?

I reiterate the fundamental point, which is that the east coast main line goes north to Aberdeen and should be managed to deliver services north to Aberdeen, meaning improved speeds, times and infrastructure to make that possible. None of the welcome developments, such as the reopening of Laurencekirk station and the establishment of the Crossrail commuter service for Aberdeen, should be undermined.

**Pete Wishart** (North Tayside) (SNP): Does the hon. Gentleman accept that with the devolution of railway powers there is a challenge for the Scottish Executive to deliver on the projects that he mentions? We are concerned that the Scottish Executive have not been properly resourced to pursue such projects; we have calculated a £70 million shortfall. I do not know whether he has concerns about that.

**Sir Robert Smith:** Obviously, the Minister must make it clear that in transferring powers to the Scottish Executive the Government should also transfer the resources that make those powers deliverable.

On a practical level, regardless of resources, I should like also to ensure that nothing in the franchising process undermines projects. The franchise regulations could establish standards for the service which, because of technical specifications, disrupt the ability to reopen stations. I would like some recognition that the reopening of Laurencekirk station is being encouraged and that nothing in the franchise will undermine that encouragement or the development of Crossrail.

9.53 am

**Hugh Bayley** (City of York) (Lab): I start by congratulating my hon. Friend the Member for Edinburgh, North and Leith (Mr. Lazarowicz) on securing this important debate. I also thank him and many hon. Members in all parts of the House for supporting my early-day motion urging the Government to award the new franchise to GNER.

I should declare an interest. Like other hon. Members who live along the east coast main line, I am provided by GNER with a car parking pass—mine is for use at York station—which saves the House of Commons

*[Hugh Bayley]*

authorities a tidy sum in parking charges that I would otherwise claim. That is of course the same concession that GNER's predecessor British Rail provided to MPs along the line.

The east coast mainline service, run by GNER, is without doubt the best railway in the country, but I want it to be better still. My hon. Friend the Member for Dundee, East (Mr. Luke) and the hon. Member for West Aberdeenshire and Kincardine (Sir Robert Smith) have argued persuasively for improvements to the service north of Edinburgh. I would say to them that GNER has a good track record—the best of any train operating company in the country—for improving services by putting on more trains and improving track layout, not just in Scotland but in England. For instance, it has greatly improved the access and services to Leeds, which is off the main London to Scotland line.

GNER's east coast main line is more than a railway; it is an artery pumping the lifeblood of prosperity into all the regions through which it passes. Yorkshire Forward, my local regional development agency, estimates that the main line contributes some £100 million a year to the region's economy and sustains 11,000 jobs in Yorkshire, mainly in transport and tourism. Of course, a great number of those tourism-related jobs are in my constituency. We receive some 4 million tourists a year, of whom 24 per cent. arrive in York by rail, a number that has been increasing in recent years. However, the economic impact is not just on transport and tourism. The east coast mainline service run by GNER acts as a magnet. It has drawn investment to my constituency from a wide range of businesses—largely high-technology firms in computing and biotechnology—that need quick access to markets and customers in London and the south-east, and at other points on the east coast main line. Next to York station is the York Central site, which is about two thirds of the size of the area within York city walls, York's heart. It is ripe for redevelopment, and it will be developed only because of business brought into the city by the railway line.

Jobs in York, in Yorkshire and elsewhere along the line depend not on the mere existence of the railway but on the provision of a good railway service. I was not in favour of rail privatisation, as the right hon. Member for East Yorkshire (Mr. Knight) will recall, but I am firmly in favour of GNER. It has won me over for a number of reasons. First, it has improved the quality of the service on the east coast main line: it has increased the number of staff on trains and in stations; it has improved on-board catering and train information for passengers; and it has trained its staff, which has contributed to the quality of service. I believe that it is the only railway company in the country that has won Investors in People recognition for the whole of its business not just once but twice.

I back GNER, secondly, because of the reliability of the service and, thirdly, because it has increased the frequency of trains, the number of services that it runs and the number of passengers that it carries. As my hon. Friend the Member for Edinburgh, North and Leith points out, there are important environmental advantages to drawing traffic off the roads and on to the railways.

Fourthly, GNER has controlled ticket costs better than have some other rail companies; some of the fares that it offers now are lower than those charged by British Rail before privatisation. Its fares have risen overall, but not as fast as those of its key competitors. According to an article in *The Independent* yesterday, the cost of standard-class single fares on GNER services has risen by 48 per cent. in the past nine years. During the same period, the cost of standard-class single fares has increased by 70 per cent. on First Great Western and by 80 per cent. on Virgin Trains, so GNER has a better record on controlling the costs that face its customers than have its main competitors in this franchise competition.

Fifthly, GNER's industrial relations record is good. It has established partnership agreements with the trade unions that represent its staff. I believe that that is important because it enables GNER to continue to modernise and improve the service to its customers and its working practices to keep the service competitive and profitable. The single most attractive thing about GNER is that it has delivered what it has promised. One cannot say that for all its competitors.

There have been reports in the press in the past week or so that one of the bidders for the franchise, Danish state railways, intends to buy new Japanese trains. Investment in rolling stock is always attractive, but I should remind the Minister that GNER is in the middle of rebuilding its entire fleet of trains. If she has not already ridden on one of the new Mallard trains, I advise her to do so. They provide an absolutely splendid service. The difficulty with the offer to build entirely new trains is that if that were actually fulfilled it would not come into effect for six years at the earliest, and the new Mallard rebuild, which GNER is in the middle of, would stop dead. The new Japanese trains would be shorter and would carry fewer passengers than the Intercity 225 trains. The GNER rebuild is taking place in this country, supporting our rail engineering industry, but the building of Japanese trains would not.

The importance of GNER to my constituency ought to be underlined. When rail privatisation happened, York lost thousands of railway jobs. Since then, we have been clawing our way back. We now have about 3,000 railway jobs in the city, in engineering, design, track maintenance and renewals, as well as train operations. However, the magnet for all those jobs has been GNER's decision to base the headquarters of its operations in York. No competitor for the franchise offers to have its headquarters in York. If any of them were to win the franchise, the 409 GNER headquarters jobs in York would be at risk. Other jobs in the supplier industries, such as in Corus Rail Consultancy, which must employ 300 or 400 civil and mechanical engineers, could also move elsewhere.

If one reads the trade press or talks to businesses or chambers of commerce up and down the line, to the Institute of Directors, which wrote to me recently, or to budget travellers, pensioners or students, one finds that they are all backing GNER. As the hon. Member for West Aberdeenshire and Kincardine said, some 20,000 pledges of support to GNER have come from its passengers. Many Members of Parliament from all parties have supported my early-day motion backing GNER's bid.

I accept that GNER has to win the franchise on merit and has to offer the taxpayer value for money. However, the Government must also take into account its track record in providing an improving service. It would be quite perverse if the train operating company that by common consent has performed the best since privatisation were to lose its franchise. It would send entirely the wrong message to other train operating companies: it would say that quality and reliability are not valued and rewarded. It would create a hiatus and economic uncertainty in the regions through which GNER services pass, when continuity and certainty are required. I urge the Government to make an early decision on the franchise and to award a new franchise to GNER.

10.4 am

**Dr. Ashok Kumar** (Middlesbrough, South and Cleveland, East) (Lab): I congratulate my hon. Friend the Member for Edinburgh, North and Leith (Mr. Lazarowicz) on securing this debate. It is an important one and has been very informative so far.

I, too, declare an interest in that I regularly travel with GNER on the east coast main line. Like my hon. Friend the Member for City of York (Hugh Bayley), I have a car parking pass card given to me by GNER. I want to say something about my experience of travelling on GNER before focusing on two or three issues relating to the high-return option bid that all potential tenderers have been asked to include in their submission. I also want to discuss the issue mentioned by my hon. Friend the Member for Edinburgh, North and Leith, of how returns to the Treasury from the successful franchisee should be invested, as well as talking about direct services between London and Teesside.

My experience has been similar to that of my hon. Friend the Member for City of York. GNER provides an excellent service and generally I have found its staff very helpful and supportive. I hope that the franchise will go back to GNER; I feel strongly about that. I recognise that the case should be based on merit: the company's service to me and my constituents is outstanding and a credit to those who provide it.

Sometimes I have experienced delays or cancellations for one reason or another, but I do not blame GNER. Problems have been more to do with the track, signalling or power supply, so I lay the blame at the doorstep of Railtrack, now Network Rail. That, historically, is the real culprit, not GNER. The rail company is led by an excellent chief executive, and it has gone from strength to strength in all the years that I have been travelling on it.

On the matter of bidding, I want to focus on the high-return option, which is a device to test how a financial return from a franchisee to the Treasury can be maximised. I appreciate that that is seen as a way of securing a rail network with the least possible call on the taxpayer, but there is a danger that the duty will produce bid options that slash costs, and, in doing so, devalue standards. I should be concerned if potential franchisees presented bids that would mean fare rises, or cuts either in train crew or in staff at the stations that they control, such as those in my area of Darlington.

I hope that the franchise will be approached in the spirit of ensuring that we have a high-quality railway, rather than one that is run just to be cheap and cheerful. I agree that my right hon. Friend the Secretary of State and the Strategic Rail Authority have a duty to examine the high-return option, but I argue that they also have a duty to consider the quality and level of services as well.

As to investment in service, the Minister will recall that the east coast main line is unique in this country, as other hon. Members have said, in that it is the only one not to need a subsidy from the taxpayer. In those circumstances a crucial factor in the franchise process will be the amount of return to the SRA. That raises the issue of where the return will be invested.

The east coast main line has several feeder branch lines such as the one in my constituency, which runs from Saltburn, through Redcar and Middlesbrough, and connects with the main line at Darlington. Unlike the main line, it needs investment and subsidy from the SRA and the taxpayer, but it is a vital link to the main line for the communities that it serves. In that sense it also directly underwrites the profitability of the east coast main line. A logical approach would be to invest the cash returns to the SRA and the Treasury in that line and, indeed, the other, similar, lines that serve the east coast mainline stations and services.

I want to mention services between London and Teesside. Teesside is unique in being probably the biggest conurbation in the UK with no direct rail link to London. There is a population of nearly 500,000 in the area covered by the boroughs of Stockton, Middlesbrough, Hartlepool—I notice that my hon. Friend the Member for Hartlepool (Iain Wright) is in the Chamber—Redcar and Cleveland. For decades, those people have had to travel to Darlington to connect with a London service. I do not know what is in the detailed plan submitted to the SRA by the prospective franchisees. However, given the shape of the demands made on them by the bid, I should be very surprised if there were any mention of new links from London to Teesside. Given that, the Minister should examine closely the forthcoming bid for approval from the rail regulator from a new rail company, Grand Central Railway.

**Iain Wright** (Hartlepool) (Lab): I am grateful to my hon. Friend and fellow Teesside MP for giving way, and I fully support his comments. As the newest Member of the House, my experience is that the rail service from King's Cross to Darlington is extremely effective; the journey can be done in two and a half hours. My only problem is that if I use the rail network, it can take another two and a half hours to go from Darlington to Hartlepool, as I am sure my hon. Friend is aware. I fully endorse his comments. We should be investing in Teesside to ensure that there is a vibrant and effective link between the Tees valley and London. That would enable the commercial potential of the area to be realised.

**Dr. Kumar:** I hope that the Minister has noted the comments made.

As I was saying, Grand Central Railway has put forward a proposal to run a service from Sunderland to King's Cross. That service would call at Hartlepool, Stockton and Eaglescliffe, which are all in Teesside. I understand that there is also the potential for a further service from Middlesbrough. It is envisaged that the

[Dr. Kumar]

journeys would be made by completely refurbished high-speed diesel trains with a high degree of passenger comfort. The company would also offer remarkably cheap fares, with an option of a Teesside-London return ticket of £50. If approval is given, the company will seek to start operations this December.

Grand Central Railway will probably be what is called an open access operator in that it will make no demand for subsidy from the SRA or payments to it. The financial arrangements would be similar to those that underpin the operations of Hull Trains. As the Minister will be aware, that company has been very successful in providing fast and convenient services to a similarly large conurbation, which, until the company's arrival, had found itself largely isolated from the east coast mainline network.

Since the inception of the service, passenger numbers travelling to London from Hull and its surrounding areas have grown hugely. Crucially, those passengers were not stolen from GNER. The success of Hull Trains shows graphically that the same approach could work for my area in Teesside. It is clear that Grand Central's prospectus offers the easiest opportunity for Teesside to have a dedicated London rail link. The provision of such a link would aid tremendously the regeneration efforts going on in Teesside.

**Mr. Lazarowicz:** Some Members from north of Edinburgh pointed out that the line runs northwards as well as southwards from that city. Does my hon. Friend agree that the franchise should also address the issue of how better links can be provided for all passengers, from whatever point on the east coast main line they travel, so that they have good connections to important towns and cities near the line?

Given that people read debates such as these for references to car parking passes, I should like to make it clear that, as I am fortunate enough to live within walking distance of my station, I do not have a GNER car parking pass.

**Dr. Kumar:** I agree with my hon. Friend that links are very important. We have all had bitter experiences. If those concerns could be better addressed, we would all be in favour of that.

I hope that I have put into focus the importance of the Teesside-London railway link. We have thriving universities, university teaching hospitals and emerging state-of-the-art teaching hospitals. Tremendous regeneration programmes are going on in Middlesbrough and Stockton as a result of the Government's efforts. I hope that the Minister takes note of all those things when she makes a decision.

**Mr. Deputy Speaker:** If the hon. Member for Dundee, East (Mr. Luke) wants to speak and promises to be very brief, I will call him.

10.15 am

**Mr. Iain Luke** (Dundee, East) (Lab): Thank you, Mr. Deputy Speaker. I will be very brief.

I congratulate my hon. Friend the Member for Edinburgh, North and Leith (Mr. Lazarowicz) on securing the debate. He will know that I am passionate about this issue.

Many people have said that the options on offer are rail, car or air. Travelling from my constituency to London by car is a horrendous journey, and although we have an air service, which we value, it is not as frequent as we would like, so obviously rail still forms a major connection to the east coast of Scotland.

I secured two earlier debates on this subject. On 26 June 2002 there was a debate on the electrification of the line north of Edinburgh. On 16 September 2003 we had an Adjournment debate on investment in the east coast line. The awarding of the franchise is a vital issue in the service delivery that all constituents on the east coast deserve and want.

My hon. Friend the Member for City of York (Hugh Bayley), who is very knowledgeable on the issue, made a vital comment about the current deliverer, which has kept its promise. That is reassuring. The touchstone for the successful franchisee must be a commitment to ensuring that the service is not reduced; indeed, I hope that it will be improved.

Some comments have been made about the bidders for the east coast line and the determinants of the franchise; applicants have to put forward what they would call a high-return option. Many people believe that that would include fare rises and the replacement of poorly used services from stations up and down that line by buses. That is a prospect that fills many people, myself included, with horror.

The hon. Member for West Aberdeenshire and Kincardine (Sir Robert Smith) properly outlined the rail travel problems faced by communities in the north-east of Scotland. They can be resolved only by significant investment in the line north of Edinburgh. He, I, and others have pursued that through the Scottish Executive and Ministers here in Westminster. Since the SRA decided for investment purposes to downgrade the line north of Edinburgh, it has been a major battle. However, it is one of the vital issues that must be addressed by the Government and the franchisee to ensure the provision of the services that should exist to serve the north-east of Scotland.

I hope that the Government take on board the need to keep services to the east coast of Scotland at their highest level. Hopefully, the successful bidder will also be committed to that.

Thank you, Mr. Deputy Speaker, for allowing me to say those few words. I hope that there will be a successful conclusion to the franchise bid which will serve the people up and down the main line well and give them the service that they deserve.

10.18 am

**John Thurso** (Caithness, Sutherland and Easter Ross) (LD): I congratulate the hon. Member for Edinburgh, North and Leith (Mr. Lazarowicz) on securing the debate. It is evident from the many contributions that there is unanimous support for the existing franchise holder.

My hon. Friend the Member for West Aberdeenshire and Kincardine (Sir Robert Smith) made the case for ensuring that in considering the franchise we do not forget, as often happens, that Scotland does not end at Edinburgh but goes on to Aberdeen, Inverness and north to the top of Scotland. I read with great interest the comments made by the hon. Member for Dundee, East (Mr. Luke) in an earlier Westminster Hall debate.

My right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith) would very much like to have been here today, but, unfortunately he is a member of the Liaison Committee, which is meeting this morning, and is therefore unable to be with us.

**Mr. Deputy Speaker:** Order. I, too, am a member of that Committee.

**John Thurso:** I hope that you will have a moment to get there before too long, Mr. Deputy Speaker.

My right hon. Friend is a regular user of the service from his constituency, and he has impressed on me the massive local support for GNER. *That is rare; it is hard* to think of a rail franchise or service that has enjoyed such support from its users. Exceptions might include Chiltern Railways or the Gatwick Express. It is an important point, and it must be taken into consideration. The early-day motion tabled by the hon. Member for City of York (Hugh Bayley) is evidence that it has support not only from the public and passengers but from Members. I am unsure whether there has ever been an early-day motion in support of a franchise holder before, so that is rather special.

My right hon. Friend the Member for Berwick-upon-Tweed has intimated to me the considerable concern, particularly in the north-east but also in other areas served by the line, that the result of the current franchise letting will be a downgrading of the service, an increase in fares and a much worse service for the passengers. There are two key issues. The first is the franchise system and how it is applied with regard to this franchise. The second, customer satisfaction and the need to ensure that the product delivered to the customer is of value and quality, too often gets forgotten when we debate the railways.

Let me start by setting out some of the things that GNER has achieved, because it might be considered a role model for other franchisees. Its first achievement is financial. It began with a Government subsidy of £62 million a year. Not only has that been reduced to zero, but I understand that over the last three years it has paid some £78 million back to the Government, and last year that sum was about £22.5 million or £25 million. The SRA's own survey reports that 85 per cent. of passengers are happy with the service, which is the highest satisfaction rate for any long-distance operator.

One of the things that impressed me most was that GNER has made investments of £100 million in rebuilding trains, improving car parks, modernising stations and improving information for passengers. Too often the money that the passengers pay becomes profit or goes in rebates to the Government, and not much comes back in investment. A company that has invested is to be commended. That, possibly allied to the fact that there are some 22 per cent. more services, is why the passenger numbers have increased by 32 per cent.

Another fact struck me. Many people say that GNER has a wonderful restaurant car, but it is simply a service for business men at the front end and takes no account of the ordinary traveller. However, GNER has standard-class tickets available that are cheaper than the standard off-peak fares that used to be offered by the BR Apex ticket. This is a provider that understands that a high-class service can be operated at one end of a vehicle and a cost-efficient or cheaper option at the other end.

All in all, a great deal to do with this franchise is to be commended. If GNER can persuade the hon. Member for City of York to move from being against privatisation in principle to being a supporter of its securing the franchise, that is evidence of the good work that it has done. That is recognised by the petition and the early-day motion.

I turn to the franchising system. We have just finished our consideration of the Railways Bill. In Committee, my hon. Friend the Member for Southport (Dr. Pugh) and I tabled an amendment nicknamed "the GNER amendment". That was slightly unkind because it was designed specifically not to help GNER, but to place an obligation on the new franchise system whereby passenger satisfaction and the quality of service delivered by an existing franchise holder must be taken into account when awarding a new franchise. Surprisingly and sadly, the Government chose not to accept the amendment, but I hope that, when they consider how the new system will work, such an important ingredient will be taken into account.

Part of our problem is that, at the moment, the franchising system is in limbo because we are in the dog days of the SRA. It knows that it will go soon, but the new system is not yet set up and running in the Department, so we are betwixt and between. A franchising system must clearly be about competition; otherwise there is no point in it. If all we had to do to achieve a new franchise was to deliver a good service, and that was automatically achieved, the system would not be working. It must be about competition not only for a particular franchise, but between different franchises.

We then come to the matter of determining value, not cost. It is important to make known the difference between the cost of something and its value. As someone who has spent his life in the hospitality industry, I know that it is always easy to cut costs. We can slash the marketing budget or, the most common method, cut the training budget. Services can be reduced. In the case under discussion, a few people could be removed from stations and from the trains themselves. There comes a moment when however low the costs and however high the corresponding possibility of reducing fares or, as is more likely, giving more money to the Treasury, we will have destroyed the product that delivered the revenue in the first place. The Government or the SRA must therefore be careful; they must understand the difference between cost and value. They should not give in to the short-term desire to receive the maximum return, but know that nursing a customer base is about value and the long term.

One of the hon. Gentleman who spoke mentioned the wider value not only to the travelling public, but to the economy itself, especially tourism. I declare an interest in that I am still the president of the Tourism Society. When there are good transport links, the value of tourism increases considerably; academic data support that. I do not know whether other hon. Members with regular involvement in transport matters received the same e-mail as I did from a gentleman in America a few days ago. He said that he had tried everything to find out how our railways worked and how he could book a train ticket. He said that the telephones were not answered and the website was down; and if someone somewhere did not answer his call he would go to France. I sent him

*[John Thurso]*

an e-mail to ask what trains he wanted and say that I would do my best for him, but I have not received an answer.

**Mr. Luke:** He is in Paris.

**John Thurso:** Probably.

The franchising system must acknowledge value and customer satisfaction. As for competition, one of the other bidders runs the west coast franchise. If one company runs both the west coast and the east cost lines, competition will clearly be reduced. The customer service that GNER produces comes from its Investors in People qualification. It is the only rail company in such a position and surely it must be congratulated on that.

At our conference last year, my party committed itself in principle to the north-south high-speed rail link. That will mean that many of the options that are currently open for a six-track railway or a bypass will conflict with that, an important point that the Secretary of State has now come round to understanding and which should be taken into account.

A powerful case has been made for GNER, not simply because it is the existing franchisee, but because of all that it has delivered for the customer. It is time that the customer was put front and centre in dealing with the railways, and I hope that the Minister and her team will respond to that.

10.30 am

**Mr. Greg Knight** (East Yorkshire) (Con): Some hon. Members have declared an interest in this debate and they were right to do so, but I am certain that none of them would say anything other than what they truly believed in just because of a train pass. I am not sure whether I need to join those hon. Members; I think that I was issued with a GNER parking pass and I am also fairly certain that I have lost it, so I declare an unknown-whereabouts interest.

**Mr. Deputy Speaker:** Order. On that basis, I suppose that I had better declare an interest as well, but I do not use my pass very much.

**Mr. Knight:** Thank you, Mr. Deputy Speaker.

I join other hon. Members in congratulating the hon. Member for Edinburgh, North and Leith (Mr. Lazarowicz) on securing this important debate, and I congratulate all hon. Members who have taken part or intervened.

The east coast rail franchise has been one of the biggest success stories of railway privatisation, and I join all hon. Members who have taken part in the debate in paying tribute to the way that GNER has operated the route. Even some of its critics have conceded that it provides a pretty good service. Today we are witnessing a unique occasion, because I cannot remember any other debate either here or in the main Chamber in which Members of all parties with little or nothing in common have spoken with one voice in praising a rail operating company.

GNER has proved that the railways can operate successfully. It has combined the provision of a customer-focused, reliable and efficient service with profitability, as the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) said. In the past three years it has contributed £78.2 million in revenue to the Government and turned a £61.6 million subsidy in its first year into £22.5 million of premium payments back to the Government in 2003–04, which, as the GNER press office is only too happy to tell us, represents the largest swing from subsidy to premium payments of any UK train operator since the railways were privatised. The fact that nearly 50 Members of the House from all parties signed early-day motion 536, which has been referred to, speaks for itself.

Many people feel that there is a case for saying that in some circumstances there should be automatic franchise renewal for the most successful train operating companies. The Government should reflect on that, particularly where there is overwhelming public support and the train operator concerned has exceeded all expectations.

A number of hon. Members referred to the SRA. The east coast main line is, perhaps, one of the last franchises to be re-awarded by the SRA. The abolition of the SRA is one of the few parts of the Railways Bill with which my party agrees, because over the four or so years that it has existed it has demonstrated itself to be rather a waste of time and money. When the SRA took over, the Office of Passenger Rail Franchising cost £13 million and employed 187 people. The SRA costs £102 million and employs 454 people. The cost and the number of people that it uses have grown and it has become less and less effective, so we are delighted to see it go.

I am also delighted to see the SRA go because it has not, in the main, improved services. It has failed to give the railways adequate leadership and direction. Indeed, the reason the Government have given for getting rid of it is that they want to see more strategic leadership in someone else's hands. We welcome the fact that they have at last come round to the official Opposition's way of thinking on this issue.

One difficulty for our railways is that franchisees lack the confidence to invest. How will the confidence of operating companies be improved, however, if power is merely passed upwards to the Secretary of State?

The refranchising process is certainly causing concern among passenger groups and communities served by the route. The leader of Edinburgh city council, Councillor Donald Anderson, has raised concerns that the new franchise may lead to a reduction in services. He said recently:

"Although the SRA has argued that the new East Coast Mainline franchise will maintain the number of trains between Edinburgh and London as operated at the start of the last franchise in 1996, our calculations indicate otherwise. The new franchise will reduce service levels during Monday to Friday to 18 trains per day."

I hope that the Minister will be able to reassure the people of Edinburgh, and indeed Aberdeen and the other communities served by the east coast main line, that their services will not be reduced, but actually improved.

I also have concerns about journey times, a point touched on by the hon. Member for West Aberdeenshire and Kincardine (Sir Robert Smith). If the Government are serious about wanting people to travel to places in the north by rail, rather than by air or road, journey times must be as short as possible. Before the Hatfield disaster, the fastest service from King's Cross to Edinburgh was, I think, three hours and 50 minutes. Under the new franchise, it appears that the average journey time will be significantly longer, at four hours and 42 minutes. For those who travel on business, that makes a big difference, and I hope that the Minister can tell us what the Government intend to do to bring journey times back down to pre-Hatfield levels.

For the railways to be successful, the train operating companies need to be encouraged to invest more in their routes. It is common business sense that they will do that only if they are confident that their investment is commercially justified. The best way to ensure that is to offer longer franchises. Graham Morton of the CBI agrees. Recently, he said:

"Franchises have been more successful where the operating company has had the scope to be entrepreneurial—Chiltern is probably the best example—and the franchise is sufficiently long for a reasonable payback on investment."

He has expressed concern that when the SRA's powers are transferred to the Department for Transport, the Government may not give companies enough freedom. He rightly questions whether the Department possesses the skills to design and deliver future franchises.

The hon. Member for Edinburgh, North and Leith expressed his support for longer franchises, and I am pleased that he is joining the ranks of the Conservative party, if only on this narrow issue. Longer franchises will mean that the best train operating companies receive steady and predictable revenues.

It is important to rid the network of political interference so that it can run itself without facing constant changes, as it has done since 1997; for example, the train operating companies should be given greater freedom over timetabling so that they can run extra services if they believe that there is demand. The network also needs investment directed at driving passenger growth where it is most needed, with an industry structure that is most able to respond to customer demand.

Hon. Members may be aware of the submission that the Rail Passengers Council made to the SRA when the authority published the invitation to tender for the franchise. Chief among the council's concerns was the poor quality of the stations on the line. The Conservative party has recently made a commitment to improve and develop railway stations so that more of them meet customer expectations. I hope that the Minister will respond on this issue, because passengers are increasingly concerned about the poor facilities, particularly at some stations. Will passengers' concerns in that regard be taken into consideration when franchises are awarded? What extra effort will the Government make to ensure that our railway stations are improved?

It will not have escaped the Minister's attention that the east coast main line passes through the constituencies of some of the most influential Labour Members. I know that some very influential Members are here today, but the line passes also through the constituencies of the right hon. Members for Sedgefield (Mr. Blair), for Darlington (Mr. Milburn) and for Tyneside, North (Mr. Byers). I hope that they are not going to exert a sub rosa influence on the awarding of the franchise. It should be completely free of any behind-the-scenes party political interference. It would be wrong for the franchise to be awarded to a company because the head of that company liked to be seen hob-nobbing with new Labour Ministers. If the voice of the public carries any weight, as it should, the firm view, as expressed throughout this debate, is that GNER should be re-awarded the franchise.

This is an important debate. The line is vital to the economy, not only for much of the north of England but for Scotland. Whichever bidder takes over the franchise—I am not aware of any reason why the present incumbent should not continue—I hope that the line continues to provide a high standard of service for passengers and to show others that our railways can operate in a way that is financially successful. We all look forward to hearing what the Minister has to say.

**Mr. Deputy Speaker:** Order. I suppose that I should point out that the east coast line goes through my constituency.

10.41 am

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** I congratulate my hon. Friend the Member for Edinburgh, North and Leith (Mr. Lazarowicz) on securing this debate and for providing us with the opportunity to discuss the east coast rail franchise. It has been an excellent debate, with hon. Members drawing on their own experiences of GNER and the east coast main line, as well as those of their constituents.

I start with a quick word on the north-south high-speed line. The Government want to draw on the useful work already done by the Strategic Rail Authority, and particularly to consider international experience. We are looking at the case for investing in high-speed lines, as compared with upgrading existing lines. That is something important for the future.

The east coast franchise provides fast, high-quality services that link London with Yorkshire, the north-east of England and Scotland. The competition for the new franchise is progressing well, and the SRA will announce the future operator in the spring. Hon. Members will appreciate that I cannot comment on the content of individual bids, but I can outline the objectives of the refranchising process and the specification on which bids for the east coast franchise were based.

First, however, I must comment on the tremendous support that has been expressed for the incumbent operator retaining the franchise—by hon. Members today and by the many passengers who have lobbied the Department for Transport and the SRA. It is appreciated that, in the main, passengers are satisfied with the present standard of service on the east coast route. However, the competition to refranchise the services will not jeopardise standards. On the contrary, by its nature it should spur improvements.

**Sir Robert Smith:** The Minister must recognise that passengers are satisfied with the standards of the

*[Sir Robert Smith]*

operator which are within its control, but they are quite concerned about the infrastructure that the operator has to use, and about the importance of improving it.

**Charlotte Atkins:** I appreciate that, which is why the Government have invested hugely in the infrastructure, and why we are investing in the rail industry to the tune of about £73 million a week.

I am delighted that hon. Members expressed not only their confidence in GNER but their real ambitions for future improvements to the east coast main line. It is essential that the franchise is operated by the company offering the very best service to the public, within the parameters of the franchise. We therefore have a duty to put the inter-city east coast franchise out to tender. To do otherwise would remove the competitive pressure that helps to determine which company is best suited to providing services on the east coast main line. Competitive tendering is also necessary to ensure best value for taxpayers' money in the operation of the franchise.

Four parties have submitted bids for the east coast franchise. They are GNER; DSB, a consortium of Danish railways and EWS Railway; First London, Scottish and North-East Railways; and a consortium of Stagecoach Group plc and Virgin Group Investments Ltd. These parties have been chosen having pre-qualified under the SRA's set procedure. Bids for the operation of the franchise will be judged not only on price, but on commitments to performance, improving train and crew reliability, and operational viability. Contracts will also include clearly defined penalties should operators fail to fulfil their commitments. Each company's bid will be evaluated on its merits, and we will award the franchise to the bidder whom we feel best meets the criteria.

I should add that the new franchising system will take into account the relevant past performance of the company. That is part of the pre-qualification process. The franchise is being let in line with the franchising policy announced by the SRA in November 2002. That aims to deliver four broad objectives: to provide a safe and more reliable service of consistently high quality for the benefit of the passengers; to provide clarity of service specification so that the industry partners work together for passengers; to deliver a value-for-money service for passengers and taxpayers; and to secure accountable, viable operators who are passionate about delivering their service. I assure hon. Members that the franchising process will not disrupt other developments on the line.

The model has passenger interests at its heart. The selection process is far more robust than in the past. We will focus in particular on how bidders deliver against their promises. Costs will be scrutinised, and franchise agreements will not be entered into unless the SRA is certain that the bid is viable.

The specification for the east coast franchise has been drawn up following consultation with statutory and non-statutory consultees. It protects services to Aberdeen and provides for a term of seven years, with a three-year extension if performance is consistent with reassured by that potential 10-year term, which he mentioned earlier. It provides a clear specification, including timetables, against which the bidders have been asked to base their proposals. To this end, base specification for the franchise sets out some clearly defined goals: to ensure that services continue to be operated safely; to demonstrate passion about the delivery of commitments; and to improve significantly the punctuality and reliability of services over the whole route. On journey times, the franchise includes a base case timetable, but the operator can add extra services and stops, so the journey time will largely be down to the successful bidder. Other goals are to provide services that are significantly more affordable to taxpayers and passengers alike by improving productivity and efficiency, or through innovation in operational or managerial practices; to improve integration with other modes of transport and other services; and to ensure the quality of the station and on-train environment, including improved accessibility.

The high-return option is designed to obtain ideas from experienced train operators about ways of improving returns from the franchise. It is not simply about cutting standards, but includes other options that would generate increased income by attracting more passengers to what will be a better service.

**John Thurso:** Does the Minister accept that one of the great successes of GNER has been the very high-class business class that it provides, with its restaurant car? That has had the effect of taking passengers, particularly from Newcastle, away from air travel and on to the railways, a modal shift that is to be welcomed. Will that continue to be taken into account?

**Charlotte Atkins:** Certainly, competition with air is a vital part of the whole process. Shifting passengers from air to rail will tap into a completely new market and improve take-up of the service.

The Strategic Rail Authority will pay particular attention to proposals aimed at the affordable improvement of station, rolling stock and customer service standards. The successful bidder will have to possess the financial strength and innovative capability to improve existing operations and to make the route one of Europe's leading railways. In developing their proposals, the bidders have been encouraged to consult local stakeholders directly and to provide a summary of the consultation and a statement of how stakeholders' opinions have been taken into account.

Improving the punctuality and reliability of services will be a key feature of the new franchise. The SRA intends overall performance to reach 90 per cent. by the end of 2009. Furthermore, the franchise should be performing consistently in excess of 90 per cent. by the end of 2012. The bidders for the franchise are required to include a performance model that indicates how those targets will be achieved.

A base service specification will also be incorporated in the new franchise. The franchisee will be required to operate the existing timetable from the commencement

**Mr. Lazarowicz:** The Minister has rightly pointed out that the specification includes a base service, but if an operator suggests improvements to the base service, will that be taken into account in the franchising process?

**Charlotte Atkins:** Certainly, it is important to consider what the bidder can bring to the overall service when deciding whether that operator will be successful. After a bid succeeds, several timetable alterations are assumed, which are aimed at enhancing performance and improving the match of capacity and demand.

Bidders were free to suggest enhancements to the base timetable which they believed deliverable and desirable. They were also asked to set out how they will plan services and resources to minimise overcrowding on platforms and on trains. A strong emphasis has been placed on service quality. The successful franchisee is expected to provide a service quality appropriate for long-distance rail travel. The franchise will include a series of key performance indicators that will incentivise the delivery of consistent standards for information provision, ticket retailing and customer service.

The successful franchisee is expected to provide stations with an accessible, welcoming and comfortable environment that offers passenger information and amenities appropriate for long-distance passengers, including luggage assistance. As hon. Members have said, stations should also facilitate easy interchange with the services of other train operators and other modes of transport. The bidders were also required to provide proposals for rolling stock which set new standards of performance, liability and presentation. As a minimum, the rolling stock fleet must be able to provide seating capacity equivalent to, or in excess of, that of the current fleet. It must also operate at up to 125 mph and have a better reliability rate.

Infrastructure enhancements are being made outside the scope of the franchise. To date, no business case has been made for electrification beyond Edinburgh, but the franchise operator is required to consider improvements to the entire route.

**Mr. Luke:** The Minister makes the point that, as yet, no business case has been made for electrification north of Edinburgh. Will the successor to the SRA undertake to ensure that we can have a proper debate about whether the service will be worth while?

**Charlotte Atkins:** Electrification is continually being considered, but its advantages over other innovations are not as great as they were. That issue is, however, constantly kept under review.

The SRA is sponsoring the delivery of the new double track chord at Allington, scheduled for completion by the end of the year, which will help to improve the performance of the line. Other infrastructure enhancements are being considered through the east coast strategy that is being developed by the SRA. The strategy is currently under review, awaiting the outcomes of the rail White Paper. The document will also have to be reviewed following the selection of the successful applicant for the new inter-city east coast franchise to ensure that it is consistent with the detail of the successful bid.

In conclusion, I hope that I have provided some assurance that the refranchising process is a positive one aimed at building on and improving the current service. The east coast main line is a vital route for the millions of passengers that it carries each year. Those passengers can look forward to a reliable and high-quality service for many years to come.

10.58 am

*Sitting suspended.*

## Health Services (Hartlepool)

11 am

**Iain Wright** (Hartlepool) (Lab): I am delighted to have secured this Adjournment debate. I see the future of health in Hartlepool alongside the town's economy fulfilling its potential and the putting in place of measures to eradicate crime and antisocial behaviour from our streets as the main improvements that I hope to achieve as the town's MP.

Although the debate is about the future of health services in Hartlepool, I should like to spend a few moments outlining the broad historical trends in health in the town. I am a huge believer in the concept that we do not know where we are going unless we know where we are coming from. Hartlepool suffers greatly from its legacy as a centre for heavy manufacturing industry and from decades of economic decline. Industries such as the steelworks and the docks have left their mark with diseases such as asbestosis and respiratory illness. We as a town have suffered from decades of economic decline as the traditional industries have died. Unemployment has savaged the local population, which is only now beginning to recover.

Although the past decade has brought improvements in Hartlepool's economy, we are starting our renaissance from a very low base. Car ownership, a key barometer of economic prosperity, is low—40 per cent. of households in the town do not own a car, compared to 27 per cent. nationally. That should have, as I will show, a real bearing on where health services in the town are located. Despite recent improvements, we still have to contend with the health consequences of years of economic decline, poverty and social exclusion. This legacy means that Hartlepool people suffer more ill health and disability and higher death rates from cancer, heart disease and respiratory illness, and live shorter lives than people in most other parts of the country.

The facts are stark: I received these figures only yesterday, in response to a written parliamentary question. Life expectancy for Hartlepool men is 73.4 years, against a national figure of 75.9 years, while Hartlepool women are expected to live 78.4 years, against a national average of 80.5 years. We also lead unhealthy lives. Forty per cent. of people in the town smoke, and we have more than the national average number of cases of obesity caused by poor diet and excessive drinking.

The national health service is, arguably, the Labour party's greatest creation, and it has undoubtedly improved the health of people in Hartlepool. However, it is not improving as fast as that of people in other parts of the country, and health inequalities within the town remain profound. Half the people live in wards that are in the 5 per cent. most health deprived in the country. Stranton ward is 51st out of some 8,400 wards in the country for health deprivation and disability, while Elwick ward, the most affluent ward in the town, is still in the top 3,000 for poor health.

We should also take into account demographic changes. The population of the town is ageing: the number of people aged over 75 is expected to increase by 25 per cent. in the next 15 years. That is aggravated by a sharp fall in the birth rate in Hartlepool. The number of births has dropped by almost a fifth in a decade, which has exacerbated the decline that was particularly pronounced between the late 1970s and early 1980s.

This is the challenge for those who shape the future of health services in Hartlepool: a legacy of industrial decline and associated poverty; unhealthy lifestyles; high incidence of ill health; pronounced health inequalities; an ageing population and low birth rates, all of which result in profound pressure on health resources.

Our health has not been helped by a chronic lack of investment for decades in primary health care in Hartlepool. The unwillingness or reluctance of successive Governments to invest in this crucial first call when somebody is ill or in the prevention of illness has led to an undeveloped primary care sector, which has to contend with the most difficult problems. The possibility of attracting more money elsewhere, and the generally poor quality of surgery buildings has meant that we suffer from an acute shortage of general practitioners. Hartlepool is in the bottom 10 areas of the country for numbers of GPs—we need about 12 more to reach the national average, and a similar increase in the number of community nurses. Meanwhile, GPs' average list size is 2,100, the highest in any PCT area in County Durham and the Tees valley.

The problem exacerbates itself. High patient numbers lead to extra work and more stress for GPs, which accelerates their wish to retire early or to leave the town. An estate audit in the town found that five of the 17 GP premises in Hartlepool are in poor condition, with only six meeting the criterion for satisfactory. There is an acute shortage of space in those surgeries, and that hinders their development and potential to offer a wider range of services. Most do not comply with the requirements of the Disability Discrimination Act 1995.

The acute shortage of community doctors over the years has led to an over-reliance on the local hospital. Hospitalisation rates far exceed the national average, and the hospital's accident and emergency service is stretched to its very limits as people use accident and emergency because they cannot get access to a local GP or community nurse. The number of accident and emergency attendances at Hartlepool hospital has increased by more than 9 per cent. in the past year alone.

I have painted a dark picture, and I am not exaggerating. However, amid the gloom, there is real success. This Government have recognised the health problems caused by deprivation and invested heavily in the NHS. Funding year on year in cash terms for the NHS in Hartlepool since 1997 has been close to 10 per cent. The Government's commitment to providing health services as locally as possible strengthens the case that primary care in Hartlepool needs to be developed.

Despite the massive resources invested in our health service by this Government, there is a strong case to say that we in Hartlepool remain underfunded. The primary care trust has a shortfall of some £2 million a year from its targeted allocation; the NHS trust has a projected deficit of some £6.5 million to overcome. I am grateful to this Government, and sincerely believe that no other Administration would have invested so heavily. However, I am in Parliament to stand up for the people of Hartlepool, and I believe that the Government need to provide substantial additional funding to both

primary and acute care to tackle the decades of neglect in Hartlepool. Health professionals would not squander this money; there has been real success in recent years, as I shall mention shortly. Just think what could be achieved with appropriate funding.

Foremost among the successes are the achievements of the local hospital. For the third year in succession, the North Tees and Hartlepool NHS Trust has been given a three-star rating. That means that over a long period, it has consistently been one of the best performing trusts. Only 12 trusts in the country have received that accolade for three years.

The University hospital of Hartlepool has been named among the top 40 hospitals in the country, and its clean-hospitals policy has meant that, unlike hospitals in other parts of the country, it does not suffer from accusations of being unclean or of suffering from germs. In fact, it is among the top 10 cleanest hospitals in the country. The "general", as it is known locally, is genuinely thought of with pride and affection in the town.

I know from personal experience what a marvellous asset it is. All my four children were born there. My eldest son's life was saved there when he was treated quickly for meningitis, and my youngest—only two months old at the time—was admitted last Boxing day, suffering from pneumonia and bronchiolitis. All that success is due to the tremendous commitment of staff of all grades at the hospital, which is ably led by Bryan Hanson, the trust's chairman. Their loyalty and commitment to health care for the town is arguably unchallenged throughout the entire country. That is why I think it understandable that the proposals led by the strategic health authority to downgrade or close the hospital have led to concern and alarm in the town.

A dedicated campaign to save the hospital has been organised by John Bloom. John stood against me in the by-election, and I disagree with many of his policies. However, I do not doubt his sincerity and integrity on this matter. He, and others such as Peter Wolfe, have put this issue on the agenda and have not hijacked it, as others did, for short-term political gain.

Let me make my position absolutely clear: I am adamantly opposed to the closure or downgrading of the hospital. In my vision for future health care for Hartlepool, I see the hospital as the major site for acute services between Sunderland and Middlesbrough. I see the hospital going from strength to strength and improving its capacity to provide all the services it provides today such as accident and emergency services, general medicine, surgery and neurology, orthopaedics, rheumatology, obstetrics, gynaecology and paediatrics.

I have been greatly reassured by comments from the Secretary of State for Health and the Prime Minister that the hospital will be improved, not downgraded, and I see Professor Sir Ara Darzi's review as an opportunity to ensure that Hartlepool can realise its potential as a major health hub between the River Wear and the River Tees.

I do not believe that the co-location of the Hartlepool and North Tees hospitals on to a greenfield site between the two towns will be conducive to effective health care. That would go against the Government's policy of ensuring that health care should be as local as possible, and would hinder the effective recovery of patients.

As I mentioned earlier, my son Billy was ill during Christmas, and my wife and I took turns to stay with him. He was visited by his grandparents and by other relatives. We are fortunate that we have a car. Further anguish could have been caused to us, over and above the fact that our two-month-old son was seriously ill, had we relied on public transport to an out-of-town hospital over Christmas, while ensuring that our other three children were being appropriately cared for. As I said earlier, car ownership is low in Hartlepool. The ease with which family and friends can visit has an important bearing on the recovery of a patient. That ease can be achieved only by having the hospital firmly secured in the town.

It is madness that where a town has an underdeveloped and relatively under-resourced primary care sector and a subsequent over-reliance on the three-star acute hospital, some senior bureaucrats wish to remove or to limit what the hospital does, against the wishes of the people. That is akin to a person having one healthy, muscular leg and the other one in plaster, and opting to amputate the healthy leg before the other one has healed—the person would soon fall over.

That is not so say that I want the hospital, and everything that it does to be preserved in aspic—never to change. Clinical improvements mean that procedures that previously required a major operation and recuperation in hospital for many weeks can be done as day surgery. Developments such as triage in accident and emergency treatment have meant that more people are seen more quickly and with suitable prioritisation. I want that trend to continue, so that fewer people stay in hospital and that they do so for shorter periods and recuperate in the familiar, comfortable surroundings of their homes. That will mean that a faster turnover of patients can take place at the hospital, which will help to produce shorter waiting lists and greater capacity for acute care.

I also want to mention the successes of Hartlepool primary care trust, because its objectives are a major vehicle with which to achieve my vision for health care in the future. It was formed only in 2001 and had initial managerial difficulties, but it has come a long way in a short period to reverse the lack of investment in primary care over the decades. The chairman, Professor Gerald Wistow, and the chief executive, Angela Hawkes, are putting in place the vision where people are treated as locally as possible, ill health is tackled and, as far as is possible, prevented, and state-of-the-art health buildings are located in all our estates and neighbourhoods.

The success of the PCT in a few years of existence is astonishing. In terms of smoking cessation, Hartlepool PCT's clinics have helped to produce a doubling in the number of successful quitters. Thanks to the PCT and its work in implementing its teenage pregnancy strategy, Hartlepool has enjoyed the biggest decrease in the under-18s conception rate in the north-east. Work is progressing to bring more GPs to the town, often from the international doctor market. Crucially, the PCT is investing, through the development of local improvement finance trust schemes, in new medical buildings in the heart of our estates in Owton, Rossmere, the town centre and on the headland.

*[Iain Wright]*

Those schemes are the foundation of the future of health in Hartlepool: 21st century neighbourhood health centres on each estate providing high-quality primary care and health advice to the local population, undertaking minor surgical procedures and being the first point of call for urgent cases, thereby relieving the pressure on the local hospital. For example, people in Owton go to their neighbourhood health centre for treatment rather than the accident and emergency department of the local hospital.

I am a passionate believer in the Government's policy of ensuring that health care is as local as possible. Given our historical health legacy, the PCT, in conjunction with the local strategic partnership, which I chair, understands Hartlepool's needs and is able to commission services to meet them. That is why I find it odd, and somewhat against Government thinking, that the local strategic health authority is pushing PCTs in its area to commit quickly to strategic commissioning, where commissioning for all Tees valley PCTs will be pooled under a Middlesbrough PCT. I am all for making savings and efficiencies through joint procurement of services, but there is a massive difference between procurement and commissioning. I cannot understand what possible benefit the people of Hartlepool will receive from allowing decisions about their health to be taken in Middlesbrough as opposed to in their own town.

One of the true success stories in Hartlepool in recent years has been the ability of different organisations to put aside institutional jealousy and place the needs of Hartlepool residents first. We are lucky in that the geographical boundaries of the PCT are coterminous with those of the local authority. More important is the desire to work together to improve the town's health. Joint commissioning has taken place, with joint appointments such as that of Peter Price as director of public health. Pooled budgets between the council and the PCT are already in place and, from next April, those organisations will jointly commission children's and older people's services.

That is the future of health care in Hartlepool: teams of doctors, nurses, social workers and home carers from a variety of agencies sharing information and using the same systems and procedures to tailor health care to residents' individual needs and requirements. It seems a shame that years of painful negotiation and hard work to secure partnership by those local agencies could be threatened by a blunt diktat issued on Christmas eve by the strategic health authority.

I want the partnering approach to be extended throughout the health network in Hartlepool. I want Housing Hartlepool to be part of that network to ensure that housing does not contribute to health problems. I want schools to teach children the benefits of healthy eating and I want supermarkets in the town to play a role in promoting fruit and vegetables and the benefits of a balanced diet.

In this demanding age, a one-size-fits-all approach is wrong, particularly for health care. The agencies in the town need suitable flexibility, and shared systems and procedures, to enable them to offer a personalised service as close to the home of the person concerned as possible, with the minimum of duplication from organisation to organisation.

The future of health services in Hartlepool is the realisation of our town's vision of care; it is services that are as local as possible, with an emphasis on a service to patients based on their individual needs; it is a multi-agency approach with a massively sophisticated health network; it is an adequately funded primary care sector, in conjunction with a responsive and fully funded acute sector, which allows community based health to be at the centre of the health service in Hartlepool while freeing the acute trust to undertake its valuable role. Only by realising that vision will we truly reverse decades of ill health in Hartlepool.

11.17 am

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):** It is with pleasure that I respond to my hon. Friend's debate and congratulate him on securing it; I know that the subject is a matter of huge importance to him and his constituents.

I want to say a few words in response to his remarks about public health. Although I shall not say a lot on those topics, because I need to focus on the specific issues that my hon. Friend raised about hospitals and primary care trusts, that should not suggest—and I can tell that this goes for him too—that we give a low priority to public health, prevention and the Government agenda, which makes health care, and health itself, a top priority.

I concur with my hon. Friend's remarks about the importance of tackling health inequalities and obesity, and about the need to avoid over-reliance on hospital services by securing good services in a community setting. I am, in addition, pleased to congratulate the PCT and others involved on the drop in smoking brought about through the quitting smoking services, as well as on the teenage pregnancy figures that he mentioned. All those things are terribly important and we need to tackle them if we are to crack the issue of health care and health in the longer term.

To deal with some of the more specific issues, Hartlepool PCT, as my hon. Friend acknowledged, has received large allocations of £93.6 million in 2003-04, £102.5 million in 2004-05 and £112 million in 2005-06. Those amount to a cash increase of £26 million, or 30 per cent. over three years. That compares closely to the overall national average. It is slightly less, but by only a small amount—the figure is 30.27 per cent. compared to the national figure of 30.83 per cent.

The next round of allocations will be announced imminently, and I am sure that my hon. Friend will take a keen interest in that. That is in the context of record increases throughout the country, which means that there has been a big cash injection to enable many of the issues that he raised to be addressed.

I turn to the Tees service review and then the work of the PCT. To respond to my hon. Friend's point about where decisions are made, at the end of the day 75 per cent. or more of the money is received by the PCT. It is up to the PCT to commission locally the services that it feels are most appropriate for the people of Hartlepool. In that setting, responsibility has also been given to the strategic health authorities for running the NHS and

running health in their areas, alongside the PCTs. In that context, my hon. Friend will remember the remarks that my right hon. Friend the Secretary of State for Health made last summer:

> "Hartlepool will still have a full and proper hospital service after the review has taken place."—[*Official Report*, 8 June 2004; Vol. 422, c. 312.]

I should like to assure my hon. Friend that there is no going back on that commitment.

In looking at how the services are developed for the future, the Department and all the strategic health authorities have a responsibility to ensure that the NHS not only provides high-quality care today, but will be able to provide it in 10 years' time. The service is not static; developments occur all the time, and possibilities for new treatments and new ways of doing things evolve, which is to the benefit of patients. We must ensure that our health service generally, and in Hartlepool specifically, continues to evolve in such a way that, as patients, we all get the best service possible.

The current review of services in the area north of the Tees is designed to ensure that. There are three elements to any possible change. First, primary care is the key to the future of the NHS, as I said. It is now possible to provide a wider range of care, including minor surgery, X-ray and other tests. I note my hon. Friend's remarks about high-quality facilities in all the communities around Hartlepool and the importance of providing services away from acute hospitals, which I have seen elsewhere and which are more convenient and often much more effective in a community setting.

The reason for the change is that providing services in primary care makes services more local for local people, who will be able to receive treatment and care in local surgeries and other facilities close to their homes. There are a number of benefits to that. I note my hon. Friend's remarks about car ownership levels and the importance of travelling. The changes can mean a lot less travelling and less pressure on the hospitals, and therefore shorter waiting times for those who genuinely need a hospital service that cannot be provided in a community setting. In line with recent announcements, it is also important that the care of those with long-term conditions be managed closer to home too. There will be better prevention of ill health by targeting people at risk, which is an aspiration that he and I share.

The second element is the need for all emergency services to work together more effectively. At present, there is often confusion about the best thing to do. People end up in an accident and emergency department just because they know that it is there and that it is open, but it may not be the best place for them in all circumstances. The right service may be advice from NHS Direct, or out-of-hours service in primary care or a minor injuries clinic. People need rapid access to the emergency service best able to meet their need. In that connection, I am pleased to report that the out-of-hours service in the Tees valley area has been operating smoothly since April 2004.

The third element is ensuring that local hospitals are strong and modern, and can give the best possible services available to all people north and south of the Tees. I acknowledge that change is always uncomfortable to contemplate and not always popular. People sometimes like to keep things as they are, which is most true of well loved local services such as local hospitals. It is absolutely understandable that the Hartlepool "save the hospital" petition was signed by some 30,000 people.

The job of the SHA—working with all its partners in health and social care—is to look ahead and put forward changes that will save tomorrow's hospitals by making sensible changes today. The hospital services have been changing for some time and they are still changing. As I have already said, some services that used to be provided in a hospital can now be provided in primary care. Other services need to be provided in fewer places so that specialist staff and facilities can be available to provide the best possible care. Some examples of such services are those for cancer treatment, emergency surgery and the most serious accidents. I am not talking about average attendance at accident and emergency, but really serious road traffic accidents and other dramatic accidents.

The decisions to create strong, modern hospitals have already been taken in other parts of County Durham and the Tees valley area. For instance, people living south of the Tees are already served by the James Cook university hospital, which opened in 2003. The purpose of the Tees review is to establish arrangements in the area north of the Tees that will provide the best and most sustainable services for the 21st century. The Department of Health invited Professor Sir Ara Darzi to work with the SHA on the review to ensure the highest quality outcome. The professor was asked to consider how the fullest possible range of services can be maintained at Hartlepool hospital in light of the work that has already been undertaken during the Tees services review and the wider context of the proposed provision of primary and secondary care services, both north and south of the Tees.

Two additional areas were identified relatively recently as needing examination, which is why we have agreed to look at the work of the Hambleton and Richmondshire PCT and the South Tees hospital trust in relation to the Friarage hospital, and consider the impact of the centralisation of specialist services at, and the capacity of, the James Cook university hospital on other hospitals in the area.

The original time scales were not realistic, so the review has been extended and it must be allowed to be carried out thoroughly and should report when it is ready. It is important that we provide people with safe, sustainable services that are local, where that is possible. I know that my hon. Friend will share that ambition. The local health service, with the assistance of Professor Darzi's review, is looking at how best we can do that. The professor is visiting Teesside in March and I understand that my hon. Friend is likely to meet him again then. Professor Darzi is likely to submit his final report in the following months and, as he is still reviewing the situation, I am sure that hon. Members will understand that I cannot make any commitments that pre-empt the outcome of the work that he is doing.

In the remaining minutes, may I turn to GP recruiting and the work that has been done on that? The good news is that, in September 2001, there were 49 GPs in the PCT area and the latest figure is 52, which is a 6 per cent. increase. I am aware that there are still seven vacancies and the PCT has employed eight salaried GPs to provide capacity where it has not been possible to attract

*[Miss Melanie Johnson]*

principal GPs to practices. The PCT has been working with the strategic health authority to develop the international recruitment of GPs. Under the national initiatives, new GPs in Hartlepool will receive the higher rate golden hello payment, which can be up to £12,000. The PCT is also looking to develop modern primary care centres providing access to integrated health and social care teams, including all the specialist workers that my hon. Friend mentioned. It is also planning to use a range of other primary care skills to help deliver that. In addition, the PCT has recruited two GPs from Spain and one from Austria.

Nationally, there are more GPs in the NHS than ever before, which reflects the Government's record investment in primary care and commitment to expanding the GP workforce. In June 2004, there were 31,215 GPs working for the NHS, which is an increase of 11.3 per cent. since October 1997. There are a range of initiatives to secure ongoing, positive developments in that direction.

We know that people are concerned about health in Hartlepool and I reassure my hon. Friend that the Department of Health is, too. The strategic health authority and the local NHS organisations are also concerned. That is why so much has been invested in health and why we will keep on investing in health in Hartlepool, which we want to be modern and sustainable for the future.

11.29 am

*Sitting suspended until Two o'clock.*

## National Health Service

2 pm

**Dr. Richard Taylor** (Wyre Forest) (Ind): It is an enormous privilege to have secured this debate, and I am delighted to see the Minister in his place. He will know from my dealings with him that I have no hesitation in supporting the Government when they are right and no hesitation in telling them when they have got something wrong.

I welcome the tremendous sums that the Government are putting into the health service and many of the reforms that they are introducing to ensure that that money has an impact. Those reforms include better services for cancer patients and cardiac surgery, the instituting of overview and scrutiny committees, the National Institute for Clinical Excellence and the Healthcare Commission, and the publication of "Keeping the NHS Local", which I welcome. However, I have no hesitation in saying where some of the proposals have gone wrong.

Today, I shall give my views as an ex-NHS consultant and one who is acutely aware of the patient's voice. Indeed, now that I am an MP, I am hearing the patient's voice as much as I did when I was a practising doctor. First, however, it is necessary to give a short history lesson to those who have not been around the NHS for as long as I have.

During the campaign that brought me into the House, I had to endure several nicknames. I was called a militant activist, as well as King Canute, although that is actually a great compliment, because King Canute was essentially a humble chap; he did not believe that he could prevent the sea from coming in, and sought to demonstrate that he could not do so. I was also called a medical dinosaur, and at the risk of justifying that title, I want to take hon. Members back a few years.

Right hon. and hon. Members on both sides of the House have implied that the choice initiative will give people choice for the first time. In his speech to the New Local Government Network, the Secretary of State said:

> "And for the first time, meaningful choice in the NHS is becoming a reality".

That is just not right. Before the period from the late 1980s to 1990, when the internal market came in, patients had absolute choice over where they were referred, and doctors had absolute choice over where to refer them. I always remember treating a patient with an extremely difficult muscular condition. At the time, the expert in muscle diseases—he is now a member of the House of Lords—worked in Newcastle upon Tyne, which was rather a long way from Kidderminster. Yet, I was able to get that lady to see that expert in Newcastle without any problem, either with contracts or red tape. So, that sort of choice is not new, although, unfortunately, the internal market put an end to it.

My views are reinforced by those of another chap who probably would not mind being called a medical dinosaur. Dr. Peter Fisher, the president of the National Health Service Consultants Association, writing in *Hospital Doctor* this week, says that in the

> "days of carefree simplicity (pre-1990), the relationship between GP and consultant was a straightforward one, untrammelled by concern over contracts."

I would add that the relationship between the patient and the GP was also untrammelled by concerns over contracts, in whatever sense one uses the word "contract". Dr. Fisher asks the crucial question:

"Where is the evidence that this"—

the choice initiative—

"is value for money or what patients want?"

What does the patient really want? As we all know, patients are very aware of cleanliness in hospitals and the risks of methicillin-resistant Staphylococcus aureus. They desperately want clean hospitals and local hospital services—I know that as well as anybody—and for them to be well resourced. They are prepared to travel if there are long waits, particularly for elective treatment. It is unlikely that anybody ever has real choice on emergency admissions in any case, because they are taken to the nearest available place that can cope with them. The choice for patients would be to have that local service as close as is possible.

In this week's *British Medical Journal* there are references to a MORI poll that showed that 25 per cent. of people would be willing to travel anywhere in the United Kingdom for treatment by the NHS when there were long waits locally. The snag is that the survey was talking only about people with means of transport—people with their own cars.

To try to get a glimpse of what ordinary people want by way of choice, I turn to the letters page in *The Guardian* yesterday. A writer from Preston, who I checked is not a doctor and is not in the medical directory, describes choice as

"the most absurd and obvious red herring . . . used in political debate . . . Surely what everyone should have access to is a universal health service that is equally good in all areas."

On the same page there was a medical opinion, with which I rather naturally tend to agree. A doctor wrote:

"Before we can start talking about choice, we should work on meeting some basic standards—high and rigorously applied".

There was an article in *The Independent on Sunday* written by the noble Lord Haskins, who used to be an adviser to the Prime Minister. He describes his own illness and his reasons for first choosing private health care, but later moving to the NHS when the service he needed was available on it. He pointed out that he had the ability to choose and that choice helped him a great deal.

I wish that Lord Haskins was still an adviser to the Prime Minister because he wrote:

"The person who is best placed to exercise choice on behalf of the patient is the GP, who, when practicable, does that at present. There is a strong case for strengthening the GP-patient relationship".

He condemned the Government's

"new, flawed consumerist policies for public health".

Lord Haskins wisely suggests that the Government

"should concentrate on what it has been doing successfully in the past few years—providing more staff, and better technology and improved facilities which are available to everyone, without undue delay."

**David Taylor** (North-West Leicestershire) (Lab/Co-op): The hon. Gentleman makes the serious point that choice will, in many circumstances, effectively be one that is taken on the advice of the GP. Is it not the case that more than two thirds of patients, including elderly people and those with mental health problems, will find themselves at an information disadvantage and will be unable to make an intelligent choice?

**Dr. Taylor:** I thank the hon. Gentleman for that intervention. I shall return to that point towards the end of my speech; he has obviously been reading the study showing that 65 per cent. of people do not have the advantage of choice.

I turn to the limitations on choice in the existing system. First, targets are centrally imposed; in the past, those targets had to be met in order to decide on star ratings. Such central diktats take away local choice, but that is in direct competition with the Government's laudable aim of devolution. Overemphasising targets is leading to problems for patients and reducing their choice. I shall give two examples—one general, and one local.

The general example is of NHS treatment centres. The centres were designed with a large capacity because it was recognised that separating emergency and routine work would offer hospitals better control of waiting lists and help to fulfil the aim of delivering routine care more rapidly. Probably for the right motives, the Government arranged huge contracts with treatment centres in the independent sector; the problem is that those contracts have to be fulfilled before patients can be allowed real choice about where to go, and people are worried that they will not improve quality. Primary care trusts are under pressure to use the independent centres; they thus have relatively limited resources available for use on the NHS treatment centres. I am sure that the Minister is aware of worries about the independent sector treatment centres—worries about standards of care, loss of training on routine matters for junior NHS staff, follow-up and the treatment of complications.

The local example shows how choice has been taken away by overemphasising the targets for cardiac surgery. Because the major centre for cardiac surgery in Birmingham could not meet the targets, the local strategic health authority ruled in its wisdom that patients from my part of the world, from the Wyre forest and south Worcestershire, should go to Coventry cardiac surgical centre rather than Birmingham. That would be all right if patients were given the choice of going either 50 miles or 20 miles. I can honestly say that both probably provide services of an equally good standard, but that ruling has been interpreted in such a way that patients and the local cardiologists are left with no choice.

I have to declare an interest; I know of that problem because a good friend of mine is involved. The distance to Coventry by the most convenient route is 51 miles, and to the Queen Elizabeth hospital in Birmingham it is 18 miles. In emergencies, the ambulance journey for my friend was 51 miles of agony. The only ambulance that could take his heart machinery was an old ambulance with archaic springing, and he had to lie upon an unsprung canvas stretcher. That is one example of choice being taken away from both clinicians and patients.

I turn to a second limitation on choice, the availability of services. The Health Committee has recently reported on allergies, palliative care and sexual health. Those

*[Dr. Taylor]*

reports all show limitations in the services provided—understandably so—but those limitations also reduce patients' choice. Even the choice of whether to die at home, which many people would like to be able to make, is limited by the amount of support available.

Another local issue is maternity care. The Health Committee produced a report in 2002–03 on "Choice in Maternity Services". The services that should be available are, obviously, home birth services, midwife-led birth centres, and a consultant unit. A recommendation in the report was that

"given that pregnant women are not able to travel long journeys to give birth, if midwife led units are not available local choice is severely constrained."

The Government response accepted that, but rather hid behind devolution, stating:

"It is for local service developers to design services to meet the needs of their local population taking fully into account their views."

My feeling is that the Government will hide behind devolution when it suits, but impose targets that may cut across those local priorities.

Our birth centre was rightly closed after some unexplained and totally unacceptable baby deaths. The inquiry that looked into it exposed faults in that stand-alone birth centre that dated back to the loss of the acute district general hospital that previously supported it. Despite questions of safety at the time, the health service managers did not put the safety measures into place, with the consequences that have ensued. Stand-alone birth centres are safe and viable with the right protocols, as is demonstrated in "Keeping the NHS Local", which I have mentioned before.

Another factor that limits choice is the availability of staff. The Government are to be commended for their efforts to increase staff, and their success in some other fields of activity, but there are still huge gaps. I shall give two local examples. In the county of Worcestershire there is only one specialist available for a particular complicated but relatively commonly needed procedure. That specialist was called away on jury duty. Doctors used to be exempt from jury duty and I have no brief to recommend that for doctors as a group, but where a service depends on a single high-powered specialist it does not seem right that he or she should be called away to jury duty. There can be no choice in that case, because there will be no service.

Similarly, in my area we have only one specialist for essential biopsies of the prostate. When that specialist is off sick there is no service. That instance resulted purely from lack of co-operation and lack of a true partnership across the county, which I believe has been sorted out.

The last factor that I want to mention as limiting choice is another that I lay at the door of the Government; it involves magnetic resonance imaging scanners. There is spare capacity in MRI scanners in the NHS, but the Government have signed a huge contract with a private supplier and therefore the choice of the GP to use the local NHS scanner is eroded, as is the choice of the patient. The motive is bulk buying for cheapness, and that is certainly a consideration. I tabled a written question to try to find out what the savings would be, but, surprise, surprise, the answer that came back stated:

"The exact costs of the scanning and reporting procedure is a matter of commercial confidence."—[*Official Report, House of Commons*, 13 January 2005; Vol. 429, c. 611W.]

**David Taylor:** Does the hon. Gentleman agree with the chairman of the council of the British Medical Association, who was recently quoted as saying that the planks of the current reforms—patient choice, the inclusion of patient providers and the delayed system of payment by results—were in chaos and causing real difficulty for several acute hospitals?

**Dr. Taylor:** Payment by results has not yet been introduced, and I am not going to talk about it because it is something for the future, but it does carry immense threats to viability.

The fact that MRI scans are being contracted out to the private sector in large numbers again points to the Government's lack of awareness of some aspects of what goes on in the real world. MRI scan reporting is not as simple as reporting a pathology blood test. It is always an opinion, and it cannot be a one-way process. There must be input from the clinician, and he or she needs to know the radiologist to know to what extent they can rely on the report. Discussion often helps. Throughout my professional life, one of the most useful aspects of my ward rounds were visits to the X-ray department with juniors to meet the radiologist and discuss the scans. Obtaining a balanced view and a correct opinion were of immense benefit, to say nothing of the teaching opportunities.

I fear that the wholesale use of private sector MRI scanners is a false economy. It certainly removes choice. There are reports that University hospital, Lewisham has stopped referring patients to the private scanner services because of inaccurate reports and delays in reporting.

**Dr. Evan Harris** (Oxford, West and Abingdon) (LD): I am listening carefully to what the hon. Gentleman is saying. Does he know the name of the private company supplying the MRI scanners, and whether it has any connection with the Government, who have contracted it in secret for a figure that we do not know because it is shrouded by commercial confidentiality? *[Interruption.]* I see that the Minister is sensitive about the subject.

**Dr. Taylor:** The name of the firm—Alliance Medical—is well known, but I do not know of any connections with the Government.

Much has been written recently about the low uptake of the choose-and-book system, about the doubts over what the necessary integrated IT system will achieve, and about GPs' doubts that they will have the time to operate it. I hope that the Minister will understand that I am trying to be helpful when I say that it is pretty impracticable to give people a choice of four to five providers. The GP is, and must be, the one who decides where a patient should be referred to. That is one of the crucial aspects of the GP-patient relationship.

I referred earlier to the King's Fund and Bristol university study, which was published in the *British Medical Journal*. The study showed that 92 per cent. of

the population have two hospitals within 60 minutes' travel time. Other members of the Health Committee and I saw a demonstration of this really complicated choose-and-book system at the Department of Health. It reminded me of an intensive care unit monitoring system that I demonstrated to the public before the local hospital's league of friends bought it some 20 years ago. The model worked beautifully, but it did not work when we put it into the ICU and we had to sue the provider to get the money back. What we need instead is a simple system that would be readily available.

With two clicks of his computer keyboard or mouse, a GP could easily pull up on a single screen, updated every day, the specialty at the two hospitals within an hour's journey, the consultants in the field in which he was interested and the waiting times for those consultants. He could decide with the patient, which is his job, which of those the patient would like to go to. The appointment could then be made not by the GP, which takes time, but by the receptionist outside.

I move on to the way forward, because I am desperately trying not only to be critical. I cannot say that it is a real ambition because I do not think that I will ever become Secretary of State for Health, but if I were I would be tempted to investigate ways to abolish the market. People might say that that was going back years and it would not work, but, as I will not get into that position, at least it is unlikely that I will have the chance to suggest that. So, on to practical steps.

First, we need to recognise that virtually all clinical staff, nurses and doctors in the health service are absolutely dedicated to the NHS and to its patients and that there are some extremely good managers. If the managers are responsive to the people who work for them and to the patient groups who now have a voice, the health service could improve tremendously without the Government's interference. When we produced the Health Committee report on foundation trusts, we were staggered to find a list of major governmental reorganisations of the health service since 1982. Between 1982 and 2003, there have been 18 major reorganisations. We should leave the competent, capable, dedicated staff and their managers a bit of freedom to get on with things.

Secondly, I would remove targets. I welcome the Healthcare Commission's approach to assessing hospitals on standards to aspire to rather than on actual targets. I hope that they will continue to work for real ways of measuring health outcomes. Thirdly, I would sort out the potential conflict between the implementation of NICE guidance and of national service frameworks and local priorities.

Last week there were some dramatic headlines in the papers. On 3 February, *The Times* headline read "Patient power may close failing hospitals". What was meant by failing? To my mind, it meant failing financially rather than clinically, largely because patients are not allowed to choose the hospital that they would like. The money is channelled away by Government pressure on PCTs so that some of the work is done in the private sector. Contracts with the private sector have to be taken up.

On the same day, the headline in *The Independent* said that the Secretary of State was "ready to close NHS hospitals that prove unpopular." *The Guardian* had a similar headline, but reported comments from a Department of Heath spokesman that were very revealing. The spokesman said that the Secretary of State's

"warning that hospitals might close referred to non-emergency treatment."

To me, that betrayed a fatal lack of understanding of the situation in the NHS by the Department of Health. If we take away entirely non-emergency treatment from an acute hospital, that hospital system will collapse. We can separate NHS elective care into treatment centres as long as they are integrated with the acute hospital, as a result of which the orthopaedic surgeons are kept in place. However, if we close down emergency services and lose them entirely, the hospital will not be viable.

I want the Department of Health to go out into the real world and talk to practising GPs, hospital doctors, managers at the coal face and patients' representatives. At present, there are some effective patient forums and patient organisations, such as HealthLink, which has carried out a study into the aspect of choice. I want the Department to talk to people with mental health problems, with long-term conditions, the elderly and the vulnerable because they are pretty much excluded from that choice, to which reference has already been made.

**David Taylor:** A moment or two ago, the hon. Gentleman was careful to distinguish between the concepts of clinical failure and financial failure. Does he agree that the real risk of the Gadarene rush into market mechanisms and therefore into the hands of the private sector could leave the NHS facing the fact that financial failure and clinical failure will be seen to be interchangeable and indistinguishable by the Government?

**Dr. Taylor:** That is exactly what the headlines in the newspapers are doing: confusing one thing with the other. It is a real risk.

Was there really a threatened revolt by chief executives at strategic health authorities against the second wave of independent sector treatment centres last autumn? Choice is certainly a laudable aim in the long term, but it is not the correct, immediate aim. To repeat the words of Dr. Peter Fisher in the leader of *Hospital Doctor*:

"where is the evidence that patient choice will deliver better health care?"

Patients want local hospitals that are clean and well resourced. The Government have actually put in the money to achieve that, if clinical staff, managers and patients' representatives were allowed to direct the money to where it is most needed, according to local priorities. If patients are to be given real choice, in the words of Dostoevsky, "What man wants is simply independent choice".

2.33 pm

**Dr. Evan Harris** (Oxford, West and Abingdon) (LD): It is a pleasure to take part in the debate. It reminds me of old times when I was on the Front Bench. There is a Liberal Democrat Opposition day debate and other activities in the House today, so I kindly offered to help out on the Front Bench. I am pleased to see the Minister looking as cheerful as ever—yes, no smile.

*[Dr. Evan Harris]*

We should thank the hon. Member for Wyre Forest (Dr. Taylor) for obtaining the debate and giving us the chance to discuss many of the most topical issues in health care. He carried out a wide-ranging survey of some health care issues and placed particular emphasis on choice. I agreed with much of what he said, especially the need for all of us, across party, to identify how to ensure that there are mechanisms that give more choice, or give more control, as I prefer to describe it, to the patient that will improve quality, access and equity. Those are our three most important aims.

Choice or control is best viewed as a means to the end of obtaining a more equitable, higher quality, and more accessible health care system, with access leading to fairness and quality, too. There is too much rhetoric about choice and some of the mechanisms that are designed to demonstrate that the Government are seeking to maximise choice undermine the other end points of fairness, quality and improved access, particularly for the sickest patients who ought to have the fastest access. There is also a significant opportunity in setting up mechanisms that can be seen to raise the profile of choice as an end in itself, rather than as a means to an end. The hon. Gentleman spoke about choose and book, which is one of those expensive and time consuming mechanisms that have yet to demonstrate any advantage in terms of access, quality and fairness.

I do not believe that the Government are opposed to recognising that the key issues are improved access, a fairer health care system and a fairer burden of ill health—if that is the right term—and ensuring that there is good quality, but they are distracted by an obsession with trying to outflank the Conservative party to the right in respect of worshipping the mantra of choice. I should like to give a few examples of where their promotion of choice as an end in itself is damaging to what really needs to happen and to what we can say, given that we are in Westminster Hall and still some distance from an election, are ideals shared by all parties in terms of trying to obtain those three outcomes.

It is probably wise to start with choose and book, because that focuses the question on the opportunity cost. We should not be too critical of the NHS programme for IT. Clearly, there is scepticism about Government IT programmes, but if scepticism prevented us from doing things, we would never make any progress. The head of the IT project made it clear that he was aware of the record of failure on delivering big IT projects and was keen to ensure that the programme about which we are talking delivered the hardware and software. I recognise that big steps have been made. The flip side to that, which is perhaps inevitable, is that there has not been as much engagement with the health care professionals—not just doctors and GPs—that there might otherwise have been. That conscious decision was taken by the head of the NHS IT programme, because he thought that it was most important to get credibility by delivery, but it is not easy to say in retrospect whether that was wise, given that there is now a big need to engage with the medical profession.

The NHS programme for IT is seeking to do things as rapidly as possible in a catch-up way. The Minister will recognise that the remarks that I am making on this matter are not designed to be over-critical. However, the problem with choose and book is that GPs do not understand why the Government chose the numbers in terms of the range of choices, regardless of whether there was a question of access, or whether it was appropriate to provide choice.

I spoke to a GP in Bristol recently who could not understand why the other choice for cardiac care for his patients was in Winchester. It is not realistic that patients in Bristol will want to go to Winchester, especially those with the greatest health needs who will find it most difficult to operate that choice. Such people want to be near their families and treated near their homes. That GP was also of the view that there was a significant time requirement to use choose and book, which meant that he could not see as many patients as he needed and wanted to see and who needed seeing. He thought that the Government had not costed properly—had not even started to cost—the time impact of forcing people to use such a system in the surgery and were hoping that they would engage with it.

Clearly, there will be slowness during the pilot phase, if the system is to be piloted. I shall rephrase that; "pilot" implies that there will be an evaluation and a reconsideration. Do the Government think that, when people are proficient and the system is fully online, there will be a time cost? How will that be factored into GP work loads? The Government have done a huge amount to try to address concerns about GP work loads with the GP contract. It would be a pity to lose what has been reasonably successful, as far as these things go, in giving GPs the recognition that they wanted of their time-pressure issues. It would be a pity if the good will that emerged from that were put at risk by the imposition of a system that took a lot of time.

I should like to probe the Government on whether within this choice arrangement they will still provide the freedom of choice that GPs, and through them their patients, have for referral to a consultant or specialist of their choosing. I was interested in the hon. Gentleman's remarks on that issue. He was explaining that when he worked in the health service prior to the internal market—that was a little before I started working there—there was effectively freedom to refer to any specialist in the country through the GP. That was lost during round one of the internal market, which was introduced by the Conservatives in the late 1980s. The question is whether that still applies now. Will GPs and patients be able, outside of contracts, to go to consultants of their choice? It is worth exploring how the Government's new tariff-based system and payment by results affects how we judge whether there is an internal market at the moment. It is fair to say that the Government have created an internal market, and a better, more effective one than the Conservatives did, for reasons that are clear.

Under the Government's system, money will follow individual patients; that is the way it is set up. Under the Conservatives' system, whether by design or because of a problem with the system, patients followed contracts and there was very little in the way of incentives to get extra patients; the incentive was not to lose the contract. However, it is difficult to take huge contracts away from

a hospital without that hospital going bust. We were rightly critical of the old internal market, and I do not understand why the Government refuse to call what they are doing a better, more effective market version of the Conservatives' internal market, a version in which the money—I have heard Ministers use the expression—will follow patients as hospitals try to attract extra work.

That must be a good thing for people who see the health service in that way. I am not sure that that is how I would like to see the health service in its entirety, but one can recognise that a system in which good work and attracting more patients gets more resources is an effective market. I cannot understand why the Government are not proud of the fact that they have improved on what the Conservatives tried to do. With practice-based commissioning, there has clearly been a return to GP fundholding, which the Government were proud to say they had abolished, even though they made large multifunds when they created primary care groups.

I ask whether there will still be patient choice because in my Oxfordshire constituency we have been told that the mechanisms for choice, in reference to the large contract that has been awarded to an independent-sector treatment centre for cataract operations, will be called managed choice. I do not know whether that will be managed choice, massaged choice or pretend choice, but the patient referrals will go to a central PCT-run hub and be allocated to the treatment centre without the patients or their GPs having any say-so in the default situation. Patients will not be asked, "For your cataract operation, do you want to go to a car park near you in the next three months, or to the Oxford eye hospital?", but will be allocated to one or the other—most likely the treatment centre. I cannot understand how the Government dare to define that as choice, but I can understand why they are doing it.

The reason, as the hon. Gentleman said, is that those private sector treatment centres, and perhaps even the NHS ones, have an agreed amount of work sent their way. No money will follow the patient, but the Government have set up huge contracts, five years in advance, when the money has already gone, at exactly the same time as saying that they want the money to follow the patients. It is possible that no patients will be referred to the centres, but the centres will still be paid. They have to find the patients to follow the money.

I do not see how that gets over the problems of the Conservatives' flawed internal market, which the Government are rightly keen to criticise, for that and other reasons. I would therefore like the Minister to explain how he sees five-year contracts in advance of guaranteed work going to those treatment centres when he says that the issue is about the money following the patient and rewarding units for attracting more patients, rather than giving them a huge dollop at the outset.

I think that the Minister recognises that GPs do not have much faith in some treatment centres, particularly where there is a good-quality NHS service. I would be the first to accept that, in my area, not all the NHS services are good. However, there have not been complaints about either the quality of the service offered on the NHS for cataracts or failing to meet the three-month maximum waiting time target by the end of last year, flawed though that target is, as the NHS has indeed met it.

It is hard to understand why the system was imposed in the way that it was—it certainly was not a choice for the local population. In order to get the PCTs to sign the legal agreement, the Government had to guarantee that they would fund through the SHA the extra costs involved in patients not going to the private provider and sticking with the high-quality, easily accessible and fair service offered by the Oxford eye hospital.

The hon. Gentleman hit on another issue, which is that quality is not just about the here and now. We must find ways to ensure quality for the future. One of the key questions is how the Government see training being provided in independent treatment centres, which is done, I guess, to pass muster with the district auditor or the National Audit Office, at a rock-bottom rate. The centres cream off the easiest cases and do not have to do any training. Everyone knows that training slows down the process. I am sure that the hon. Gentleman will recognise that from having medical students to train who slowed him down, even though they were probably not as bad as I was.

**Dr. Richard Taylor:** The hon. Gentleman makes a valid point. As more and more surgery is done at a day case level and in treatment centres, the integration of treatment centres with the acute hospital is vital, otherwise juniors will not receive the training that they need for the work in day-case centres that they will do when they become consultants.

**Dr. Harris:** That is quite right. Independent providers in my area now say that they are renegotiating and increasing their prices, now that they do not have the contract, to take trainees. It is certainly important that trainees are trained, but we are talking about a rush job, where the long-term situation was not considered. If the Minister can correct me on that, I will be interested to hear his comments. If he persuades me, I will revise my views, but I am describing what I have heard from people involved in training on the ground.

The rush to the private sector also seems reckless as to the unintended consequences. For example, I understand that a system called evercare has been introduced to the community system, again in the Avon area, which has involved the provision of community matrons. The system is operating on a pilot basis, although I understand that it has been rolled out before evaluation and that is not a pilot to me, but an early starter. Under evercare, a private health care company called UnitedHealthcare—perhaps the hon. Gentleman is aware of the company—will employ community matrons to assess patients, in particular regular attenders at hospital with more than two recent admissions, to see whether there is a way of keeping them at home. That is a laudable aim, but two negative points can be made. First, there is no evidence that it is cost-effective. That is why evaluation of these schemes is so important; Britain is not California for all sorts of reasons, even if the Minister wishes it was. Secondly, GPs say that all their H and G grade district nurses have been stripped out of the system in order to fill these posts funded by the NHS through this contract with a private company. Is that a sensible use of resources, and are the Government taking account of that?

*[Dr. Harris]*

These are genuine issues and questions to do with choice, and we come back to the fundamental question of what choice is for. If it is for improved quality, better access and fairness, it seems reasonable to try to use choice as a means of increasing access where there is a problem to do with waiting times or access to treatments—in isolated areas, for example. I have no ideological objection to choice being used in that way. However, in order to try to realise the mantra of patient choice in the NHS, the Government too often take control away from patients and GPs, and pick areas where there are not as large access or fairness problems as in some other areas. Even if one accepts that the Government's motives are right, it seems that they are operating the system in a way that enables them to say, "We are maximising choice, and we do not really care about evaluating how that has been achieved."

We need to be a little more rational and sophisticated in how we use choice to increase the control patients have over their treatment. We must recognise that that is not simply about a choice of hospitals. If it is about a choice of treatment, that is integral to the doctor-patient relationship; doctors have a duty to explain the treatment choices to patients. If the Government are saying that that is a problem at present because doctors are not giving patients an adequate choice of different treatments, they should say so. If they think that time is a factor, they should provide adequate time and space for clinicians. However, I do not think that the Government are saying that. They are using a geographical choice as a proxy for talking about a choice that already exists—the choice that patients and their doctors make together about what is the best treatment, regardless of where it takes place. There are far too many mixed messages on choice, and that confuses the issue.

In the run-up to the election, I would like the Government to talk more about fairness and quality, and to ditch some of the rhetoric around targets and choice. That often simply stigmatises parts of the NHS—often those parts with the highest work load or, because of the way the cake is divided, inadequate resources. Morale is already low in those areas, and it is driven lower by criticism on the basis that they are not meeting some of these central targets.

I hope we get some answers on what the Government's real position is on this, and I thank the hon. Gentleman for taking us through some of the situations that concern him in this important area of health care.

2.53 pm

**Dr. Andrew Murrison** (Westbury) (Con): I congratulate the hon. Member for Wyre Forest (Dr. Taylor) on securing a debate on this subject. I think that I can say on a non-partisan basis that it is a pity that we have not been better supported by our Back Benchers on this occasion. This is a crucial issue and I am sure that it will form a central element of what the parties talk about in the run-up to the general election.

I will be a little more charitable than the hon. Gentleman has been because, broadly speaking, the choice agenda is the official Opposition's agenda. It is our agenda because we believe it to be right in principle, and because we feel that, mechanistically, choice will drive up quality. On both counts, we support the general thrust of the Government in promoting choice in the national health service.

The hon. Gentleman, no doubt unintentionally, revealed in some of his remarks what one might call the patrician strand of NHS doctoring. I say that with the greatest respect, and I hope that he will not take offence. However, people now expect to be more closely involved in the decisions relating to their medical care and are, perhaps, less willing than they once were to be directed by "the system". The choice agenda is all to do with encouraging the patient empowerment that, going by his contribution, concerns the hon. Member for Oxford, West and Abingdon (Dr. Harris).

Mr. Harry Cayton has said, very eloquently, that patient choice is no gimmick. It changes people's lives, gives them control and improves the responsiveness of the NHS. With those words, I could rest my case and sit down. However, I shall not do that because I should like to ask the Minister about some aspects of choice. I agree with Mr. Cayton's sentiments; they are put extremely well in very few words. Choice drives up standards and responsiveness. I commend the Social Market Foundation report of September 2004, "Choice: the evidence", which poses a number of questions. Let me paraphrase three of them. It asks whether, when it has been offered, choice has been taken up—the answer is yes, but a support package is required in order for that choice, where offered, to be taken up; it asks whether the population that takes up the choice is socio-economically skewed, and it concludes that it is not; and it asks whether choice has helped to improve quality and efficiency and, crucially, answers yes.

The report bears close scrutiny, and I am probably doing it a gross injustice by summarising it. However, that is, essentially, what it says. It does not ask—I think that it should have done—whether health care professionals feel threatened by choice. The answer to that is probably yes. I would also say that the Government have not helped matters by, until recently, choosing to ignore health care professionals in going forward with the cornerstone of choice, the national programme for IT in the NHS. I shall deal with that in a few moments. I entirely endorse the comments that have been made about choice not being just between hospitals. It is between treatments and between specialists. As the MP for a rural constituency, I would say that people would, in effect, be choosing between, at most, two hospitals. However, they would also be choosing from a raft of specialists and, I hope, from different forms of treatment. For rural areas, the choice agenda will mean a great deal more than choices between hospitals. It will mean choices between specialists and between different sorts of treatment.

Mental health has been mentioned, but only once, in passing. That is a great pity. If I were to pick out an area of health care in which I felt that choice could be particularly useful, it would be mental health. Empowerment and choice are therapeutic. Lack of choice and lack of control are anti-therapeutic for many patients. That is probably why those who concern themselves with mental health issues, as well as patients,

respond positively to the Government's choice agenda, and agree that it is right for the official Opposition to have at the heart of their agenda the notion of choice.

I encourage the Minister to say a little more about mental health in the context of choice. I say that in all candour. It has not been spoken of enough, and it should be. I fear that the right hon. Gentleman and his right hon. and hon. Friends do not appreciate that the NHS means considerably more than elective surgery. He might wish to take the opportunity to say a few words about how he thinks that his choice agenda will help those with mental health problems. I should also be grateful if he would clarify where we are with choose and book. Last month, the National Audit Office reported that only 63 patients had used it, although more than 200,000 had been expected to do so. Is the Secretary of State's expectation of 100 per cent. usage by the end of the year as ambitious as his plans for NHS dentistry were? Clearly, those have collapsed, with the result that my constituents have considerably less choice than they had eight years ago.

Will the Minister share some of the difficulties that the national programme for IT in the NHS is experiencing? We know that there are a great deal of problems, but, sadly, we have to learn about most of them from the redoubtable *Computer Weekly*, which has done a good job in keeping us up to date, despite the Government's attempts to bar its reporters from briefings. Why has it proved necessary, at this late stage, to throw bucket-loads of cash at primary care trusts in an attempt to bring GPs online and on message?

Last week, in a written answer to a question put by my hon. Friend the Member for South Cambridgeshire (Mr. Lansley), the Minister said:

"On 19 January 2005, my right hon. Friend, the Secretary of State, announced a £95 million incentive scheme to recognise and reward the key role that PCTs will need to play in engaging primary care stakeholders and encouraging and supporting general practitioners to use choose and book." —[*Official Report, House of Commons*, 2 February 2005; Vol. 430, c. 995W.]

That seems sinister. How does the Minister anticipate that PCTs will use the £300,000 per trust to bend GPs to his will? We understand that NPfIT will deliver two things: the vestigial national spine, and choose and book, yet each choice booking so far has cost £52,000. The Minister should know that GPs are thoroughly fed up at having invested in kit and training that they are now told will be redundant. Crossing their palms with silver at this late stage is a poor substitute for carrying them along from the start. The slow and clumsy choose and book is becoming something of a laughing stock among GPs. The Minister is fighting a rearguard action.

Will the Minister clarify the Secretary of State's announcement last week that his choice agenda will cause some hospitals to close? I am sure that he will be keen to do that. The press are full of speculation, and a great deal of confusion has been caused. I have my own thoughts on what the Secretary of State meant, but it would be extremely useful if the Minister clarified those remarks so that we are left in no doubt as to what he meant.

The NHS Confederation points out that patients may well vote with their feet, but from specific departments and on elective procedures only. That is right. As others have pointed out, if elective hip surgery goes, trauma will quickly follow, which will, in turn, be followed by accident and emergency; that would spell doom for an acute hospital. What has not been pointed out as much is that critical mass is needed in an acute hospital for training and accreditation. If one little bit of that is lost, the whole edifice is lost. Insufficient thought has been given to that. Indeed, there is no evidence that any thought has been given to it in any Minister's utterance that I have heard. Perhaps the Minister can correct me.

I have no doubt that patients will vote with their feet. By and large, that will be a wake-up call to hospitals. I suspect that that is what the Secretary of State should have said—and that it would rarely result in the closure of an institution. Surely to goodness that is what he meant.

There has been mention of the way in which money follows patients, or patients follow money. I share some of the concerns raised, for example that the targets set by the Government to bring down waiting lists have resulted in contractual arrangements that will end up hampering rather than improving patient choice. Labour has set a target that 10 per cent. of operations should be carried out by independent treatment centres. That target is arbitrary, distorts patient choice and prevents NHS hospitals from attracting patients on a level playing field. Again, it would be useful to have the Minister's comments on that.

James Johnson of the British Medical Association is not a great fan of independent treatment centres. He claims that they are destabilising the entire hospital system. He blames the inability of the NHS to withstand surplus capacity, and claims that it is leading to a failure in plurality of provision. I shall press the Minister separately on that issue, but if he voices his thoughts at this stage, we might avoid correspondence of the protracted sort that we are currently having on NPfIT.

I finish, Mr. Deputy Chairman, with a few quick questions, and I would be grateful if the Minister could address them. NHS trusts are facing substantial deficits because of the sheer number of demands placed on them by the Government. Given his recent remarks about closure, would the Secretary of State consider hospitals in those trusts to be failing? Many of them are clinically excellent, and I offer the example of my very own Royal United hospital, Bath.

References to the choice agenda readily fall from the Ministers' lips, but that agenda is not appreciated by a sizeable portion of their own party, including ex-Health Secretaries. How will the Secretary of State deal with such people? That is not really any of my business; I am just interested to know.

Finally, the Government's idea of choice is restricted to a list of four or five hospitals, chosen by PCTs. Why will they not give that choice directly to patients and their GPs? Why is it restricted to bricks and mortar, and not extended to individual specialists and options for the range of treatment?

**Mr. Deputy Speaker (Mr. John McWilliam):** I might be a lot of things, but a Deputy Chairman I am not.

3.6 pm

**The Minister of State, Department of Health (Mr. John Hutton):** I, too, congratulate the hon. Member for Wyre Forest (Dr. Taylor) on allowing us to have this important debate about choice and what it

*[Mr. John Hutton]*

means. I congratulate all hon. Members who have made a contribution, because they have all raised perfectly fair and reasonable points.

As I listened to the debate, I was struck by the fact that, with one or two exceptions, most comments were confined to the issue of choice over routine operations or elective procedures. In recent years, the Government have rightly taken an important step forward on the issue by giving patients more choice over routine operations, and I shall obviously want to speak extensively about that.

However, the concept of patient choice goes much wider than simply access to routine operations. One should remember that 90 per cent. of all patient journeys in the NHS begin and end in a GP's surgery and that, fortunately, only a small minority of NHS patients need the services of a surgeon or specialist in an acute set-up. When we talk about choice, therefore, it is important that we try not to confine ourselves to the choice of hospitals, and the Government have certainly done that. Hospitals are only the tip of the iceberg, and we need a concept that goes beyond simply providing more choice about operations.

For example, it is important for primary care patients to have more choice, and we can deal with the issue in several ways. NHS Direct has been an important additional service for NHS patients; it is widely used, it is making a significant difference and it is saving patients' lives. Of course, there are people who criticise it, and I understand that. Most NHS services are criticised at the beginning for a variety of reasons: people do not like them and are not familiar with them. However, NHS Direct has proven its worth day after day because of the outstanding work that the nurses do in providing medical advice to patients who ring up. As we approach the elections—I am sure that we are all looking forward to them—we shall all want to look carefully at what the parties are saying about the future of NHS Direct. The hon. Member for Westbury (Dr. Murrison) said, quite fairly, that he had some questions for me, and we shall be asking him and his parliamentary colleagues about some of these issues.

On primary care, the walk-in centres have proved to be very useful. My daughter recently used one, and I have nothing but praise and tributes for the staff who run them, because they do a very good job. We shall shortly be expanding walk-in centres into new territory. There will be several GP-led commuter walk-in centres at some of England's largest transport hubs, bringing our services closer to where patients are. Commuters, in particular, are bound to experience serious issues in trying to access the services of their family doctor, because many of them get up early and come home late, and most of the surgeries will, sadly, be shut by the time they return home. So, we have to find a better way of taking our services to where the patients are, and commuter walk-in centres will be one way of doing that.

Another area in which we need greater choice is patient access to medication, and that could be at several different levels. For example, there is the issue of getting repeat prescriptions. By common consent, the process has been far too bureaucratic, and we have found some important ways through that bureaucracy. Improvements could, for example, also mean access to medications over the counter, on which we are making progress. We are the only country in the European Union in which patients obtain access to some of the new anti-cholesterol drugs, the so-called statin group, over the counter. That, too, is important. The Minister of State, Department of Health, my hon. Friend the Member for Doncaster, Central (Ms Winterton), has been making progress with proposals for freeing up some of the restrictions on the location of new pharmacies.

Those are two important spheres of activity in which a flourishing debate about choice is needed, and there are others that hon. Members have raised today. One of those is maternity services, which the hon. Member for Wyre Forest raised in connection with his constituency, and another is mental health, which was mentioned by the hon. Member for Westbury.

I agree that mental health is an area in which it is important for us to take a critical look at ways of expanding patient choice. The hon. Gentleman will probably know that the National Institute for Mental Health in England is considering, with patient organisations and groups, ways of expanding patient choice in mental health. Certainly, patients have been telling us that they want a greater range of choices about the services to which they gain access during times of illness and recovery. That is right and proper and I understand that the Department will, later in the year, publish a mental health discussion document on how we implement choice in local communities. I am sure that hon. Members on both sides of the House will look forward to that publication.

The focus of our discussion today has been choice over routine operations, and it has been quite an interesting debate. I am sorry that my hon. Friend the Member for North-West Leicestershire (David Taylor) is not here, because I received a strong sense from him that he was not an advocate of patient choice or any of the reforms that the Labour Government have implemented, even though they were all in our manifesto. However, that is a debate for another occasion.

The hon. Member for Wyre Forest began his remarks by describing a golden age in the NHS. There are only one or two people who can ever remember things happening in the manner of such descriptions; it has certainly not been my experience in 50 years of using the NHS that there was ever a golden age when I could see my GP and be bundled off on a train to see a specialist in Cheltenham, Birmingham, Manchester or somewhere else. On the occasions when I have needed to see a specialist I do not remember being given any choice.

The hon. Gentleman finished his remarks by saying that we should not be attending to that matter now—that there were other things to get on with and that choice was a longer-term aspiration rather than a short-term priority. I take issue with him about that fundamentally; he is wrong to say that we must make a choice between developing minimum standards and the higher-quality care that he argues—and I agree—is essential, and providing greater patient choice. I consider the latter an equal priority. To think that we can achieve only one, at the expense of the other, is to make a false dichotomy.

The hon. Member for Oxford, West and Abingdon (Dr. Harris) made a characteristic good cop-bad cop speech, but seemed, on balance, to be in favour of choice, although I think that he wanted to reserve his position on the matter as far as possible. I do not have the energy today to make any cheap, below-the-belt remarks about the Liberal Democrats. However, it is striking that although one would expect that party, of all the political parties on the British political scene, to be in favour of choice, the hon. Gentleman has, in much of health policy, allowed it to be captured by a group of vested interests who are not in favour of reform at all. In the House of Commons in particular there has been a series of flip-flops from the Liberal Democrats about whether they are in favour of or against treatment centres, payment by results, or choice. There will come a time when they have to make up their mind about where they stand on the issues.

**Dr. Murrison:** I do not want to make cheap political points either, but does the Minister recall the famous remarks of the hon. Member for Cheadle (Mrs. Calton) in which she appeared to condemn foundation hospitals in this place while praising them to the skies in her constituency?

**Mr. Hutton:** I do remember that. It was one of the high points of the Committee on which we were engaged, but it was very much in line with most of the rest of her comments at the time.

**Dr. Evan Harris:** I am used to the Minister attacking me in my presence or absence, but when it comes to attacking my hon. Friend the Member for Cheadle (Mrs. Calton) in her absence, I should explain, if only to the hon. Member for Westbury (Dr. Murrison), that the problem that faces him and us in this place—it is the same in local government with the private finance initiative—is that you can disagree with the policy nationally, but once it goes through the House and is the only game in town locally, there is the question of whether you support your local community or local council in seeking to achieve the best for people locally, even through the perverted scheme that has been imposed by the Government. That is simply realistic. The hon. Gentleman can live in an ideological bubble rather than in the real world, and can imagine that there is no Labour Government doing these things, but practical politicians must recognise that Government policy imposes choices on us.

**Mr. Deputy Speaker:** Order. When the hon. Gentleman says "you", he means me and no one else. I ask him not to get me involved.

**Mr. Hutton:** I do not want to be involved either, Mr. Deputy Speaker. Both hon. Gentlemen should conduct their exchange properly outside the Chamber.

The hon. Member for Oxford, West and Abingdon made several observations about some of the reforms. At one point, he described practice-based commissioning as GP fundholding. It is certainly not that for three essential reasons: no price negotiation is involved in practice-based commissioning because we have a single national tariff; no additional bureaucracy or transactional costs are associated with it, because the primary care trusts will be responsible for the contracting process; and, most importantly, practices that take on the responsibility of practice-based commissioning will not have the additional top-up resources that GP fundholding had. GP fundholding was a genuine two-tier system in which some practices gained at the expense of others. No one will do that under practice-based commissioning. To set the record straight on practice-based commissioning, the Government committed themselves to it back in 1998, under the wise leadership of my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson), in our very first White Paper.

On the subject of community matrons, UnitedHealthcare does not employ any community nurses; they are all employed by the national health service. The hon. Gentleman also referred to suggestions on how we should conduct our general election campaign, but I am sure that he will not want me to take any of them up.

We talked extensively about the ideology of choice. For me, choice is not so much an ideology as the right thing to do in principle, so I agree with the hon. Member for Westbury on that point. Many of us may have been struck by the words of Terence Leahy, who spoke at last weekend's debate, which was sponsored by *The Guardian*, on the future of public services. He said:

> "The ability to make a choice gives you power in your life. They may be small choices but they can add up to a sense of control and purpose. People draw tremendous self-esteem from being asked to choose—from being trusted."

That is absolutely right, and puts the essential argument very effectively for choice in the public services. Choice puts patients in the driving seat, and it requires providers to respond to the preferences of patients or public services users. It can also help to drive up quality and equity in access as well as the overall efficiency of the service. Those are very important objectives for the Labour Government. We do believe that choice can support equity in access and outcomes, and not destabilise them. I shall return to that point in a moment.

A point that may have escaped the hon. Members who expressed their concerns about choice is that we know that it is what patients want. Many right hon. and hon. Members often say that patients do not want choice, but the best way of finding out whether patients want choice is to ask them. That is precisely what we have done, but the hon. Members for Wyre Forest and for Oxford, West and Abingdon seem to have no recollection of the two years of experience of the coronary heart disease pilot on choice, the London pilot on choice and the work that we have done in the area of cataracts.

The number of patients who exercised the right to move to a different provider was very high. The figures are available on the record, so I shall not go into them today. We know from MORI poll surveys, the work of the Picker institute and many other respectable, bona fide organisations that patients want choice. Why should they not want choice? It is a defining characteristic of citizenship in a modern society. We have often characterised choice in this place as the ability to elect the Government. Well, fine. That is obviously a crucial plank of an effective democracy.

*[Mr. Hutton]*

However, matters go much wider and deeper than that. In every other sphere of our life, we, as informed consumers and citizens, expect to be provided with choice. Why therefore, when it comes to the public services, is there a desperate poverty of ambition that leads us to say, "No, we cannot have choice. It is too complicated. The patients will be confused. The services might be destabilised. Let us do what we have done for 50 years and tell people where to go to get their treatment."

As a social democrat—someone who believes in the value of public services—I do not accept that we can possibly build and sustain support in this country for public services if we believe that we must direct patients to certain types of providers, give them no choice about what they can receive and give them no control over what happens to them. We must challenge that system and giving patients choice does precisely that.

Another matter has been completely missing from the debate. We have talked about choice as though it were something new in health care in the United Kingdom. It is not. Leaving aside the argument about whether it has been in the NHS before, we know that, since the beginning of the NHS, some patients have had choice and they are the people who can afford to go private. Yet, here we are—a group of Members of Parliament who claim to support the public services and the NHS—saying that there should not be choice in the public sector, but that it is all right to have choice if people can afford to have better-quality care or faster treatment in the private sector. It is impossible to imagine anything less equitable than tolerating that gulf in which personal wealth determines personal health. That is completely unacceptable. I say without hesitation that it is right in principle and right in practice for us to look at how we can extend choice to the national health service.

Choice should not be confined to the few who have money. That is how things used to be. It should in future be extended to those who have need. That is a powerful message of reform. If we leave aside the argument about choice—there is an argument to be had about whether it is a good or a bad thing—we must understand choice in the operational sense.

What are the crucial elements in the debate about extending choice in the national health service? There are three essential pillars to expanding choice. First and most obviously, additional investment must be put into the health service because the second crucial element is extended capacity, so that we can allow real contestabililty between providers and give patients the real option of going elsewhere if their local provider cannot accommodate their requirements. Finally, as the hon. Member for Westbury drew attention to, we must give powerful, effective and timely information to patients and clinicians so that they can make informed choices about precisely where to go to receive treatment.

It is important that the three essential pillars of capacity, information and investment are all in place and lined up to support choice, which is why I take issue with the proposals of the hon. Gentleman and the Conservative party that we can have unlimited choice by the end of the year. We cannot do that because the necessary capacity will not be in place to make those choices effective. We could do that if we wanted to extend waiting times. I do not think that that is quite what the hon. Gentleman had in mind, but there is no short cut. We need capacity to exercise unlimited choice and the capacity will not be there if we want waiting times to be kept to a minimum.

The other problem with the hon. Gentleman's policies is investment. I do not want to argue about the James report and associated aspects. There will be a time and a place for that during the next few weeks. However, one aspect of the hon. Gentleman's policies is inescapable: if he wants to take £1.2 billion away from the NHS and use it as a subsidy for patients who can afford private medical treatment and want to go outside the NHS commissioning arrangements with the private sector so that they are willing to pay any price for operations in the private sector, that would take £4 million a year from every primary care trust in the country to use as an effective subsidy for private medical insurance. It would be the equivalent of taking £20 million from NHS patients in the hon. Gentleman's constituency to subsidise the cost of private operations for the rich. It is impossible to imagine how capacity plans, which are essential to allowing choice for the NHS—in other words, for the many—are to be met if money is taken away to subsidise the private medical insurance schemes of the well-off. That is a subject for future debate, and I look forward to it, but the hon. Gentleman has not a cat in hell's chance of winning it.

I looked at the Conservative party's website today—I look at it whenever I want to cheer myself up—and it shows the party's five priorities for the NHS. Strangely, there is not a single mention of the patient's passport. I wonder why. It is the Tory health policy that dare not speak its name. However, others are prepared to do it for them. We will certainly be talking about the patient's passport and how it comprehensively undermines the Tory party's bogus rhetoric on its commitment to the national health service.

**Dr. Murrison:** That was great rhetoric from the Minister. I look at the Labour party website, if only to see the latest iteration of the various posters. It is fascinating, and it seems to change daily.

I take the Minister back a couple of moments to choose and book. Does he share the view of the National Audit Office that, to use his words, there is not a cat in hell's chance of choose and book being up and running by the end of this year, as previously envisaged by the Secretary of State?

**Mr. Hutton:** That certainly was not the view of the National Audit Office, but I shall speak about the NAO report and choose and book in a moment.

Capacity, information and investment are the three essential pillars needed to construct a policy of choice for routine operations for NHS patients. They would all be compromised by the hon. Gentleman's proposals.

A number of essential operational mechanisms are also important. One is payment by results, which we have discussed extensively today. To those who follow the history of such things, it is interesting to discover, as I did recently, that back in 1950s Aneurin Bevan advocated payment by results as the right way to fund the NHS. It has taken us 55 years to get round to doing it. We shall start this year for routine operations and

elective procedures. It is the right place to start, because that is when choice in the context that we have been using the word today is most likely to have an impact.

We have only touched the surface of the matter today, but choice needs to be supported. The hon. Member for Wyre Forest was right to raise the risk of overcapacity in the NHS. Incidentally, it is equally likely that all the extra capacity in the NHS will be used, which will pose a threat to NHS budgets. There are two risks—overcapacity and the overuse of capacity. That is why it is essential that we have effective practice-based commissioning alongside payment by results as an effective way for GPs in primary care to influence how resources are used.

Secondly, we need to use IT to the best of our ability to support patient choice. The choices that we are talking about are incapable of being properly activated or used unless GPs and patients have access to waiting times data, clinical quality data and so on. That is the information database that choose and book will eventually support.

**Dr. Evan Harris:** I did not mention my concern that choice has to be informed. Does the Minister think that the quality of data on outcomes available now is adequate—it is reproduced by Dr. Foster in his league tables of death rates, without patient stratification—or does he regret the fact that some of the better units and the better surgeons are often at the bottom because they treat sicker patients? Is that good information, or is it worthless?

**Mr. Hutton:** It confirms how difficult it is to portray the information sensibly. We have a large amount of data in the NHS. Every day, we collect information by the barrel load—about the clinical outcomes for surgical teams, surgeons and hospitals. It is often difficult to balance that raw data with the point rightly made by the hon. Gentleman. He referred earlier to concerns about access to specialist care; it is certainly true that in some of our specialist hospitals, which is where the more complex work inevitably tends to gravitate, surgeons often have to deal with the hardest cases. It is therefore not unreasonable to assume, on a like-for-like basis compared with surgeons doing less complex work, that their outcomes might look poorer. That would be a travesty of the real facts. That is why we are continuing to work with many medical organisations—the Society of Cardiothoracic Surgeons, for example, has led the way and I am grateful for what it has done—to enable us to present the information in a sensible, patient-friendly way.

**Mr. Deputy Speaker:** Order. Time is up. I hope that hon. Members will forgive me, but I have to suspend the sitting for one minute.

3.30 pm

*Sitting suspended.*

## Frenchay Hospital

3.31 pm

**Mr. Steve Webb** (Northavon) (LD): To some extent, I sympathise with the Minister. I notice that she responded to another half hour Adjournment debate earlier on health services in Hartlepool. She has to be an authority on all these matters. However, as she was brought up in south Gloucestershire for at least part of her childhood—I think that I am right in saying that—Frenchay hospital will be if not of greater interest then at least of considerable interest to her.

Frenchay hospital faces D-day on 14 March. On that day, the chairs and chief executives of the four primary care trusts serving Bristol, south Gloucestershire and north Somerset will gather, as will those of the two acute hospital trusts. Between them, they will decide where to go with the Bristol health services plan and, in particular, they will decide whether there will be a major acute hospital on the Frenchay site or on the Southmead site, perhaps with a community hospital on both sites.

In preparation for the debate, I rang the chief executive of North Bristol NHS Trust last night and asked her what I could say about the stage that the trust's decision making had reached. She said that no decision had been made, that the trust board would meet later in the month and that it would have a special meeting at which the decision would be made. I respect what she told me, but the worst kept secret in Bristol and south Gloucestershire is that North Bristol NHS Trust wants to site the acute hospital at Southmead rather than at Frenchay.

Thousands of my constituents and those of other hon. Members who represent south Gloucestershire are concerned that Frenchay hospital, a centre of excellence with a proud history, may be about to be "downgraded", to use the jargon. I will not say that it will be closed, because in the most likely scenario there will still be a community hospital on that site. However, it looks as though 24-hour accident and emergency and specialist advanced acute services will go.

I stress that it is not a question of the people of south Gloucestershire against the people of Bristol, because not only is North Bristol NHS Trust deciding what it wants to be its major site, but the Greater Bristol health community—to use those awful phrases—is deciding about provision over the whole area and has already decided that the Bristol Royal infirmary is a given. It is not a question of choosing between Frenchay or Southmead, but a matter of having the BRI plus one other.

The concerns of the people of south Gloucestershire will not be adequately addressed if the answer to the question of where the two major acute hospitals would be is that both would be in Bristol and none in south Gloucestershire, when the needs of the people of Bristol will be properly met by a high-quality acute hospital in the centre of Bristol. The needs of the people of south Gloucestershire would be properly met by a high-quality acute hospital in south Gloucestershire on the Frenchay site.

Although I disagree profoundly with the trust board and chief executive about their preference against the Frenchay site, I offer them some sympathy. The new

*[Mr. Steve Webb]*

chief executive has inherited a very large deficit, is in the process of trying to recover the organisation from a very messy financial situation and is dealing with payment by results, which is difficult for a relatively high-cost trust. It feels almost like permanent revolution in the health service so, to some extent, I sympathise with the pressures that the trust board and chief executive face.

**Mr. Roger Berry** (Kingswood) (Lab): The hon. Gentleman knows that I agree that Frenchay should be the site of the new so-called super-hospital serving south Gloucestershire and north Bristol. However, does he accept the view of clinicians in the Bristol area, which is that it is right to concentrate specialist acute services on fewer major hospital sites, while community services are expanded at the same time?

**Mr. Webb:** The hon. Gentleman, who is my constituency neighbour, will be trying later to catch your eye, Mr. Deputy Speaker. He makes an important point: the advice from clinicians is that the three major acute sites within the Greater Bristol and south Gloucestershire areas are proving difficult to sustain. One symptom of that has been the pulling back of the 24-hour accident and emergency service at Southmead; operating three full-time 24-hour accident and emergency sites with proper back-up was proving unsustainable. Although I am not convinced that the wider public fully accept that argument, it is clear that we are getting that message from the clinicians.

I accept that many of these decisions are devolved to some extent. However, the money comes from central Government, the process will be signed up by central Government and central Government certainly has an interest in the consultation process.

The background to D-day on 14 March is an almost endless round of engagements, public consultations, public meetings and so on. The public do not necessarily discern the difference between an engagement and a consultation, but they are different from each other, and have happened at different points in time. Last month, the Bristol health services plan published a consultation report on the help-us-to-decide process, running to no fewer than 153 pages. One could not say that there had not been a lot of public debate. However, interestingly and rather startlingly, I read in the report that just 351 written replies had been received. I have to say that that number is pathetic for a big local political issue.

Public meetings were held that were attended by a total of 1,600 people, so the report is based on fewer than 2,000 responses. As those in the Chamber will know, just over a year ago, I delivered my own survey to every household in my constituency, to which I obtained more than 8,000 replies. It worries me that there were just 350 or so written replies to the Bristol health services plan consultation. On the basis of the 8,000 replies that I received, I have some authority to say what my constituents think. Very clearly, although they welcome the promise of additional community facilities, they do not think that that should be the quid pro quo for losing Frenchay; they are not in two minds about that.

What is the answer to the following question? I am thinking of people in the outer reaches of my constituency, Chipping Sodbury and the Cotswold villages beyond. If serious and acute accident and emergency services are to go from Frenchay, how long would it take an ambulance in the rush hour to get from Hawkesbury Upton to Southmead? I am not convinced that the times are credible, although they would be if the ambulance were going to Frenchay. However, the people of Southmead, who obviously and understandably want an emergency unit near them, will still be far more accessible to the Bristol Royal infirmary. If we want to cover the whole area with high-quality accident and emergency access, I am not convinced that two in Bristol and none in south Gloucestershire is the answer.

The primary care trust of south Gloucestershire did its own survey. Professional pollsters rang more than 650 people in south Gloucestershire, Bristol and north Somerset. What was astonishing was not that the people of south Gloucestershire overwhelmingly wanted Frenchay—I could have told the trust that for nothing; perhaps I shall take a cut next time—but that, on balance, the people of Bristol whom it rang wanted Frenchay as well, even though Southmead is in Bristol and Frenchay is not. This issue is not about Bristol against south Gloucestershire, but about how we can serve the needs of the whole area with what looks like being two acute hospitals, one of which is in Bristol in the middle. That is the question. Only the people of north Somerset marginally backed Southmead over Frenchay, although I assume that most of them would go into the centre of Bristol anyway so they would probably not care a huge amount.

In researching this debate, I came across something that shocked me. The North Bristol NHS Trust population projection is that by 2020, which is only seven years into the life of the new hospital, the Bristol population of pensioners, who are the people who will mainly demand access to the services, will rise by 2.5 per cent. and the south Gloucestershire population of pensioners will rise by 50 per cent. In terms of the provision of acute, high-tech, full accident and emergency services, how can it possibly make sense to shut south Gloucestershire's only hospital when the vast majority of the growth in population pressures will be in south Gloucestershire?

People advance many other arguments for the Frenchay site. The heliport is mentioned. It is not used often, but it is used. I do not know how people who need to be helicoptered in would cope with getting to Southmead, but I do not think that that would be practical. Many people feel that the environment of the Frenchay campus is more pleasant than Southmead. I should say that my children were born at Southmead and that my wife used to work there, so this is not about being anti-Southmead. I am simply saying that if there needs to be a major acute site to complement the BRI, there is much going for Frenchay.

The accident and emergency department at Frenchay is currently being upgraded, because the Southmead department is being used less. How many millions of pounds is that costing, and is it just for a few years before it gets shut again? What is going on there?

The North Bristol NHS Trust assumes that it will get permission to build thousands of houses at Frenchay; it will need to do that to make the sums add up. Will it get that permission? Bizarrely, it has merely taken a figure from the district auditor, but the council has not yet said

for sure that the trust will get permission to build those houses. If that is what is needed to make the sums add up, and then the council comes back and says, "Well, actually, no, you can only build half that number," will the decision have to be revisited? Should that not have been sorted out before the decision was taken, rather than afterwards?

A second facet of this issue is the capacity of the new hospital, wherever it is. North Bristol NHS Trust, which covers Frenchay and Southmead, is struggling to cope. In 2002–03, 460 operations were cancelled; in 2003–04, more than 400 were cancelled; and, in the first half of this year, there have been nearly 400 cancellations. Since then, the Norwalk virus has hit both sites, and has caused considerable problems. They are stretched to the limit. I am sure that all hon. Members receive letters about operations being cancelled. I received one recently, in which a lady wrote that her husband's operation was cancelled ostensibly because a space was needed for an urgent case, but she subsequently discovered that the real reason was a shortage of beds. She said that the consultants and theatres were free, but there were no beds.

I am concerned about what the capacity is now, but the grand plan for this acute hospital is not for more beds, but for fewer beds. The argument is that the demographics mean that another 100 beds would be needed, which seems low, but that length-of-stay improvements—getting people out quicker—will save 336 beds. If that can be delivered without prejudicing patient experiences, it sounds great. However, premising new hospital build on the assumption of such vast improvements greatly worries me, because what happens if they are not delivered? Therefore, I wonder whether this is credible.

I will keep my remarks brief, as I want to leave a moment for my constituency neighbour, the hon. Member for Kingswood (Mr. Berry), to try to catch your eye, Mr. Deputy Speaker. People will lose faith in these consultation processes if they express overwhelming opinions and are ignored. The report of the Bristol health services plan consultation for January 2005 stated that the views of the public, staff and other stakeholders count and will be taken into account. The people of south Gloucestershire have spoken loud and clear. If they are not listened to, that will make a sham of the entire consultation process. I hope that the Minister is able to ensure that they are listened to.

3.44 pm

**Mr. Roger Berry** (Kingswood) (Lab) *rose—*

**Mr. Deputy Speaker:** May I ask the hon. Gentleman to confirm that he has been given permission to contribute to the debate?

**Mr. Berry:** Yes, but I shall be extremely brief.

My constituents in Kingswood use all three of the acute hospitals in the Bristol area. They use Frenchay, which is the closest, and they also use Southmead and the BRI. The reason for that is that none of those hospitals covers the full range of acute services. Unfortunately, some of my constituents occasionally start at the BRI, then go to Southmead and end up at Frenchay.

There is a powerful clinical argument for reducing the number of acute hospitals in Bristol. The hon. Member for Northavon (Mr. Webb)—I almost called him my hon. Friend, and he is a friend—made that point. Far too much money has gone into buildings, and not enough has gone into direct provision of health care. I support that part of the Bristol health services plan that is committed to moving to two specialist acute hospitals with improved community facilities. I am completely unhappy about the Cossham proposal, but this is not the time to talk about that.

The hon. Gentleman referred to the consultation exercise and the expressions of public opinion. The polling evidence suggests that 74 per cent. of people support the principle of having two acute hospitals in the area and improved community facilities. So three quarters of people support that principle, which means that one of the existing acute hospitals will become a community hospital and that we will be left with two acute hospitals.

I agree with the hon. Gentleman that a majority of people have expressed support for Frenchay. I will say no more than I support strongly the arguments for Frenchay that he has expressed, but the last thing that I want is inaction on this plan. We must make progress, and the basic principle that was put forward in the Bristol health services plan in relation to acute hospitals is absolutely right. I am glad that all three hon. Members in the Chamber with a direct interest in this matter agree on that.

**Mr. Deputy Speaker:** I used live in Stoke Bishop and work in Shirehampton, so I am not totally bemused by this debate.

3.46 pm

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):** I was brought up in south Avon for about 10 years, so I am certainly not bemused by it.

I congratulate the hon. Member for Northavon (Mr. Webb) on securing this debate on the future of Frenchay hospital. I have listened to and appreciated the comments he has made today and I know how important the issue is to him and to my hon. Friends the Members for Kingswood (Mr. Berry) and for Bristol, North-West (Dr. Naysmith), who are both present. I had the opportunity to respond on this issue in March 2004 in an earlier debate. I should like briefly to pay tribute to all the staff in the local health economy, and I am sure hon. Members who are committed to the improvement of the NHS will join me in that.

Some important questions are raised by this debate and they will, no doubt, be raised by the consultation exercise. There are also some important issues for the local communities to address. We need to look at what we are doing for the future and think about how the services can best be configured to meet the health needs of the population – not just now, but in future, too. That is difficult. I am sure that the hon. Gentleman agrees and that we all recognise that hospital and community services need to change if they are to continue to fulfil patients' needs and improve access. Services cannot remain static for ever; they need to be responsive to needs, and if they remain static they do not serve the

*[Miss Melanie Johnson]*

future needs of the population, which means patients. Let us be clear that we are talking about patients and the services that they receive.

This Government are committed to investment. There has been a large-scale investment in the South Gloucestershire primary care trust area, increasing from 6.6 per cent. to 7.2 per cent. between 2002–03 and 2005–06. That is a real-terms cash increase, leading to some £50 million extra going into the health economy. We also believe in modernising things and personalising the offering of services by getting closer to patients. However, we also need to consider how the specialist services are delivered, because that is important. It is worthwhile saying that for some services people want to go only to a specialised centre. If someone were the victim of a terrible road traffic accident, for example, they would want to go to a place where all the specialised work could be done.

I shall talk about local issues in a moment, and Frenchay hospital in particular, but we need to acknowledge the pressures and the fact that we have to increase the capacity and raise clinical standards, and that we need this radical re-examination. As I said when we debated the matter in March last year, the quality of the building stock at both the hospitals in north Bristol—Frenchay and Southmead—needs to be addressed. I am sure that the hon. Gentleman will agree with that.

There are two major hospitals, both with accident and emergency services, plus the Bristol Royal infirmary in the centre of Bristol. Those hospitals are between four and seven miles apart. I do not want to enter into the debate about distances, because that is something for the local health economy to weigh up, but even going from Hawkesbury Upton to Frenchay is quite a long stretch, if my memory serves me right. The distances for people in rural areas are always going to be further and the truth is that these hospitals are clustered in the Bristol area, as I am sure the hon. Gentleman agrees. The services are duplicated and fragmented across the two sites in the north Bristol trust and across Bristol as a whole. That hampers clinical excellence and hinders close working with primary and social care services. There is a debate to be had about what the hon. Gentleman did not mention, which is how we get services closer to people. Not all those services will be provided through hospitals; indeed, some are better provided not in a hospital, but more locally.

The current situation means that there are difficulties, some of which the hon. Gentleman has mentioned, in complying with national standards for clinical services, particularly for emergency patients. I was interested to hear the remarks that my hon. Friend the Member for Kingswood made about patients being transferred, even for A and E, between the sites, including children, cancer patients, cardiac patients and those requiring specialist care.

I trust that all hon. Members present agree that the status quo cannot remain and that more needs to be done. We have an opportunity to improve services, not spoil them. That way, the health and community services in the area can move forward into the 21st century, as we go to hospital only when we need to, rather than automatically in many instances, and the system is less focused on hospitals than in the past.

I realise that some of those in the public debate, including patients, have not caught up with some of the changes where they have occurred. I know that from talking to people where a service that was previously provided in a district general hospital is now provided in a community setting. I saw an instance of that on a visit to Luton not very long ago. People are enormously welcoming of the fact that they now have a service for which they previously had to cross town, to go to the Luton and Dunstable hospital, but which is now provided in a walk-in centre in their neighbourhoods.

Those are the sorts of things that offer scope for modernisation and change. Biggest is not always best. We need to recognise that patients want more, not fewer, local services. We need to focus on redesign, not only relocation. We are talking about a complex series of changes that can and do improve services for the patients. That is the only reason for the change: to get a better offering.

Of course, centralising some services in larger hospitals works, but equally it is not always the answer, which depends on the service. The NHS needs to make innovative changes to open up access and widen patient choice. It needs to be able to deliver the care that patients need throughout communities when they need it. That opens up new roles and duties for staff and more options for change being discussed with patients.

I noted the hon. Gentleman's remarks about the consultation with patients. I also note that he was not a formal respondee, unlike a number of hon. Members in the area, but he obviously conducted the survey. I also note that six different options are still being considered, so it is not the case that there is one simple preferred model or even a couple of preferred models. Rather, a range of options is being considered.

As I mentioned, our policy is for PCTs to make such decisions with the local NHS trust and the strategic health authority. They must decide the NHS locally. I happen to be blessed with a limited amount of historical knowledge about the area in question. That is unusual, as Ministers do not always know and certainly Whitehall and Westminster are not where decisions about the configuration of such matters are best taken.

**Mr. Webb:** The Minister is very gracious to give way. I quite agree that the decision should be made locally. The Minister talked about patient choice, but does she not understand why, if large amounts of public money are spent on consultation and the patients in south Gloucestershire loudly shout one thing but the outcome is entirely different, they should be rather embittered and feel that they were never going to be listened to in the first place?

**Miss Johnson:** If people are shouting for particular answers, as it were, not everybody is going to get what they want. There is bound to be an answer whereby some people are not satisfied with the outcome initially. Whether they would be dissatisfied with it in the longer term is another matter. I am sure that those who close to Frenchay are supporting Frenchay and those who are close to Southmead are supporting Southmead. That

might mean that people in Filton are keener to go into Southmead and those in Yate or Thornbury are keen to support Frenchay. Obviously, those who are closer to the hospitals will want to support them in particular, and will feel a close identity with them.

We need to step beyond that. That is why local knowledge and expertise is drawn in. The primary decision making is not at the centre, because it is not appropriate for Ministers to decide on the direction of travel in relation to how services should be configured, for the reasons I mentioned. We have made that very clear. It is right that the local NHS should do it. I hope that the hon. Gentleman will continue to work with the local NHS to build a better future for residents in his area.

Whatever decisions are reached locally after full and public consultation will have been made after much consideration and open debate. The fact that a large number of members of the public have engaged in the formal consultation and in the hon. Gentleman's consultation indicates that people are alive to the issues, they are engaged with them and they want to have the debate.

We do not always do ourselves the best service by simply making it an argument about individual sites, rather than considering the broad needs of the population and how responses to them are best configured. We do not always necessarily take the argument about the advantages of more community provision to people as powerfully as we might. Where I have seen that delivered on the ground, it has brought huge improvements. Patients are probably its strongest advocates. No matter who advocated it in the first place, patients are strong advocates when it happens on the ground.

I hope hon. Members appreciate that it would not be appropriate for me to comment further on this case; there is to be a local process and I could pre-empt any future ministerial decision that might be necessary. I would like to assure hon. Members that the Department and Ministers will continue to work with the local NHS to review the progress of the local economy and to ensure that the difficulties that are faced continue to be managed.

I want to emphasise that this is an opportunity for positive change. It is a time of huge investment in services. There are major advantages for everybody in the Bristol area in getting this right. There is a major opportunity for better hospital and community sectors to emerge from the process and for securing the services for the future.

**Mr. Webb:** I would not want the Minister to think that it is simply a case of saying, "I want the local hospital because it is nearest to me." Obviously, as she says, everyone will say that. I have tried to bring to the debate the demographic pressures on south Gloucestershire, to which she has not responded, and the complementarity with the one that has to be in Bristol anyway. Are those not substantive arguments and not merely a case of, "I would like it in my back garden, please"?

**Miss Johnson:** Those arguments have been made and are being heard in the debate that is going on locally in the local health economy. I am sure that they are being registered. I am sure that there are other arguments, which the hon. Gentleman has not mentioned, that might cut in other directions. As I said, where change is being argued for, there will seldom be a result that everyone is happy with. However, we are clear about why this needs to happen and I think hon. Members are clear about the advantages of its proceeding.

All of those involved in the local decision making and in the consultation need to work together to ensure that the outcome for patients in Bristol is an NHS that is fit for the 21st century. It must be geared up to respond to all the improvements and changes that the NHS is already experiencing. We will see more of them in the years to come. That will lead to improved health care outcomes for all patients and their families.

## BBC Charter Renewal

3.59 pm

**Mr. Iain Luke** (Dundee, East) (Lab): I rise to raise some extremely important issues, both on a personal note and on behalf of constituents who have contacted me and many other MPs following the controversial screening of "Jerry Springer—The Opera" on BBC 2 on Saturday 8 January. For me, the issue is programming and standards at the BBC. We should debate the matter now, prior to publication of the Government's Green Paper, which will set the context for the next, and most important, stage of the renewal of the BBC charter later this year. I do not want to knock the BBC or to compromise its integrity, but I wish to put on record concerns that have been expressed by my constituents, and by other people around the country, who have been offended or upset by BBC2 management's decision to allow that programme to be televised.

**Lembit Öpik** (Montgomeryshire) (LD): Accepting that the hon. Gentleman will probably give specific examples, can I raise at this early stage a principle on which I should be grateful for his perspective? Surely the BBC, as a public service broadcaster, has a duty to challenge—at least occasionally—what has traditionally been broadcast on television, especially given that nobody was forced to watch the Jerry Springer programme. Would he accept the school of thought that holds that such challenging programming is useful, not least because it prompts the kind of debate that we are having?

**Mr. Luke:** I understand the hon. Gentleman's concerns, but we must address the issue. Everybody who watches television pays a licence fee, and those who have been upset have as much right to have their views aired in Parliament as those who are not offended. I am raising the matter for debate because the Green Paper, which will be available next month, will set the context for the debate, and the issues will come into sharper focus as that debate progresses.

Those who have contacted me have a simple point: given that we are all licence payers, should not the views of the majority, common good taste and religious beliefs be considered when decisions are taken to screen such a show? Following the screening, on 13 January, I put a question to the Leader of the House, asking him to make the standard of programming at the BBC part of the charter renewal programme. His response was dismissive. He indicated that it was solely a matter for the BBC and that Ministers should not be interested or involved in the content of programmes. That response disappointed me. It also disappointed my hon. Friend the Member for North-West Leicestershire (David Taylor), who, in a subsequent question that day, asked an additional question about further debate or discussion of the matter.

Let me say straight away that I am a strong supporter of public sector broadcasting, and an active member of the all-party BBC group. Last night, we attended a reception held by BBC Northern Ireland. I am also a member of the Select Committee on Northern Ireland Affairs. I am very interested in the variety of attitudes to programming that can be found across the United Kingdom. I continue to believe that licence fees are the best way of funding the BBC.

It would be wrong, indeed dishonest, of me not to indicate that the screening of the show has raised doubts in my mind, and in the minds of constituents who have contacted me. They have raised the point, which was reiterated by my hon. Friend the Member for North-West Leicestershire, that they hope that it is not a trend under a new chairman of adopting the lowest common approach to improving ratings. I raise the issue in that context, in the belief that parliamentarians have a responsibility to make their views known, especially on issues as important as public service broadcasting at the time of the 10-year charter renewal of the BBC.

I hope that, in responding to the debate, the Minister—whose responsibility is for sport rather than for the media—will make clear the Government's commitment to ensuring that standards at the BBC are maintained and not debased. In tandem with the debate, I have written to the controller of BBC2, Mr Roly Keating, making clear the views of all who have contacted me. They strongly object to their licence fees being used to give airtime to a programme that mocks their strongly held religious beliefs and is seen by many as an affront to good taste. In the letter, I also make the point that

"as a public service broadcasting organisation, more attention and respect should be shown to these strongly held views, especially when the Corporation and BBC2 as in this instance take such divisive decisions that offend so many."

The issue rumbles on. It is the subject of numerous official complaints—the largest number ever: something like 40,000—and a court action.

I felt strongly enough to write in those terms, because I believe that the BBC got it badly wrong and blemished its aims to "inform, educate and entertain" and

"to serve everyone and enrich people's lives"

and

"to be the most creative, trusted organisation in the world".

That is why we must take time, as we progress through this year of charter renewal, to reflect on how those laudable aims can be safeguarded and promoted.

I believe that those points were acknowledged by Mr. Grade, the BBC's chairman, when he addressed a media conference in Oxford on 20 January. He highlighted the problems that I have raised today and pointed out that one of licence fee payers' strongest concerns is whether their money is being well spent. The response that I have had on this matter shows that many feel that it is not being well spent and that the BBC's core principles would be met by greatly increasing accountability to licence fee payers. In that context, unhappiness would be more strongly dealt with by a greater increase in accountability.

In his speech, Mr. Grade outlined the core principles —

"effective stewardship of public money; greatly increased accountability to licence fee payers; much sharper clarity of roles"—

and balanced them against the need to retain editorial independence, which he says is a "non-negotiable" commodity. That puts the BBC board of governors in the highly sensitive position of having the ultimate say on what is acceptable and fit to be screened, whatever the licence fee payer feels. Such arbitrary decisions should be considered more closely. There should be

more discussion on that in the Green Paper and, perhaps, more criteria against which the BBC should operate its programming.

The real litmus test that should be applied when taking screening decisions are those set out in the December report of the Select Committee on Culture, Media and Sport, "A Public BBC". At page 48, paragraph 197, it states that the BBC's annual report should

"include a clear statement of what it needs to do to fulfil its public service remit, providing added value compared to other broadcasters."

That theme was developed by the BBC in its contribution to the charter renewal process debate, which is entitled, "Building public value", which was published in June, in which it defines its key role as aiming to "maximise public value" to broadcasting, and voices its hopes that that will become the touchstone for all its services and activities. My constituents' view would be that "Jerry Springer—The Opera" fails to fulfil either of those criteria: it neither provides added value in comparison to other broadcasters, nor maximises public values.

I agree with the recommendations in the Select Committee report, which looks forward to the charter renewal process. Recommendation 37 is that the improvement of accountability will be a crucial test for the Department for Culture, Media and Sport in its detailed proposals for its prospective Green Paper. It may also be a vital question for the future of public service broadcasting and the BBC's monopoly over the licence fee.

As I said, I was yesterday at the presentation of research put on by BBC Northern Ireland. It contains an article by Raymond Snoddy, the media editor of *The Times*, in which he sets out his perspective:

"Over the next two years the main debate will centre on how big the BBC should be in future and how much money it should receive from the licence fee. It is, however, extremely unlikely that the present funding mechanism will survive in exactly its present form."

If the BBC decides to promote such programmes more regularly, more and more people will question the need for monopoly of the licence fee by the BBC.

I have made it clear that I do not support that argument. The BBC should be funded solely by the licence fee, but it is an issue that must be addressed. We have talked about the goals of the BBC, about an inclusive attitude towards the programmes that it produces and about being creative and trusted. We must remember that if such programmes continue to be screened, the trusted and valued position that the BBC has in our society may be questioned.

As I was reading through the publication, I came across a small quotation on the back page—a final statement by BBC Northern Ireland about how it sees the role of the BBC. It is a small extract from one of Philip Larkin's poems:

"Reaching for the world, as our lives do,
As all lives do, reaching that we may give
The best of what we are and hold as true:
Always it is by bridges that we live."

If we are reaching the best of what we are, many people would think that "Jerry Springer—The Opera" perhaps did not reach that ideal.

I shall be glad to hear what the Minister has to say. I am not here to knock the BBC; I am very supportive of it. However, there is a need for a debate on this particular issue.

**Lembit Öpik** (Montgomeryshire) (LD) *rose—*

**Mr. Roger Gale (In the Chair):** Order. The hon. Member for Montgomeryshire (Lembit Öpik) has indicated a wish to speak. He cannot do so without the permission of the hon. Member for Dundee, East (Mr. Luke).

**Mr. Luke:** I am happy to give that permission.

4.13 pm

**Lembit Öpik:** I apologise to the hon. Gentleman and to the Minister for not giving notice, and I am grateful for their willingness to let me speak.

I wanted to make a few observations that require no response today. It would be inappropriate for me to ask that much under the circumstances. I am one of those people who has taken a great interest in the transmission of "Jerry Springer—The Opera", of which I admit I watched only a part. The hon. Gentleman has eloquently and clearly described the concern of many thousands of people. My perspective is in line with my view about public service broadcasting and the BBC itself. I agree that many people found the opera offensive, and others felt it inappropriate for the BBC to broadcast something of that nature. I take a different view. First, it is indeed appropriate for the BBC sometimes to push the envelope of what is broadcast. If it had not, I am not clear about who would have taken the initiative.

Secondly, it is important to allow the BBC what the hon. Gentleman alluded to: editorial freedom to make judgments about what is and is not acceptable for broadcast. One must be careful about binding decisions to the criterion of taste. If the programme had caused harm, or incited racial hatred or something of that nature, there would have been a powerful case to prevent its transmission. In my view, the broadcast did not do that.

Thirdly, even accepting and respecting the hon. Gentleman's sincere concerns—I look forward to hearing the Minister's response to them—we must be careful to protect the freedom and liberty of the BBC to make such editorial judgments on its own initiative. One could argue that people fiercely opposed to religion may find some religious programming offensive, but it would be unreasonable to use that as a basis to ban such broadcasts.

This is an important consideration. To the BBC's credit, its broadcasting of the programme has caused us to revisit the extent to which the BBC should be at liberty to broadcast such programmes. I support its right to broadcast such items as long as it does so with deep consideration of the potential consequences. I look forward to hearing the Minister's perspective on this valid and important subject.

4.15 pm

**The Minister for Sport and Tourism (Mr. Richard Caborn):** May I first congratulate my hon. Friend the Member for Dundee, East (Mr. Luke) on securing this

*[Mr. Richard Caborn]*

debate and on the objective and fair way that he presented a case that he passionately believes in and which represents the views of many of his constituents? I also congratulate him on the way that he defended the BBC, even though he might disagree with it over this particular show. The hon. Member for Montgomeryshire (Lembit Öpik) had a different opinion and put forward his case well.

The debate comes at an opportune time. As my hon. Friend said, we will shortly be publishing the Green Paper on the review of the BBC's royal charter. It will be the result of an extensive round of public and industry consultation. More than ever before, licence fee payers have had a say in the review of the BBC's charter and in the future of the corporation—the keystone of public service broadcasting in this country. The review process has been conducted openly and has benefited from our transparent and constructive relationship with the BBC. The Green Paper is not the end of the story. We want to hear what the public and industry will have to say about the issues raised in it, and there will be opportunities for wider debate, including in both Houses of Parliament.

Since the start of the charter review process, we have been guided by three key objectives, which I hope will reassure my hon. Friend that we consider the interests of licence fee payers to be the absolute top priority. Those objectives are: a strong BBC committed to the highest quality programming and independent of Government and commercial pressures; a BBC with an unprecedented clarity of purpose; and a genuine sense that the BBC is owned by and accountable to the people who pay for it.

Our research has shown that the BBC is not only trusted, but much loved by the general public, who consider it to be the cornerstone of public service broadcasting. The BBC should be stable and strong, but flexible enough to adapt to the post-digital switchover world. It should continue to be the main player in public service broadcasting, but it must also face competition. The Burns panel showed that there is no credible alternative to the licence fee immediately available to us, but we will keep that under review.

All those demands place a considerable burden on the BBC's system of governance and regulation, and it is clear that the old structure is not adequate for the demands of a rapidly changing broadcasting environment. Indeed, I agree with the Secretary of State that the present system is unsustainable. For that reason, we welcome the recent publication of the final advice of the independent panel led by Terry Burns, which emphasises the importance of the separation of the governors' oversight and delivery functions. We also welcome the BBC's moves to reform governance from within, and its commitment to a more transparent, accountable and open system.

Our task is to take the advice, along with the many public and industry opinions offered during consultation, and to ensure that, by the end of the charter review process, we have a governance system that is founded unequivocally in the public interest. That system will be based on the principles set out by the Secretary of State, building on the work done by Lord Burns.

The BBC should consider a number of points. The system should be appropriate for an organisation built on creativity, and it should protect the independence of the BBC from Government but not from the licence-fee-paying shareholders. It should be genuinely open, transparent and objective, ensure appropriate accountability for public money, command public confidence and involve the public adequately in decision making, and provide adequate protection for those outside the corporation who might be affected by the BBC's activity—principally, although not exclusively, its private sector competitors.

In conducting assessments of impact, the BBC should use criteria that would allow direct comparisons with the rest of the broadcasting market. It should be clear about the distinction between governance and regulation, and include arrangements that would support both. It should be clear about the respective roles of the executive and non-executive, and embody such clarity in ways of working. It should incorporate effective mechanisms for audit and complaint handling and be flexible enough to adapt to change in the wider broadcasting market. I suppose one could put that down to future-proofing.

I assure my hon. Friend that the Green Paper will cover other issues that directly affect licence fee payers. In many cases, those issues were raised in the consultation and through our research as areas where the public would like the BBC to improve its performance. The first issue is spreading the benefits of the licence fee more fairly across the United Kingdom. I have no doubt that my hon. Friend will agree with that, coming, as he does, from one of the more northern parts of the UK. I do, as far as Yorkshire is concerned. Another issue is the provision of a structure to ensure that licence fee payers get maximum value for money, and to improve the BBC's ability to achieve high benchmarks in the service that it provides and ensure distinctiveness and innovation.

Securing appropriate programme standards is a key part of the achievement of the high benchmarks that I mentioned in the BBC service. That brings me inevitably to the argument over the screening of "Jerry Springer—the Opera", in which I know my hon. Friend is particularly interested. The reaction from some viewers to the programme, which was broadcast on 8 January, highlighted the importance of a robust and transparent BBC system to ensure that programme standards are upheld. The Government believe that the system should sit within a framework that protects free speech and freedom of artistic expression.

My hon. Friend may be aware that the Government received several complaints about the programme, many suggesting varying types of censorship. My response to those complaints is the same as that of my right hon. Friend the Secretary of State for Culture, Media and Sport and, indeed, my right hon. Friend the Minister for the Arts. Some people have been offended by the programme, but that is what happens when we have free speech. I, and the Department collectively, believe that it is better to have free speech than to try to legislate against offending people.

The broadcasting organisations that regulate broadcasting are responsible for programme content. The Office of Communications, the Welsh fourth channel authority, S4C, and the governors of the BBC

all have regulatory roles and are independent of Government. In addition, the BBC's governing instrument, the royal charter and the agreement, place broad obligations on the corporation, including some on programme content and standards.

Within that framework, the details of decisions on programme content and scheduling are matters entirely for the BBC, reflecting its editorial independence. As I have already said, the Government are committed to securing a strong BBC, independent of Government. I think that I have also shown that we believe it to be important that the BBC should be aware of the concerns of its viewers and listeners. It is the responsibility of the BBC governors to ensure that the corporation meets its obligations in the charter and agreements of 1996. Anyone who does not agree with the governors about programme standards can write to Michael Grade, its chairman. Licence fee payers can also complain to Ofcom on matters of taste and decency. I therefore assure my hon. Friend that the complaints procedure, and the mechanisms for upholding programme standards, will be considered as part of the charter review.

As I have said, the Green Paper will be published soon. We welcome as much feedback as possible. This has so far been the most constructive charter review ever conducted, and we shall ensure that that continues.

*Question put and agreed to.*

*Adjourned accordingly at twenty-four minutes past Four o'clock.*

# Westminster Hall

*Wednesday 9 February 2005*

[MR. FRANK COOK *in the Chair*]

## Nottingham East Midlands Airport

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[Gilliam Merron.]*

9.30 am

**Mr. Deputy Speaker (Mr. Frank Cook):** Before we start, I think it advisable to tell the Chamber that I am required today to apply a new ruling on procedure. We are debating today a local, rather than national, issue, although I am sure that national aspects to it will be mentioned. None the less, many Members will want to speak. The new ruling on such occasions is that the two Opposition spokesmen will have only five minutes each towards the end of the debate, leaving the Minister with 10 minutes. That will allow more Members with a local interest to make a contribution.

I understand that, at present, probably 10 Members will seek to catch my eye. I therefore ask all right hon. and hon. Members who seek to contribute to the debate to bear in mind the number of their colleagues who will be waiting to speak, not only in the contributions that they make, but in the interventions that they accept and the responses that they make.

**Mr. Edward Garnier** (Harborough) (Con): I begin by thanking you, Mr. Deputy Speaker, for chairing this morning's debate; I also ask you to pass on my thanks to the Speaker for granting it.

You were correct, Mr. Deputy Speaker, in saying that we are debating a matter of great local concern. However, it is local not only to north-west Leicestershire, where Nottingham East Midlands airport is situated; I am delighted to see the hon. Member for North-West Leicestershire (David Taylor) here today. It is also a matter of huge regional concern, and not only to those who represent Leicestershire seats. I see to my left my hon. Friend the Member for Rutland and Melton (Mr. Duncan) and my right hon. Friend the Member for Charnwood (Mr. Dorrell). The hon. Member for Loughborough (Mr. Reed) is present in the Chamber; but I also see other Members who have a regional interest; the hon. Members for Derby, North (Mr. Laxton), for South Derbyshire (Mr. Todd) and for Broxtowe (Dr. Palmer).

I am pleased also to see the former leader of Manchester council, the hon. Member for Manchester, Blackley (Mr. Stringer). You may not know, Mr. Deputy Speaker, that Nottingham East Midlands airport is owned by the Manchester Airport company, a company that is owned by 10 or so local government authorities from Manchester and Greater Manchester. Needless to say, I am delighted also that the new Aviation Minister is here. Although she has not yet had the opportunity to visit Nottingham East Midlands airport, she had the benefit, when opening the Rearsby bypass, of learning at first hand what the people of east Leicestershire think of the current state of affairs and of the proposals to expand the number of flights in and out of East Midlands airport.

My right hon. Friend the Member for East Yorkshire (Mr. Knight) is a former east midlands Member of Parliament and a Leicestershire resident, so he knows at first-hand about some of the issues that will be raised today. He is also the shadow Minister for Aviation, and I am delighted that he is present. We are also blessed with the presence of the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso). He has a more distant relationship with the east midlands but, on his weekly flights between Westminster and his constituency, he will have flown over our part of the country. Nevertheless, he is welcome, and I hope that he has an opportunity to catch your eye, Mr. Deputy Speaker, if only briefly.

I want to open up for discussion the subject of accountability. The three organisations that need to be held accountable to the people of Leicestershire, and particularly to my constituents, are the Department for Transport, the Civil Aviation Authority and the airport company. I suggest that the Department for Transport has been careless, to say the least, and recklessly disregardful of the interests of the people of Leicestershire and of my constituency in Harborough, in so far as it has a policy for expanding East Midlands airport.

I accept that the matter of East Midlands airport will have come across the desk of the present Minister and previous Ministers over the past few years. The Department for Transport produced a White Paper, "The Future of Air Transport" in December 2003 which, in part, dealt with East Midlands airport. At paragraph 9.23, it stated:

"East Midlands Airport has seen passenger traffic virtually double in 2002–2003, with two 'no-frills' carriers developing significant bases at the airport. It is now handling around 4.5mppa. Forecasts suggest that by 2030 it could attract between 12mppa and 14mppa."

The White Paper goes on to say that the airport

"is also the third largest freight airport in the UK, and is the leading UK airport for freight carried in all-cargo aircraft. It is the main centre of operations in the UK for two of the four major global express freight operators, and an important regional base for another. Forecasts indicate that East Midlands Airport could be handling as much as 2.5 million tonnes of freight a year, possibly more, by 2030."

The White Paper also says that the airport

"is situated away from the main centres of population, and a relatively small number of people live in the 57dBA noise contour. However, the projected growth of the airport would increase the size of the contour to include over 10,000 people. Moreover, the nature of the air-cargo operations means that many flights are at night, when background noise levels are lower. There is likely to be a large increase in the number of flights at night; our consultation document forecast that there could be over 60,000"

the Government's figure—

"cargo flights a year by 2030, and a substantial proportion of these are likely to be in the late evening or the night . . . The airport owners foresee a need for a second runway at the airport around 2020, regardless of decisions about runways at other airports. They project that there will be a shortage of runway capacity during late evening hours, when the last inbound passenger flights overlap with the peak period of arrivals by cargo aircraft. However, this assessment is based on higher estimates of traffic

*[Mr. Edward Garnier]*

during these critical hours than we currently forecast at the airport, which impacts on the economic benefits of a second runway."

**Dr. Nick Palmer** (Broxtowe) (Lab): I am grateful to the hon. and learned Gentleman for giving way and apologise for the fact that I cannot stay for the entire debate. It is probably true that, at present, the airport impacts on relatively limited population areas, but that will change with the proposed new flight paths. In my constituency and others, significantly more people will be affected by them.

**Mr. Garnier:** The hon. Gentleman is right. I shall deal in a moment with evidence that a larger proportion of the population, certainly in our county of Leicestershire, will be affected by the new flight paths. Moreover, the numbers and frequency of aircraft coming in and out of East Midlands airport will continue not only to affect those who are currently badly affected, which might include the hon. Gentleman's constituents, but to aggravate or produce a far worse situation for my constituents and those of my neighbours.

We must bear in mind that my constituency is between 20 and 50 miles from the airport. The Government have concentrated their thinking on those who live within a close area around the airport. They have, in my submission, failed to understand that the aircraft that take off from the airport and come into the airport will damage the quality of life, not only of those who live in the vicinity, but those who live, work and try to sleep further away from the airport. The two new flight paths that the airport wants introduced and which the CAA gave permission to be introduced last July will cause massive environmental and pollution damage to areas well beyond the current official noise pollution area. People do not have to live within a mile of the airport to be affected by aircraft noise, or within five miles of it to be affected by aviation fuel pollution. I wish to speak, and seek accountability, on behalf of people who live well away from the airport but still within the region of it. The hon. Member for North-West Leicestershire will speak with great eloquence and force on behalf of his people.

The key to my argument against the Government is their failure to appreciate the needs of those who live that bit further away from the airport. The key to what we need and the protection we seek is to be provided by a remedy, which has existed since 1982, thanks to the Civil Aviation Act of that year. Under section 79, the Secretary of State has power to order the designation of an airport. So far, only three airports are designated under the Act; Heathrow, Gatwick and Stansted. In 1982, they did not generate as much night flight traffic as NEMA—Nottingham East Midlands airport—does now.

NEMA is the acronym by which the airport is known. However, I say in parenthesis, as it were, that should people be concerned that a Leicestershire Member of Parliament is arguing about an airport named "Nottingham", Nottingham East Midlands airport is wholly within Leicestershire. My council tax payers pay for the policing of that airport. My local transport infrastructure is paid for by Leicestershire county council, in so far as that is the highways authority.

It is called Nottingham East Midlands airport, and so be it. I will not delay the debate by worrying about that. Its postal address is in Derby. Already, one can see that this is a confused picture, but it is clear that the airport is generating a great deal of public concern. Neither the Department for Transport nor the airport company is fully on board in understanding the public responsibilities that they have to the victims of the airport, and the CAA is not either.

That is not to say that the airport should not exist and that it does not bring economic benefits to the country as a whole, or even to the locality. Clearly, there are people who live in north-west Leicestershire, Loughborough, Charnwood and the city of Leicester who have jobs at the airport. The economic benefits of the airport are primarily for the wider economic benefit of the country; the freight-forwarding world and the wider economy. The economic and other disbenefits affect the people of Leicestershire. There is an imbalance of benefit and disbenefit. My constituents suffer the disbenefits without achieving the benefits.

**Mr. Mark Todd** (South Derbyshire) (Lab): The hon. and learned Gentleman touched on designation. I wonder whether he could answer a point that I have often raised. The various operators and the airport have operated within legitimate planning consents granted by North West Leicestershire district council—

**David Taylor** (North-West Leicestershire) (Lab/Co-op): And others.

**Mr. Todd:** And others, as my hon. Friend says. Should designation control activities move to a level below that operated by the existing operators at the airport, presumably they would seek compensation for interference in an entirely legal—as it is now—activity.

**Mr. Garnier:** I do not want to make a flippant point, but this Government have not had a good record in providing compensation for those whose legitimate activities have been banned. At the moment there is an imbalance of power and no equality between those who wish noise and air pollution to be controlled and restricted, and those who are doing the polluting. The Environmental Audit Committee—

**Mr. Todd:** That is not an answer.

**Mr. Garnier:** I have not yet finished.

Yesterday, the Environmental Audit Committee, under the chairmanship of my hon. Friend the Member for East Surrey (Mr. Ainsworth), issued a very strong report; the Government and the hon. Member for South Derbyshire may care to read it.

Designation is the best idea that I can come up with that would provide the protection required by my constituents and those of my neighbours. At the minute, the only control over noise and air pollution is the powers of North West Leicestershire district council as a planning authority, and it cannot be suggested that that council has the same economic power as the airport company. I have made the point before, but I shall make it again; I very much suspect that the annual turnover of

the shop in East Midlands airport is better and bigger than the revenue budget of North West Leicestershire district council.

My own two local authorities—Oadby and Wigston borough council and Harborough district council—have revenue budgets of about £7 million a year. I do not think that North West Leicestershire district council's budget is more than £3 million or so more. Local authorities of that size simply do not have the financial or economic—still less political—clout to deal with the issue. More importantly, a planning authority can deal only with what is on the ground; it can control only the development of the buildings and the tarmac. It has no say on the amount of aeroplanes that fly above it; it has no say over the numbers of aeroplanes that chuck noise and filth from the back of their engines. Nor does the county council, whose government area includes the whole of East Midlands airport's real estate, have any say on such matters. It was not even consulted when the new flight paths were advertised and suggested about a year ago.

Furthermore, I am not convinced that the voluntary agreement that NEMA has perfectly properly entered into—its 10-point plan—is enforceable in any way that my constituents would recognise. It is monitored by a thing called the independent consultative committee. As I understand it, and the Minister will correct me if I have it wrong, the chairman of that committee is paid a salary—although not a huge one—by the airport. I fully understand that it is possible to be independent and yet to receive a salary from the very person that one is supposed to be monitoring; it is intellectually possible to achieve that. However, it is difficult to overcome the perception that there may be an absence of independence if one happens to be the paid, salaried employee—even on a part-time basis—of the very organisation that one is trying to monitor.

The independent consultative committee does not include anybody from Leicestershire county council, the biggest local government authority and the nearest economic force of any size to the airport company. I see that the hon. Member for Leicester, East (Keith Vaz) has joined us. As I understand it, although Leicester city council has a far bigger revenue budget than those of the district councils in my constituency and that of the hon. Member for North-West Leicestershire, its budget cannot come anywhere near the economic might of the organisation that I am discussing.

I want to see designation under the Civil Aviation Act, and I want to see that now. I want the Minister and her Secretary of State actively to engage their minds on the issue and come to understand what it is like to live in Leicestershire with a large, growing airport, whose specialisation is the movement of goods in and out at night; between the hours of 11 pm and 6 or 7 in the morning. You may not know this, Mr. Deputy Speaker, but the figures for 2003 demonstrate that there are more night flights in and out of East Midlands airport than at Stansted, Gatwick or Heathrow. Those airports were designated in 1982 or 1983, but ours has not been.

**Mr. Andy Reed** (Loughborough) (Lab/Co-op): I hope that the hon. and learned Gentleman will come to the point that I wanted to raise. What does he expect from designation? As he knows, I live under the flight path, so I declare an interest. It is fine to campaign for designation, but does he want a full night-time ban as a consequence? As part of an informed debate, we need to know exactly what we mean by designating the airport.

**Mr. Garnier:** The hon. Gentleman knows full well that I am not asking for a total ban, which would be unrealistic and plain silly. The airport has a right to exist and to thrive, but it must do so only when it does so politely—I say that deliberately—and lives in harmony with its neighbours. The good neighbour principle applies not only to the law of negligence, but to the everyday work of any big business.

Let us suppose that East Midlands airport was a factory, making valuable goods that benefited the nation, including my constituents and those of the hon. Member for Loughborough, but the manufacturing process required it to chuck volumes of pollution into the skies through its chimneys. Would the hon. Gentleman and I expect that nothing should be done to control the pollution? No. Would we expect that factory to be allowed to continue to pollute the atmosphere, whether in the form of noise, toxic gases or any other antisocial pollution, without some control? No.

Would the hon. Member for Loughborough expect North West Leicestershire district council, a tiny financial organisation, to be able, on its own, to monitor and control that pollution? Would he expect an independent consultative committee, composed of people paid by that factory, to keep an eye on its 10-point plan? No, he would not. I ask him a simple question; why should not it be the same for an airport, especially one that already has twice the number of night flights that Gatwick has, twice the number at Heathrow and more than twice the number at Stansted?

I am delighted to have received the Minister's thoughtful and polite answers in correspondence, but she merely repeated the arguments advanced by her predecessors; the Minister of State, Department for Transport, the hon. Member for Harrow, East (Mr. McNulty) and the Under-Secretary of State for Transport, the hon. Member for Plymouth, Devonport (Mr. Jamieson). They also wrote to my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke), who supports my case, saying that local matters of this sort must be decided locally. I hope that I have exposed the futility and unreality of that argument.

As a Conservative Member of Parliament, I support the free movement of capital. I want a strong private sector and vibrant industry. I want my constituents to be able to travel abroad and I want this country's import and export system, by ship and by air, to work. I say that it is not reasonable to rely on North West Leicestershire district council's planning powers to control the growing leviathan.

So much for the Government. The Minister is also present to answer for the Civil Aviation Authority, but what is it? No one really knows. Is it a quango or a private company that is partly owned by the Government? Its nearest equivalent is the BBC. It is not part of the Government; it is funded by the "licence fees" of those who use the airspace. Its board and members are, to a large extent, peopled by those who come from the air industry, which is fair enough as they know what they are talking about. They know what is going on in the air, but they do not know what is going on in my

*[Mr. Garnier]*

constituency. They do not know what it is like to live in a village in rural Leicestershire and to have aeroplanes flying over their houses at night; all night, as the number of night flights will increase. They do not know what it is like to live in a part of the country where the ambient noise at night is more or less nil.

A group of which I am a supporter, ELVAA—East Leicestershire Villages Against Airspace—and its sister organisation, DEMAND—Demand East Midlands Airport is Now Designated—have used consultants to investigate the noise levels. The noise levels in my constituency and in the constituency where I live are very low indeed at night.

When a large freight aircraft is flown over these rural villages at night, the graph shoots up. The noise, Mr. Deputy Speaker, is the equivalent of someone using a vacuum cleaner by your ear as you sleep in your bedroom. I do not know what you get up to in your bedroom at night, but I dare say the prospect of having an aircraft flying over your head when you have been used to more or less total quiet would not amuse you. But it seems to pass by the people at East Midlands airport, the CAA and the Ministers at the Department for Transport. "Bad luck," they say. "This is called burden-sharing. Those who live in and around the airport have had to put up with the noise of the aircraft coming in and out over the last few years. Now it is your turn."

It is an argument, but not a very attractive one and it is made all the less attractive when it is said that fewer people will be affected. The county council has done the analysis and says that 60 per cent. more acreage of Leicestershire and approximately 20 to 30 per cent more people will be affected by the two new flight paths in and out of NEMA. So when the Government, the CAA and NEMA say, "This is a wonderful idea. We are going to damage the lives of fewer people, not more" they are, on the analysis carried out by the county council, wrong.

I would rather that the arguments were put forward on the basis of the truth than something short of that. Far be it from me to suggest that they are deliberately not telling the truth; I merely say that the facts suggest otherwise. It is inevitable that my constituents and those of my neighbours will be adversely affected. They are naturally and properly concerned that East Midlands airport, the CAA and the Department for Transport are running roughshod over their rights and interests.

**Keith Vaz** (Leicester, East) (Lab): I was trying to see how the hon. and learned Gentleman would apply the principle of Donahue *v.* Stevenson to the operation of East Midlands airport. He raised the issue of neighbours and residents. Would he be surprised to know that although East Midlands airport held a consultation in Evington in my constituency, which borders on his, few people knew about that meeting and few attended until I had written to everybody? One of the problems with the consultation exercise is that people have not been consulted properly.

**Mr. Garnier:** The hon. Gentleman is perfectly right. Whereas two years ago East Midlands airport's attitude towards his constituents and mine was appalling, it is better now. The slope that it has to climb in order to get public acceptance of its case is so steep that I fear it will never recover or gain the reputation for good neighbourliness and for proper consultation that it should have had and it should have tried to have before it set out on this operation.

Since the bad old days of last year there have been roadshows in his constituency, in mine and in others. There have been meetings at the office of the previous Minister with officials from NEMA and affected Members of Parliament. There has been a display in the presence of directors of the airport company in a Committee Room here in the House. I fully accept that the airport is now, at last, trying to do its best to come across as a more friendly neighbour. But why does it not produce maps showing the full extent of the proposed flight paths, both incoming and outgoing, which come straight over the hon. Gentleman's constituency and mine? Why does it not, unless pushed and pushed and pushed, provide us with the raw data that we need? Why do the airport, the CAA and the Department for Transport not insist on that? Why are they reluctant unless made to do it? Why do they not behave with great candour and with frankness? It is much easier to deal with a person who tells the truth voluntarily than to have to extract the facts and information, like pulling teeth.

Because of that, everything that those organisations now say is filtered through the sieve of disbelief that my constituents and I, and no doubt the hon. Member for Leicester, East (Keith Vaz) and his constituents, feel. That is a pity, because I dare say that there is a case to be made for NEMA and for the Department for Transport's inaction. But we are not hearing it, and when we do hear it, we find it extremely difficult to believe. That is not my fault, but I think that the hon. Gentleman and I know whose fault it is. It is up to those organisations to understand that we, our constituents and our constituency neighbours are not just displaying a nimby attitude.

This is a matter of national, regional and intimate local importance that the Government are failing to address, which the CAA, with all its imperfections and abilities, is failing to understand and which East Midlands airport—wilfully, I suggest—is being slow to comprehend.

I am acutely conscious that I have had the lion's share of the debate, but there is a host of other things that I should like to say that are critical of the Government, the CAA and National Air Traffic Services (En Route) Ltd or NERL. That is another strange body about which we know little and should know more and which should be accountable to us through this Chamber and the main Chamber of the House of Commons.

I should like to say much more about the quality control or noise control arrangements that East Midlands airport implements or does not implement. For example, in the last quarter of 2004, only one aircraft was fined for noise abuse, even though, as I understand it, there were about 170,000 air movements in and out of the airport either last year or the year before. Is it surprising that my constituents, and I on behalf of my constituents, are deeply sceptical that we will get justice from the Department for Transport, the CAA and NEMA, not least because all three

organisations are wholly unaccountable to the people of Harborough, Oadby and Wigston and wider Leicestershire?

On that note, I urge the Minister to come back with concrete proposals to bring NEMA under some form of democratic control, and I urge all other right hon. and hon. Members present to try to understand the genuine concerns of the people of my part of Leicestershire, because those concerns will not go away until the issues are properly and adequately addressed by the three organisations that I have cited.

**Mr. Deputy Speaker:** To add to the comments that I made when opening the debate, 36 minutes of uncommitted time remain, and six right hon. and hon. Members are seeking to catch my eye. I ask them to bear in mind the advice that I gave earlier.

10.4 am

**David Taylor** (North-West Leicestershire) (Lab/Co-op): I congratulate my county colleague, the hon. and learned Member for Harborough (Mr. Garnier), on obtaining the debate and introducing an outline of the topic in such a detailed, comprehensive and exhaustive fashion. Although the keen interest in East Midlands airport of other Leicestershire MPs here today has come some years later than I would have liked, it is nevertheless most welcome.

Understandably, many local organisations and people have long been happy to experience the airport's undoubted social and economic benefits. Low-cost holiday flights and 8,000 jobs certainly contribute to the regional standard of living, but what about the quality of life for communities around the airport and the people who live under its flight paths? They also have needs, rights and views.

For too long, successive Governments have failed adequately to recognise the scale of unaddressed local problems. The voice of local villages has too often been drowned out by the noisy and powerful aviation lobby. Concern has turned to protest as night noise from the heavens has made East Midlands airport the neighbour from hell. Those of us who have been trying to hold the environmental fort for a decade or more welcome the recent reinforcements from the parliamentary cavalry in the east and the south of the county; they have not arrived a moment too soon.

At East Midlands airport, there are more than 80,000 aircraft movements per annum, of which more than 50,000 are scheduled air transport movements—ATMs—of passengers and freight. Approximately 17,000 of those take place at night, in the eight hours after 11 pm. That astonishing figure is set to quadruple by 2030.

In the past, expansion at the airport has been approved by central or local government, with no specific controls being applied to flying activities. There is no lack of ideas about what an enforceable framework for the airport should contain if it is to ameliorate some of the environmental downsides. Four years ago, independent consultant Rupert Taylor—no relation—published a noise review after North West Leicestershire district council asked him to recommend appropriate controls. He suggested a minimum reasonable framework, with seven constraints, but I shall mention just three; banning night movements by aircraft with high noise levels, limiting the annual number of night aircraft movements and a night noise quota.

To local campaigners, and indeed the district council, that framework, including the four measures that I have not mentioned, seemed to be a reasonable compromise, which struck a balance between the needs of the various parties; the stakeholders, in new Labour parlance. In 2002, however, the Secretary of State refused to apply those controls as part of a request by the district council that the airport be designated under the Civil Aviation Act 1982. At the same time, the airport suggested a voluntary package of measures to control night-time noise, which the Secretary of State accepted. The district council and residents groups regarded that package as inadequate and did not agree to it. However, let us move on a year or so.

In December 2003, in the White Paper "The Future of Air Transport", the Government supported the growth of night freight flights at East Midlands airport, but stated: "However this"—the expansion of air freight operations—

> "would need to be accompanied by stringent controls on night noise in particular and increasingly generous noise insulation and other mitigation measures. These measures should build on those applying currently."

The White Paper failed to quantify the possible increase in night flights, to define any acceptable level for night-time community noise, to estimate how many people may be affected or to suggest specific noise control or mitigation measures.

Now that the Secretary of State has rejected the workable, moderate and reasonable operational and environmental controls proposed by the district council, we have been left with the voluntary measures suggested by East Midlands airport to control night-time noise, which are regarded locally as cosmetic and unchallenging. Those voluntary measures include no safeguards as regards future increases in night-time noise. In 2003, the night noise contour was estimated at 8.3 sq km, and there is a proposal to allow the night noise contour and night noise to double by 2011. It is no longer sufficient for the airport to follow other airports in implementing night-time controls or to rely on established industry standards, which have often been established for daytime noise.

If the Minister resists our call for airport designation, I will still urge her to use her powers and her influence with the airport considerably to toughen the present voluntary framework and to put it on a proper, enforceable footing. The first item in the voluntary code is to encourage the operation of aircraft during the day, instead of the night, but that is weak and inadequate. As Melbourne Civic Society—it is not in north-west Leicestershire, but I commend its work—and others have recommended, East Midlands airport must ensure that the minimum number of aircraft operate at night. It is wholly unacceptable for the airport to continue to allow flights at night for any reason and by any aircraft. There should be clear criteria to govern allowable reasons for night flights and they should be incorporated in the airport master plan.

The definition of the quietest aircraft type should be based on absolute noise levels and should allow only the quietest aircraft on the quota count scale; that is, only

*[David Taylor]*

QC/0.5 and exempt. The Secretary of State has established that criterion for the daytime operation of a proposed new runway at Birmingham airport, but there is no justification for a more lax criterion to be applied to night-time operations at East Midlands airport.

I could cover ways of strengthening the other eight objectives of the East Midlands airport voluntary code, but others wish to speak and I can write to the Minister in more detail. All I say in closing is that local communities and those who represent them will not walk quietly away from the issue. Our clamour will eventually match and outdo that of the powerful aviation and airports industry, even though the Manchester Airport Group may be advertising today in *The Guardian* for someone who can schmooze parliamentarians.

We want the industry to succeed; it is important socially and economically that it does so. However, the lack of environmental controls means that the industry is flying straight into trouble. It should recognise that, as should the Government. We must respond to the requests for help from airport communities. I hope that when the Minister winds up, she will bring fresh ministerial thinking to the topic, as it is long overdue.

**Mr. Deputy Speaker:** Twenty-nine minutes remain, with five Members bidding.

10.11 am

**Mr. Stephen Dorrell** (Charnwood) (Con): I shall try to keep to the implied quota that your mathematics offers me, Mr. Deputy Speaker.

I want to focus my remarks exclusively on designation. I am not against the development of NEMA and I am not against air travel, either by passengers or by air freight. However, the core issue is that the Government—this is not a party issue, because the previous Government pursued the same policy—have, in effect if not in law, made a planning decision that East Midlands airport should be allowed to develop as both a passenger airport, which does not mark it out from other airports around the country, and a specialist centre for air freight, with the implied emphasis on night flying.

What is the business purpose of air freight? It is to get next-day delivery of urgent commodities elsewhere in the world, which implies a disproportionate stress on night flying, as compared with the air passenger business. I support designation because I see it as balancing the Government's planning decision, which has been taken in favour of developing air freight, with implied night flying, at NEMA.

My hon. and learned Friend the Member for Harborough (Mr. Garnier), whom I congratulate on securing this debate, quoted from the White Paper on airports. Paragraph 9.28 of the White Paper encapsulates my argument:

"we consider that the projected expansion of air freight operations at East Midlands should be permitted."

If that is not an expression of a planning opinion, I do not know what it is. The paragraph continues:

"However, this would need to be accompanied by stringent controls on night noise in particular and increasingly generous noise insulation and other mitigation measures."

I entirely agree with that line. However, when Ministers are asked whether they will designate the airport, to give the powers to act on the expressed opinion about the implications of developing night flying, they remind me somewhat of Pontius Pilate. Their response is to say that the issue ought to be dealt with by voluntarism, by the local planning authority or by someone else; anyone other than the Minister who made the decision to impose the noise constraints that are the subject of the discussion.

My pitch to the Minister is not to stand back from East Midlands airport, and certainly not to obstruct the development of air transport, which is an important part of a modern economy. Politicians make themselves look stupid when they appear to disapprove of something that the rest of the world regards as normal and probably desirable. Of course, the transport of air passengers and air freight has to be allowed to develop, but as my hon. and learned Friend said, that must happen within the principles of good neighbourliness.

In the context of a local planning decision, we regard it as entirely normal that the planning authority should make a decision about what is allowed to go ahead and, if necessary, impose conditions to make that planning decision as acceptable as possible to the surrounding community. The Government are making the fundamental planning decision on the development of East Midlands airport as a freight hub, but they are not engaging in the planning decisions that are intrinsic to the decision that they have made. The Government have made half a decision, but have not been prepared to face up to the consequences of the other half.

My argument is simple. I support the development of NEMA. I am not against the Government making the decisions— those are properly taken by Government, not the local planning authority—but I encourage them to take the whole decision, not just half of it.

10.16 am

**Mr. Mark Todd** (South Derbyshire) (Lab): I have two declarations of interest. First, I live under the flight path of East Midlands airport, and a lot closer to it than some of the hon. Members who have contributed. Secondly, I have spoken on this subject at considerable length and although I will not repeat the points I made, one of my speeches on the air freight sector led to the Industry in Parliament Trust allowing me to spend some time with an air freight operator, one of which operates out of East Midlands airport.

We should put into context the argument over designation. We have had some useful historical analyses of what has happened and heard that, for whatever reason, East Midlands airport has been given planning consent for its growth, with various operators being given planning consent to carry on their activities, which are dependent on night flights. For reasons that are not entirely clear, no proper conditions were imposed on any of those activities at the time. The Government are being asked to act as goalkeeper in the designation and say, "Well, someone's missed the ball several times in this exercise. Let's try to save it and put matters on to a better footing."

It is not surprising that the Government are saying, "Hold on, there is a bill to be attached to this activity, because if designation is to be meaningful"—the

speeches to date have not suggested quite what that meaning is—"presumably it will imply constraints on planning consents that were previously thought to be exercisable without those constraints." If I were one of the companies involved, I would want to pursue that point with some vigour and associate costs to it. That is why I have always said that although designation would be nice, it is unrealistic and I cannot see the Government buying the argument.

The alternative is to focus on the mechanism that has been touched on in the White Paper, which said that we should have stringent controls on the operations of the airport. How are we to arrive at that? The Government have so far suggested that the airport, like others, should produce a master plan for its growth. I would firmly criticise the Government and, to some extent, take some of the points made by the right hon. Member for Charnwood (Mr. Dorrell), because they have not explained the meaning of a master plan and how it is to deliver the sort of things that are being discussed when we refer to the words "stringent controls". What do they mean? How will they apply in law and how will they be used by those who may enforce those controls?

So far, that has not been set out. I have read the template for the master plan and although it is a useful, interesting document, it does not tell us about its substance and meaning in planning or enforcement terms. The Minister could help us all by setting out more clearly what a master plan means and what it will do.

I should like the master plan to contain a mechanism for moving towards chapter 4 compliance for all aircraft operating at night. DHL, one of the major operators at the airport, has recently modernised its fleet, which has made some impact on the complaints my constituents send to me. However, it is still the case that people are disturbed by night flights; I received a complaint about that yesterday from a person in the village where I live, and the aircraft was a DHL aircraft. There is a long way to go on that.

It is possible to narrow the flight paths. Modern aircraft can fly tighter tracks than those indicated by the airport, and we should try to make sure that they do so, because that might take them away from some of the population centres that are currently being disturbed.

We need a review mechanism of the voluntary code that is currently in place; that point has been taken up by others and was given ministerial endorsement, but what has not been addressed is how we say that that set of controls is now inadequate. We should have a mechanism that addresses the fact that, at a certain point, the growth should trigger a review of that set of controls and an acceptance that they are not adequate for the current purpose. I have attempted to get a response on that from previous Ministers, and I put it to this Minister now.

My next point is about a noise growth matrix, or a noise quota, as my hon. Friend the Member for North-West Leicestershire (David Taylor) said. We need some mechanism that deals with the question of those who ask, "Look, if you're going to increase freight traffic through the night, how will that then link to the noise that that generates? You should get a score for that so that there is an amount that you are allowed to have."

We also need a surface transport plan for that airport. If it grows at the rate that is being discussed, its current means of delivery both in and out—remembering that it is a freight airport—is wholly inadequate and needs rethinking.

10.22 am

**Mr. Alan Duncan** (Rutland and Melton) (Con): First, I thank my hon. and learned Friend the Member for Harborough (Mr. Garnier) for securing this debate. We are all grateful to him for that, and those of us who work closely with him know that he has worked the hardest of all of us on this issue. The voters of Harborough will appreciate his efforts, as do local organisations such as East Leicestershire Villages Against Airspace, or ELVAA. Although Mr. Charlish, the main organiser of ELVAA, is based in my constituency, I know that he has worked very closely with my hon. and learned Friend.

The basic fact is that none of us is against the airport as such. We are not against the business benefits. However, we are against its uncontrolled and unrestrained expansion, given that it has no proper planning process at present. There seems to be no planning control beyond the buildings that go on the ground, and what we need is an understanding of what is happening in the air. In the absence of that, it appears that the only credible solution to this problem is designation; it is essentially the old chant of, "What do we want? Designation. When do we want it? Now." We do want it now.

Most of the relevant arguments have been covered, so I will focus on two allied and tangential points. The first of them is about the information that we are currently able to get on the state and pattern of existing flights, and the second is about policing. I look to the Minister for a constructive and helpful response today, because we were promised one before.

At present, if one of our constituents is woken up at 4 o'clock in the morning, they want to know where the plane was going. Was it going to or from NEMA, or was it unrelated to any flight patterns associated with NEMA? A former Transport Minister assured us that the facts would be given to us if ever we were to seek them. That has not happened. Let me explain what currently happens. If a constituent is disturbed, he will contact NEMA, whose normal response is, "Not me, guv." Then there will be an attempt to get some definite information about radar or flight patterns or flight schedules, and if NEMA says that the plane was not its, usually any inquiry will hit a brick wall. If we go to the Civil Aviation Authority, it will say it is not really its responsibility, and we are then referred to the National Air Traffic Services, which I think is based in a business park in Fareham or somewhere. It tells us that it only keeps radar records for a month, which is not very helpful when it takes five weeks to reply.

Therefore, we as Members of Parliament face enormous difficulty in establishing the basic facts about what is actually happening now. If a constituent is disturbed, is NEMA to blame or not? Where are the flights coming from and going to? My plea to the Minister is, if I dare use the word again, to designate a specific civil servant who can be a focal point for genuine and proper inquiries, who knows the system and who can give us genuine and proper factual answers. At the

*[Mr. Alan Duncan]*

moment, in trying to find out the basic facts, we are getting the runaround. We do not like it, it is getting very annoying, and it needs a simple administrative solution.

Secondly, because NEMA is a growing airport, the police bill is growing with it. As my hon. and learned Friend explained, although the name suggests that it is a Nottingham airport, it is in fact a Leicestershire airport that also serves Derbyshire. It is something of a hydra-headed hybrid airport, serving the entire east midlands. Someone who sits on the Leicestershire police authority wrote to me saying that even after Home Office funding to cover anti-terrorist work, it still faces a bill of between £500,000 and £750,000 a year to police the airport. That figure is growing for reasons that we all understand. He also said that although his police authority has tried to get Nottinghamshire and Derbyshire police authorities to share the cost, they have not shown much interest. That is hardly surprising, but it places a disproportionate, unreasonable and growing bill on a hard-pressed police authority in Leicestershire.

So I have two specific points. The first is about finding out what is going on. There is a suspicion that aircraft personnel have a measure of discretion in the route that they take, and may choose to put their flight path over rural areas. At the moment, everyone thinks that NEMA is to blame, but let us have the facts. Secondly, designation would mean that the entire police bill would be covered on a national basis, as it should be for such an enormous airport as NEMA, rather than by one poor county where the airport happens to be based.

**Mr. Deputy Speaker:** Thirteen unallocated minutes remain and there are two competitors.

10.27 am

**Mr. Bob Laxton** (Derby, North) (Lab): First, I do not have any comments to make about a particular local interest or complaint. The only interest I have is that I live probably as close as my hon. Friend the Member for South Derbyshire (Mr. Todd) to the airport. It is approximately five miles away from where I live in the south of the city, and I have been disturbed on occasions by night flights at the airport. However, I am not under any political pressure from my constituents. I receive a small number of complaints from constituents living in the north-east of the city, and I am well aware that my right hon. Friend the Member for Derby, South (Margaret Beckett) receives a considerable number of complaints from her constituents living in south-west Derby.

However, although I do not have any specific complaints, I do not support the case that has been made for designation of the airport, and let me explain why. The hon. and learned Member for Harborough (Mr. Garnier) used the phrase, "That is not to say that NEMA does not bring economic benefits to the area." That is a gross understatement. There are huge economic benefits, not only for Derby, Leicester and Nottingham, but for the east midlands as well as the regional and national economy.

If right hon. and hon. Members have not already done so, they may find it an illuminating experience to visit Royal Mail's night-time operation out of NEMA. They may find it even more illuminating to visit DHL's huge complex at the airport, where they will get a good idea of the amount of small, high-value parcel traffic passing through that operation. Everything from parts coming in from around the world for cars that have broken down, to body parts—attached or unattached—and body fluids have passed through its operation. It is fascinating to see; anyone who visited DHL would be astounded by the level of activity. That activity is a job-creator and a regional economic regenerator, and will continue to grow as the airport grows.

As I said, I have some personal sympathy with the calls for the airport to be a better neighbour than it has been hitherto. There are clear signs that it wants to be a better neighbour. The hon. and learned Member for Harborough said that his local authority was not consulted. That is true, but the airport realised that and chose not to introduce the new flight path arrangements, although it could have. Instead, it recognised its omission and sought wider and further consultation, I welcome that.

My hon. Friend the Member for South Derbyshire spoke about DHL's relatively modern, new generation aircraft, which should be welcomed. There are, sometimes, particularly noisy flights out of the airport in the early hours. It is claimed that they may be generated by Rolls-Royce in Derby using noisy Antonov aircraft to haul huge engines out of East Midlands airport. I do not know how accurate that is, but there are, occasionally, exceptionally heavy and noisy aircraft leaving and arriving at the airport.

I say to right hon. and hon. Members, especially those who have not yet had the impact of aircraft noise fall too heavily across their constituencies, that those who use the sort of language used by the hon. Member for Rutland and Melton (Mr. Duncan)—phrases such as, "We want it now"—are, perhaps, squealing before they have been stuck. It will be interesting to see whether the new flight path arrangements are introduced after the consultation process. Frankly, I hope that they are, and that noise levels will be minimised because of the continuing arrival patterns. That should make a sizeable difference to the impact of noise on constituencies around the east midlands. I welcome the CAA's decision to redesignate flight paths over less-populated areas for safety, noise impact and environmental reasons.

To sum up, people should not complain too loudly or too long. Let us see what the new flight path arrangements are like; how they operate and whether they are much better, as I believe that they will be. Let us continue the dialogue with the airport, which has, at long last, decided that it wants to be a far better neighbour than it has been.

**Mr. Deputy Speaker:** Six unallocated minutes remain.

10.34 am

**Mr. Andy Reed** (Loughborough) (Lab/Co-op): This has been a useful debate, and I, too, congratulate the hon. and learned Member for Harborough (Mr. Garnier) on securing it. My hon. Friends the Members for North-West Leicestershire (David Taylor) and for South Derbyshire (Mr. Todd) and I have spoken in similar debates in this Chamber a few times in the past few years; I hope that the Minister's speech today is not exactly the same as those we have heard in the past.

One reason that I intervened on the hon. and learned Member for Harborough on the issue of designation is that we all seem to know what people are opposed to, but have little idea of what is an acceptable level of activity. I do not know what level of night flights coming out of East Midlands airport is acceptable and I represent constituents who oppose night flights, but accept that there is a case for them and for the air freight industry at the airport. Today, I hope to tease out what level of activity—if we were talking about designation—would be acceptable for all our constituents in Leicestershire who are affected.

I share some of the concerns expressed by my hon. Friend the Member for South Derbyshire, including the concern about how we make progress. One of my fears about designation is that it is held up as a panacea for all our ills; as if we achieve all that we want if we achieve designation.

In the meantime, I have constantly proposed a three-point plan. Indeed, I mentioned it again in the House in response to the White Paper. The 10-year strategy—the master plan—is absolutely vital, because unless we really know what the growth of the airport could be, the impact on the Loughborough constituency, on south Derbyshire, on north-west Leicestershire and on other parts of Leicestershire will be phenomenal. The figures in the White Paper are quite frightening; the hon. and learned Gentleman mentioned 60,000 night flights a year. The number of passengers has already grown from 2 million to 4.5 million in only three years. The impact will be enormous if that growth continues at its current rate, so the 10-year master plan is exactly what local people are willing to accept. It is vital for the Government to take account of our view of the potential growth of the airport in their 10-year plan and so ensure the democratic accountability that was rightly talked about. We are part of the process, and a new extension, growth in passenger numbers and the introduction of low-cost flight companies at the airport should not come about by stealth.

The White Paper talks about the projected expansion needing

"to be accompanied by stringent controls on night noise in particular and increasingly generous noise insulation and other mitigation measures."

Again and again, I, and others, have consistently asked in the House and in other places exactly what those stringent noise controls are, because without them the master plan is a meaningless exercise and we are simply keeping the current arrangements and adding a few extra bits. We need to reassure our constituents, and those of us who live under the flight paths need to be reassured that we know exactly what we are talking about. It is a nice phrase, but we need to know the details, which I hope the Minister will give us.

We quite rightly talked about the inadequacy of expecting North West Leicestershire council to be the monitoring body and the independent consultation body, and about the need to replace it. We need a proper, local body with teeth that can monitor the activities of NEMA and work on behalf of the Government and Members who represent the county and elsewhere in the region. Exactly how will that body be constituted, and does the Minister have any plans to strengthen the existing consultation? If all that fails, designation remains the final hurdle to surmount. Again, however, what do we mean by designation? I hoped that we would hear more today about what people expected.

With regard to those of us who already suffer night flights, when did we find them acceptable and when did they tip over into becoming unacceptable? We need an open and honest debate. The current number of night flights might already be too much for those who are most directly affected. Environmental measures such as the new chapter 4 aircraft might mitigate some, but not all, of the impact.

I ask that my three-point plan be considered and that we have an honest and open debate about what we want, because East Midlands airport does provide an enormous number of jobs and great economic benefit to each of us in many different ways.

My hon. Friend the Member for South Derbyshire mentioned the surface transport plan. My constituency suffers particularly from east-west traffic going through the villages of Wymeswold and Burton and all the way down the A6, the A46 and across, or traffic getting on to the M1 and going south. It is sometimes too much. A lot of freight tries to cut across country and go through the smaller villages in the Wolds. I asked the county council to carry out an impact assessment of that traffic, and it agreed to do so as part of the local transport plan. We need to ensure that we keep on top of that, because it is a big issue for constituents who benefit from the airport but also suffer the environmental impact on the ground as well as in the air.

I hope that the Minister will adopt a realistic and robust approach to the East Midlands airport. My hon. Friend the Member for North-West Leicestershire and I have found its representatives to be most helpful in our discussions with them over the years, but we still hit the barrier mentioned at the start of the debate; accountability is still an issue. We hope that there will be the opportunity to strengthen the existing proposal as part of the White Paper and to make sufficient progress to ensure that the environmental impacts of that necessary airport are minimised.

10.40 am

**John Thurso** (Caithness, Sutherland and Easter Ross) (LD): I congratulate the hon. and learned Member for Harborough (Mr. Garnier) on securing the debate. It is clear from listening to hon. Members' contributions that there is considerable concern about the matter, which is also an important local issue, on both sides of the House.

In his opening remarks, the hon. and learned Gentleman mentioned the name of the airport, which I have visited only once, about 15 years ago. I was given a lift by a friend in a small private aeroplane after a wedding, at which I was a guest. At that time, I was general manager of the Cliveden hotel, which I set up, and I was able to get back to the hotel in time to welcome the bride and groom, who had driven down the M1.

I did some research for the debate and found an article from the Derby *Evening Telegraph* of 20 January, which stated that it had asked 20 airports if they flew to Nottingham, and only three immediately replied yes. The other 17, when asked if they flew to East Midlands were able to say that, yes, they flew there. There is clearly some confusion about the name.

*[John Thurso]*

Hon. Members have put a very powerful local case extremely well, and I will leave it to the Minister to answer. I want to make some general points. The first, implicit in the debate, is the tension between those who benefit from the facility—this applies not only to airports but to many other infrastructuré and economic endeavours—but are unaffected by the disbenefits, and those who suffer from the disbenefits because they are the hosts, and live near by. It is a critical point and it applies to aviation at any airport.

The industry would argue that everyone has a right to fly and that people have an almost unfettered freedom to fly wherever they want, whenever they want, but that that is not the case. There are two kinds of freedom: the freedom to do things and the freedom to be protected from the adverse effects of whatever other people have the freedom to do. There should be a balance between the rights of those who want to do things, and the rights of those who need to be protected from them. It has to be done with constraint and consideration; the good neighbourliness to which the hon. and learned Gentleman referred. In devising a wider aviation policy, it is important to face up to that fact and accept that we must consider both sides of the issue.

My second point is about aviation policy in general. In the past decade, there has been a phenomenal growth in passengers, largely due to the expansion of low-cost airlines, but also for other reasons. What is not often referred to is the equally impressive growth in air freight. It now accounts for 30 per cent. by value of freight imports into this country, although by weight the figure is much smaller; less than 10 per cent. The problem is that we do not consider the true cost of aviation, especially in environmental terms. Aviation needs to address that problem so that it has a fair playing field compared with other modes of travel.

I would like aviation internationally to be brought within the limits of the Kyoto convention. In this country, air passenger duty singles out passengers, but there is no similar levy on freight planes. I would like a move from air passenger duty to an aeroplane tax that would also cover freight planes, and to externalise some of the costs of aviation so that there is a proper balance between its benefits and disbenefits.

A powerful case has been made for designation, although I am not entirely certain that it is the right remedy. Perhaps it might be better to do it through the master plan. However, I leave it to the Minister to answer that case.

10.45 am

**Mr. Greg Knight** (East Yorkshire) (Con): I congratulate my hon. and learned Friend the Member for Harborough (Mr. Garnier) not only on securing this important debate but on waging a tireless campaign on this issue on behalf of his constituents. He knows that I am well aware of the strong level of feeling not only among his constituents, but among those of other right hon. and hon. Members in the vicinity of the airport, and even wider across Leicestershire, Nottinghamshire and parts of Derbyshire.

As the Chamber is aware, the Government produced a White Paper setting out their policies last year. Sadly, that aviation White Paper led to court challenges and has left uncertainty hanging over many people's lives. In my view, the Government's policy has failed to live up to its own billing. There are two problems with the White Paper. First, it fudges some key issues and therefore causes blight around airports as legal battles are fought. Secondly, there is little sign of the joined-up thinking that we have always been promised, either between the Department for Transport's aviation policy and the rest of its responsibilities, or between it and other Government Departments.

There have been a few references today to the name of East Midlands airport. The hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) referred to a report in the Derby *Evening Telegraph* in January this year. I have to say to him that this debate has been going on for about 30 years. I remember that when I was a Leicester city councillor, the airport was spending tens of thousands of pounds on consultants' fees to decide on what to change its name to. I wish that it had spent as much time on consulting residents about how it goes about its activities as it has on consulting about changing its name for three decades. As all hon. Members here know, the airport is expanding very quickly; the White Paper itself forecast—

**David Taylor:** Will the right hon. Gentleman give way?

**Mr. Knight:** I have only a couple of minutes left, and the hon. Gentleman had a fair crack of the whip earlier. It is not as if he has not been called to speak.

The White Paper forecast that the airport could attract between 12 million and 14 million passengers a year by 2030. However, in addition to that, the airport is one of the country's major hubs for freight, and is the leading UK airport for freight carried by all-cargo aircraft. The White Paper also forecast that the airport could be handling as much as 2.5 million tonnes of freight a year, possibly more than that by 2030.

The White Paper reveals that Ministers do not seem to appreciate the scale of the problem in the region. It states that Nottingham East Midlands airport is situated away from the main centres of population and, as such,

"a relatively small number of people live within the 57 dBA noise contour."

However, the projected growth of the airport would increase the size of the contour to include more than 10,000 residents; more importantly, many thousands more live on the cusp of that noise contour. The nature of air cargo operations means that many flights take place at night, when, of course, background noise levels are much lower. So this is bad news for residents in Leicestershire, Nottinghamshire and Derbyshire.

The Government's own consultation document forecast that there could be more than 60,000 cargo flights a year by 2030, and a substantial proportion of those would be late in the evening or at night. It is clear that this large expansion will continue to have serious consequences on those living under the flight routes. The issue of noise raises two questions; first, compensation, and secondly, what measures can be taken to minimise noise levels. The aviation White Paper states that the Government expect airports

"to offer households subject to high levels of noise . . . assistance with the costs of relocating"

and acoustic insulation to those who are in an intermediate noise region. Will the Minister say whether those compensation rules will apply to those who live under the flight paths at Nottingham East Midlands airport? We believe that the current scope and level of compensation for noise blight is inadequate to compensate for the serious problems that will be suffered by those who live under the flight paths of aircraft flying at night. What discussions has the Minister had with Nottingham East Midlands airport about improving the level of compensation? If the answer is none, she really should go to the airport and meet the airport operators.

I believe that the people of the east midlands deserve clarity and openness and, where their peace and quiet is going to be shattered, adequate compensation. Does the Minister not accept that our present laws do not give local authorities the power to deal with the sort of problems that we have heard about today, and therefore that there is only one conclusion; we need to see some action from the Minister.

**Mr. Deputy Speaker:** Order. I should like to register my appreciation at the splendid manner in which all present responded to the application of the new ruling; they did so with alacrity and good humour. I call the Minister to respond.

10.50 am

**The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins):** Thank you, Mr. Deputy Speaker. I am grateful to the hon. and learned Member for Harborough (Mr. Garnier) for choosing to debate this important subject. He has raised many concerns, concerns that I have also seen expressed in letters from the hon. and learned Gentleman and other hon. Members here today.

Passenger traffic at Nottingham East Midlands airport has increased dramatically since its adoption as a base by a number of no-frills carriers; annual growth averaged almost 15 per cent. in the five years to 2003. There are signs that that growth is now slowing; in 2004, the airport handled some 4.3 million passengers, which was up 2.9 per cent. on the previous year. Scheduled services now operate to 25 destinations, on a balanced mix of leisure and business routes.

That expansion is in line with the Government's policy of encouraging growth at regional airports. It has a number of benefits, which include supporting the growth of the local and regional economy; relieving congestion at more over-crowded airports, especially those in the south-east; reducing the need for long surface journeys to airports; and giving passengers greater choice.

NEMA's strategic importance, however, arises from its freight operations. It handled some 227,000 tonnes of air freight in 2003, second only to Heathrow. Almost all of that was carried by dedicated freighter aircraft, making it the most important United Kingdom airport for that type of traffic. In the same year, it also handled more than 10,000 tonnes of mail.

NEMA is well suited to such a role. Its central location and its proximity to the M1 enables it to serve much of the UK, and it possesses an adequate runway length and sufficient space for the development of cargo handling facilities. That has served to attract the express freight carriers, and NEMA has become the most important regional hub for DHL and UPS. The vast international networks operated by such carriers offer enormous benefits in connectivity for businesses in the east midlands and beyond, and they offer rapid access to global markets.

**Mr. Garnier:** We are delighted hear a sort of "Down Your Way" tour of the airport's charms, but we want the Minister to deal with the issues that were raised in the debate. I wonder whether she will stop reading out publicity material for the airport and get on and deal with the issues that concern us.

**Charlotte Atkins:** I would have expected those hon. Members who represent the Conservative party to have recognised the benefits of a regional airport of NEMA's significance. It is interesting that they are very much against red tape and the Government taking commercial decisions; but when it comes to NEMA, it seems that they want the Government to take responsibility for the whole business.

The midlands consultation document on the future development of air transport, which preceded the White Paper, looked at the option of a second, wide-spaced runway at NEMA. The White Paper did not support that option; on the evidence available, we concluded that the economic case for a second runway had not been made. We shall, however, review the case for a second runway should the growth of NEMA prove to be more rapid than our forecasts suggest.

Although hon. Members have denied it, the airport is situated away from the main centres of population, and a relatively small number of people live within the 57dBA noise contour, which is the commonly accepted standard for the onset of "significant community annoyance". The populations around Gatwick or Stansted, for example, are much larger. Some 2,500 people in the existing development of NEMA live within the 57dBA contour. That is expected to grow to 11,700 in 2030. The comparable figures for Luton are 8,000 in the present development and 19,000 by 2030. NEMA is not on a par with the three designated airports in the south-east.

While the White Paper supports the expansion of both passenger and freight operations at NEMA, it is not a licence for the uncontrolled expansion of operations. It states that the expansion on night operations must be accompanied by stringent controls on night noise and increasingly generous noise insulation and other mitigation measures. I have no definition of stringency or stringent controls. We will obviously look to the airport operator to provide an indication of its transport and traffic forecasts and proposals and also its mitigation measures. That is the context in which the airport operates.

Many Members have asked about designation. Like my predecessors, I have written many letters on this issue. Although I appreciate the strong feelings expressed by hon. Members and their constituents, the situation has not changed. As the Minister of State, Department for Transport, my hon. Friend the Member for Harrow, East (Mr. McNulty), made clear, both at the forum that many hon. Members attended and

*[Charlotte Atkins]*

subsequently, the Government's position is that local and regional airports should find solutions for what are local and regional problems.

**Mr. Duncan:** It is quite clear that the Labour party's policy is to oppose the designation of this airport. May I ask the Minister in the time remaining to address my specific point about monitoring existing flights with a clear focus of attention so that we can get the actual facts, without being given the runaround?

**Charlotte Atkins:** I am happy to take up the issue that the hon. Gentleman raised. If he is having problems finding out what flight has overflown a constituent, I am happy to look at that. NEMA flights have a noise and track-keeping system. It should be possible to say whether it is a NEMA flight. The hon. Gentleman spoke of his problems with the CAA coming back to him within the period when it was possible to say whether a flight was from a particular direction. He mentioned the problem of having only a month's radar checks. I am happy to take that back and have a look at it, but clearly NEMA should be able to tell the hon. Gentleman whether it was one of its flights. Whether he believes it or not is another matter.

There are well-established procedures for bringing forward airspace change proposals and they are subject to directions and guidance to the CAA from the Secretary of State. These are designed to ensure that proposals are brought to the attention of affected parties; that they are properly assessed and that environmental impacts are mitigated as much as possible; and that changes are only made where it is clear, after consultation, that an overall environmental benefit will accrue. That is the existing procedure that has to be used. There is no reason why NEMA should not also go down that path.

**Mr. Deputy Speaker:** Order.



## Ambulance Trust Mergers

11 am

**Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): I thank you, Mr. Deputy Speaker, for allowing me the opportunity to discuss the merger of the Gloucestershire ambulance trust with Wiltshire and Avon ambulance trusts. It is causing great anxiety in Gloucestershire and I am grateful to the Minister for being here to reply to the debate, as I am for the support of my near neighbour and good colleague, my hon. Friend the Member for Tewkesbury (Mr. Robertson).

I shall set the scene. Gloucestershire ambulance trust has a two-star rating and some of its innovative measures are among the best in the country. Yet, it has been proposed to merge the trust with two failing adjoining ambulance trusts: those of Avon and of Wiltshire. If people doubt that fact, they have only to look at the response time figures provided by the NHS. In the most recent year for which figures are available, Gloucestershire is consistently in the 94 to 95 per cent. range in response to category A and category B calls, whereas Wiltshire has only a 84.9 per cent. response time and the figure for Avon is a disastrous 66.4 per cent.

So why ruin one of the most innovative ambulance trusts in the country and merge it with two failing trusts? The inevitable result of such action will be a fall in service for the people of Gloucestershire. They pay their taxes and they are entitled, at one of the most vulnerable points in their life, to service. If someone is lying beside the road, dying from a motor accident, or is in his home with liver failure or a suspected heart attack, the one thing that that person wants is a quick ambulance response. The merger will inevitably slow down that response and many people think that it is a prelude to replacing ambulances with cars driven by one paramedic. One paramedic in a car responding to an emergency cannot perform the same service as an entire ambulance team.

It is abundantly clear to me that the proposal is massively unpopular with the people of Gloucestershire. As I have said, the service currently enjoys a two-star rating and those working for it see no advantage whatever in being combined with the Avon and Wiltshire services, which have been classified as "failing" by the Government. Under the misdirection of the Government, the Avon, Gloucestershire and Wiltshire strategic health authority is seemingly willing to denigrate the Gloucestershire ambulance service and place the Wiltshire ambulance service under Bristol control, all for the measly aim of saving money. The SHA has had a miserable record. Its deficit of £100 million is one of the biggest in the country. It has had no fewer than three chief executives in the short time that it has been in existence, yet the Government, having formed that SHA, now want to do the same with our ambulance trusts. Even the chief executive of the SHA told a newspaper that the proposed ambulance merger is about "reducing overheads".

We must not be taken in by such silken tones. The damage to the ambulance services in the south-west will be not only qualitative but financial. The record of the Government in wasting public resources by reorganisation is well proven. I say to the Minister in

good faith that each reorganisation costs a great deal of money and usually results in a worse service for us—the public, the taxpayers who pay for that service.

While desperately trying to cut monetary corners, the SHA will in fact be sacrificing millions of pounds' worth of investment. The huge financial commitment to the Devizes call centre and to the brand new Quedgeley call centre, which was delivered at a cost to Gloucestershire council tax payers of some £6.5 million and which is about to be stripped of its fire service role because the Government want to regionalise fire services, is to be wantonly abandoned and those call centres are to be left as empty testimonies to the Government's disregard for the public purse. I understand that there is a 30-year break clause in the agreement at Quedgeley, so perhaps the Minister can tell us how much it will cost the ambulance service to break that agreement.

**Mr. Laurence Robertson** (Tewkesbury) (Con): I congratulate my hon. Friend on raising this important matter. He will be aware—perhaps he will come to this—that we face a similar problem with regard to the fire and rescue service. I am sure that he will tell us how new the building at Quedgeley is, because what we are discussing represents an enormous waste of money.

**Mr. Clifton-Brown:** My hon. Friend raises a good point. We have been to the tri-service centre and seen it working. We have seen the superb telephone operation that the people of Gloucestershire now have. The close co-operation between the three services—police, fire and ambulance—is benefiting the people of Gloucestershire. The Government's initiative was a good one, but they are about to tear it up, even though it has been going for only 18 months. That is ridiculous. What a waste of £6.5 million of public money to tear it all up, take the fire service away and regionalise it, and now propose to take the ambulance service away. My hon. Friend is exactly right.

The painfully apparent lack of any firm business case from the SHA for the merger has rightly led the Gloucestershire county council health overview and scrutiny committee to call for an impact assessment to be carried out urgently, before the plan is rushed through with little regard for the consequences. At the very least, the Minister should satisfy himself with a robust business case that the plan makes sense. He owes it to the people of Gloucestershire to demonstrate that they will receive a better service as a result of the merger. If they will not, why take away a service that works?

The SHA was content to turn to Adrian Lucas, of the Scottish ambulance service, who is no doubt a very able man, but who surely has little experience of the particular local circumstances and conditions that the Gloucestershire ambulance service faces. His answer was that emergency calls from Gloucestershire should be answered from Bath or Chippenham, but how can an emergency call being answered from Bath or Chippenham help my constituents or even those of my hon. Friend in the most rural areas of the north Cotswolds? I do not think that the Minister has any idea, and I invite him to come and look for himself. Some of my constituents live 30 miles from the nearest district general hospital. If they do not have a proper ambulance service when they need it, they will die. There is no question about that. We must be sure that the merger will work; otherwise, we are putting people's lives at risk. I say that to the Minister in the starkest possible terms.

Regardless of how technically advanced the variety of global positioning systems may be in modern ambulances, modern technology cannot replace the knowledge of local drivers. They know the conditions and the traffic variations. That is particularly important in the Cotswolds in summer, when the roads in a place such as Bourton-on-the-Water are chock-a-block. A local ambulance driver will know how to get round the jams, but someone from Bristol, Avon or wherever else will not have that local knowledge.

One can envisage what might occur. I shall give the Minister an example. During the last Christmas break, a single telephone fault crippled the local GP out-of-hours service and, in an instant, threw an extra burden on to the ambulance service. The very thought of a similar fault occurring in a joint services call centre that might be responsible for some 2.2 million people and of all its possible consequences is awful.

Moreover, it seems that the reduction in call centre capabilities is being quietly mirrored by a reduction in the resources awarded to our hard-working ambulance crews, even to the degree that the SHA is taking away ambulances and replacing them with cars. The threat to replace ambulances in rural areas with meagre car response units—essentially, a paramedic and a first-aid kit, rather than the panoply of medical services and expertise that arrives when a fully equipped ambulance pulls up—is testimony to how little attention is being paid to the essential needs of patients in Gloucestershire. It is self-evident that one paramedic cannot provide as good a service as a trained team of ambulance men.

I turn to some of the innovative measures that the Gloucestershire ambulance trust is pioneering. It is one of the country's leaders in some of the new treatments. For example, in pre-hospital thrombolysis treatment, modern IT enables the electronic kit to be attached to somebody's body and the information to be transmitted to a specialist sitting in a hospital, who can then see exactly what phase the heart is in and administer the drug at precisely the right time. That saves lives. Not only does it save lives, but it is an example of how people might be kept out of hospital, thereby saving the NHS even more money. An efficient ambulance can treat people on the spot. They do not necessarily have to go to hospital; it might be more suitable for them to go into a nursing home, or even to stay in their own home with proper treatment from an occupational nurse.

Running down the ambulance service makes no sense. Apart from the pre-hospital thrombolysis initiative, the Gloucestershire ambulance service is one of the most innovative in the country in forming partnerships with other first-responder groups, such as the fire brigade. Indeed, the protocol with the St. John Ambulance brigade was so good that that brigade is now using it nationally. The Gloucestershire ambulance service has been awarded 120 auto-external defibrilators. That was the second largest award by the British Heart Foundation, and it went to one of the smallest ambulance trusts. The Gloucestershire ambulance trust is one of the most innovative trusts, and it provides one of the best services in the country, yet the Government want to merge it with two failing ambulance trusts. What on earth sense can that make?

*[Mr. Clifton-Brown]*

As my hon. Friend the Member for Tewkesbury knows, those who work for the ambulance service in Gloucestershire are very proud of it; they are proud to see it performing so well. If the merger goes ahead, and they see the quality of the service that they are able to offer falling, they will leave and go to the private sector, and that will have a knock-on effect.

The ambulance service can be the bridge between people and the NHS, and it can help to keep people out of hospital. However, even these peerless ambulance staff cannot be expected to provide a faultless service if they are not given the tools that they need to do the job. The tragic accident involving Mr. and Mrs. Jones and Ms Moran late last month that resulted in one fatality shows the price that will inevitably be paid when ambulances are not properly supplied in a timely fashion, but one must also look at the success stories, such as that of Mrs. Stevenson and her son Zak. They were given the highest level of care and attention by the ambulance crew and connected staff when little Zak began to experience breathing problems and had to be rushed to hospital in the most dire winter conditions, which made some roads impassable. It was primarily due to the Gloucestershire ambulance crew's local knowledge of alternative routes that Zak reached hospital in good time and was successfully treated and allowed to make a full recovery. Such local knowledge would simply not be available under the proposed merger; ambulances could be manned by paramedics from many miles away who have little first-hand knowledge of their immediate environment of a maze of twisting country lanes.

The Conservative party has stood up for the interests of local people against a burgeoning and blind, centrally led bureaucracy. Local Conservatives, under Councillor Barry Dare, called for a motion urging the strategic health authority to carry out a proper consultation before adopting the merger plans. The need for such a consultation and the blatant risks of not listening to the concerns of local people and ambulance crews were so apparent that Councillor Dare's motion received cross-party support.

Unabashed by their total humiliation in the north-east referendum that threatened to abolish the county of Northumberland, this Government, aided by the Liberals, are determined to pursue their unpopular European-style regional agenda and abolish our county services by stealth. As my hon. Friend emphasised, we have seen that they want to regionalise our fire service. Now the ambulance service is to be merged with failing neighbouring ambulance trusts. Similar plans for our police cannot be far behind.

I have something to say to the Minister: my constituents, my hon. Friend's constituents and the people of Gloucestershire pay their taxes to this Government in ever increasing amounts. They get a very good service at present. If it deteriorates, I will hold the Government to account.

11.15 am

**The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman):** I congratulate the hon. Member for Cotswold (Mr. Clifton-Brown) on securing the debate and on his interest in his ambulance service. Equally, I congratulate the hon. Member for Tewkesbury (Mr. Robertson) and my hon. Friend the Member for Stroud (Mr. Drew), who are present today.

I must say to the hon. Member for Cotswold that that was the first time that I have heard a Eurosceptic argument imposed on a discussion on ambulance services. I counsel him, in the interests of his constituents, not to over-egg his argument by suggesting that decisions have been made and that firm proposals are on the table when that is absolutely not the case.

The hon. Gentleman talked about his Conservative colleague on the county council putting down a motion calling for a thorough consultation. The only thing that is currently on the table is a proposal to consult on the matter. It is ridiculous to suggest that that has come about because a Conservative county councillor has decided to make party politics out of the issue. The SHA's proposal is to consult—nothing else, at this stage. I will ensure that his comments are seen as part of that consultation.

**Mr. Clifton-Brown** *rose*

**Dr. Ladyman:** Let me make some points first. The hon. Gentleman had 15 minutes and turned what could have been a constructive debate about the future of his ambulance service into a party political diatribe. So, I think that I am entitled to make some progress before I give way to him.

The staff of the national health service in the hon. Gentleman's county and elsewhere are working extremely hard to provide better services for everybody; that includes those who must make difficult management decisions about the structures of such services. They want to engage in constructive dialogue with local populations about how best to achieve that. It does not help anybody if attempts to have such a dialogue are undermined by people saying that decisions have already been made, when, palpably, they have not.

Before I discuss the local ambulance service, I should say something about the national ambulance service, because the hon. Gentleman accused us of certain strategies which do not exist and have not been implemented. We recognise that the ambulance service provides the first point of access to health care for a wide variety of patients. It is the most important contact for more than 5 million 999 callers every year.

Far from running down the ambulance service nationally, the Government are committed to it. On top of its base funding, we have put in £50 million since 1999—providing £21 million for additional front-line ambulance staff. Money has been provided for purchasing vehicles; £3.4 million has gone to enabling services to equip front-line ambulance vehicles with state-of-the-art satellite navigation; and £10 million has been provided to purchase ambulance equipment for heart patients.

This Government are not trying to run down the ambulance service; we are committed to it. That is why we set a standard that at least 75 per cent. of 999 calls from patients with immediate life-threatening conditions should have an ambulance respond within eight minutes. In 2001, less than 71 per cent. of those calls were responded to within eight minutes, but during

the past year performance against that standard has exceeded 75 per cent. Now, 98 per cent. of patients are overwhelmingly satisfied with the care that they receive from their ambulance service.

That sort of commitment and those sorts of targets apply equally to the hon. Gentleman's constituents as to mine. Just because somebody lives in a rural area does not mean that the Government's target of reaching them within a particular time is any less of a commitment than elsewhere. Indeed, it is necessary to recognise the issues of rurality and deal with them appropriately, to ensure that we meet the targets.

A demonstrable improvement in patient care is being achieved. In many areas of the country, including the hon. Gentleman's, innovative work and attempts to modernise are taking place. For example, there are now 400 emergency care practitioners treating patients at the scene, which avoids people having to go to accident and emergency unnecessarily. I am sure that in his calmer moments the hon. Gentleman would like to congratulate all those people on their contributions rather than launching into an attack on their motivation, which is what came across to me from his comments.

Although progress has been made, we can do even better. That is why we appointed Peter Bradley to lead a strategic review of ambulance service delivery. It will consider how to make longer-term improvements in areas such as ambulance service staff education and training, clinical indicators and outcome measures. It is also expected to resolve issues such as how best to clarify clock start/stop times to ensure the transparent and consistent measurement of response times.

The hon. Gentleman raised the issue of local services. As he said, Avon, Gloucestershire and Wiltshire strategic health authority has three ambulance services: the Avon Ambulance Service NHS Trust, the Gloucestershire Ambulance Service NHS Trust and the Wiltshire Ambulance Service NHS Trust. Gloucestershire and Wiltshire are two of the smallest ambulance trusts in England. The management of such local ambulance services is a matter for the local health economy—not for me or other Ministers sitting in Whitehall. For exactly the reasons that the hon. Gentleman gave, I have no knowledge or experience whatever of conditions in the Cotswolds. I cannot possibly know what conditions are like in his constituency; I have enough to do making sure that I understand conditions in my own constituency. That is why it is important to allow decisions to be made by local people who know about the traffic in the summer in Cotswolds villages and about the conditions on local roads, and who understand the issues of rurality. It is not for me, the Government or the Secretary of the State to impose any model on the hon. Gentleman's local ambulance service; it is for the people charged with responsibility for those services in his area to make the decisions.

It is right and appropriate for strategic health authorities and commissioners to examine the provision of ambulance services in their area and to consider whether the current arrangements could be improved to benefit patients and staff, reduce duplication and improve efficiency. That is what is happening now. In April 2004, the Avon, Gloucestershire and Wiltshire strategic health authority embarked on a project to consider how emergency services in Wiltshire could be better shaped to meet the demands of the future. Many factors will have prompted the authority to initiate that project, including rising demand for ambulance services and the fact that ambulance performance was identified in the Department's annual review with the authority as an issue that needed to be addressed.

Although the project initially focused primarily on Wiltshire, it also provided an opportunity to address the future role of services in Avon, Gloucestershire and Wiltshire as a whole. Two clear stages governed the development of the work. First, there was the need to develop and agree a service framework that enabled ambulance services to make a more effective contribution to unscheduled care. For example, the project considered how staff in new roles, such as the emergency care practitioners whom I mentioned earlier, could be best utilised. That is particularly important for rural communities such as those in Avon, Gloucestershire and Wiltshire. ECPs have the skills to treat patients at the scene of an accident, which can help to avoid the need to travel to A and E. Secondly, there was the need to consider the best organisational arrangements in which to implement the service framework.

Once a rationale for the review had been established, three options emerged: the creation of an integrated management team across the three organisations, a merger into a single organisation and the status quo. The current situation is that Avon, Gloucestershire and Wiltshire strategic health authority has decided to commission an independent organisation to undertake a detailed benefits analysis and risk assessment of those options. The recommendations of that analysis should be presented to a steering group of chairs and chief executives from the three trusts and their lead commissioners, together with the SHA. That is exactly the business plan that the hon. Gentleman asked me to ensure would exist before any decisions were made.

**Mr. Clifton-Brown:** The Minister's last comment was very helpful. To ensure that we get something useful out of the debate, will he assure us that the people of Gloucestershire will be given every opportunity to contribute to that study, that they will have plenty of time to do so and that the study will genuinely take their views into account? The Minister has given the impression that the failure of the Wiltshire and Avon ambulance trusts is all that this is about, and that is exactly the fear of the people of Gloucestershire, who get such a good service at the moment.

**Dr. Ladyman:** I have steadfastly tried to avoid saying that that is the primary reason for the review. It is my belief that the SHA sees potential benefits to considering the three organisations together. Each of the three organisations and everyone throughout the area, including the people of Gloucestershire, will benefit, and the perceived problem of underperformance in Wiltshire will also be dealt with. I promise the hon. Gentleman that his constituents will be included in the consultation. It is clear from having talked to the SHA and having studied the matter since realising that the hon. Gentleman had secured this debate that the SHA intends to have a wide-ranging and thorough consultation with everyone before any decisions are taken.

*[Dr. Ladyman]*

I stress again that this is an objective exercise. There are no hidden agendas or predetermined outcomes. Nothing in the process should worry the hon. Gentleman, his constituents or any other hon. Member in the Chamber. Indeed, there is much for them to gain. Since 1974, mergers and reorganisations have reduced ambulance services from about 100 to 31 trusts, and there is a general trend towards fewer, larger ambulance trusts. For example, Shropshire merged with the West Midlands ambulance service, and three ambulance trusts merged to form Tees, East and North Yorkshire Ambulance Trust. There are significant gains to be made for each ambulance service as a result. The potential benefits for the hon. Gentleman's constituents are there to be seen, and it is foolish to close our eyes to the possibility of those benefits.

**Mr. Laurence Robertson:** The Minister is talking about other ambulance trusts that have merged, but in an answer to my parliamentary question, the Minister of State, Department of Health, the hon. Member for Doncaster, Central (Ms Winterton), said:

"We are not aware of any other SHAs and their constituent organisations formally considering this issue."—[*Official Report, House of Commons*, 31 January 2005; Vol. 430 c. 741W.]

I am confused.

**Dr. Ladyman:** I am referring to ambulance trusts that have already decided formally to review their structures and to merge. I confess that I do not recollect that question offhand—unfortunately, I do not remember every question that I sign—but I shall be happy to answer it if the hon. Gentleman writes to me with his query. Faster response times, reduced bureaucracy and other such issues are all potential gains for all the constituents of all the Members in the Chamber today.

NHS bodies have an absolutely clear duty to consult on these matters. The Government and the Secretary of State make that clear. We do not want to be put in the position of taking any decisions at the centre about mergers or reconfiguration. We want those matters to be sorted out locally by local people.

I know that the hon. Member for Cotswold is not the only Member interested in this issue. the hon. Member for Tewkesbury has asked parliamentary questions about it, and my hon. Friends the Members for Stroud, for Forest of Dean (Diana Organ) and for Gloucester (Mr. Dhanda) have already met my hon. Friend the Member for Doncaster, Central (Ms Winterton), who leads on ambulances issues for the Government. They have already expressed their concerns, so all Members who represent the area have started to engage in the process. It is very important that all Members do so.

It is also very important that the hon. Member for Cotswold ensures that the opinion of every one of his constituents is listened to. I fully support him in that, and I am happy to meet him and to discuss the matter in the Chamber as necessary so long as he understands that, at the end of the day, the decision is for local people, not me. I want local people to produce the best strategy for themselves and to decide how best to improve services throughout the area and not only in one part of it. That will ensure that he and all his constituents are satisfied that there will be gains for them and for others in the area from any decision that is eventually taken. The status quo is still an option, as is rationalising the management organisation rather than an outright merger of the three trusts. However, we can ensure that constituents' views are taken into account only if we all engage constructively in the debate.

I conclude by thanking the hon. Gentleman once again for securing the debate, but I ask him not to give the impression that decisions have been taken when clearly they have not. These are matters for local people to engage in.

11.30 am

*Sitting suspended until Two o'clock.*

# Young People (Custody)

2 pm

**Mr. Hilton Dawson** (Lancaster and Wyre) (Lab): I am grateful for the opportunity to initiate the debate. I know, because of the hon. Members present, that it will be a high-quality debate. It is a shame that so far there are not more Members present to take part in it.

I regard it as a gross failure by us all that this debate is needed. It is an indictment of this country that it leads the wealthy, developed, powerful nations in the number of children who are in prison. There are about 2,500 children in young offenders' institutions now, perhaps 200 others in secure training centres and 200 in local authority secure children's homes. I do not have a problem with local authority secure children's homes; they work to the standards laid down by the Children Act 1989 and they are inspected by the Commission for Social Care Inspection according to the principles of that Act.

The huge problem with local authority secure children's homes is that places in them are being lost at an extraordinary rate. Some 71 places—almost a quarter—in local authority secure care have gone since 2000, when the Youth Justice Board took over responsibility for the commissioning of places in what is termed the secure estate. That is especially lamentable when we consider the most shameful disgrace of all, the most appalling fact about custody for young people and children: in the past eight years—since I have been a Member of Parliament and since this Government have been in power, carrying out superb reforms to the lives of so many children—16 children have died in prison, at a time when 71 places in local authority secure care have been lost.

I am not aware that any child has ever died in local authority secure accommodation. I have worked in several of those places and I know that they have contained, looked after and managed young people with horrendous records of offending; young people who have committed the gravest crimes that anyone could commit, and they have kept them safe. Their expertise and skill are being lost; many good people who formerly worked in those institutions lament the passing of those establishments and of the old community homes with education, which also did a good job for young people. I particularly lament, and recognise, that the passing of so much good quality care no doubt has something to do with the extraordinary increase in the number of children in prison. It has doubled in the past 10 years.

I return to the most appalling fact—the 16 deaths. I am aware that I cannot speak about all those cases today; some are sub judice. However, hon. Members in this Room are well-informed, and people read the newspapers and know a lot about the circumstances. I was with my hon. Friend the Under-Secretary of State only two weeks ago at the scene of the latest tragedy, which I deeply regret was in my constituency. I regard these 16 deaths as unnecessary, avoidable and appalling, and I am sure that we all agree with that.

During this debate, I am sure that somebody will reflect on how difficult the issues are, and how complicated the subject is. We can make it difficult and complicated if we wish to, but we can also make it quite simple. It is about basic principles and sheer bloody-minded political will. Perhaps the attendance today reflects the fact that people are sometimes nervous about the issue of young offending, particularly when approaching a general election. People are clearly and rightly concerned about crime in this country, so there is not much sympathy among the general public for young offenders. However, I have appeared many times on the national media trying to draw attention to what we are to discuss this afternoon, and my e-mail inbox is roughly divided 50:50 between those who think that it is outrageous for a Member to be standing up for young people in prison, and those who are very encouraging that someone is doing so. These are controversial issues, but they are vital matters of life and death, and, frankly, politicians should be prepared to take a lead.

We are talking this afternoon about the principles and political will that anyone should display if they aspire to govern this country well. I am not going to fight the next general election, but hon. Members around the Room, from three parties, will do so. They will be out on the stump, and will have to confront the issues that we are discussing. I hope that we can all agree that it is unthinkable and intolerable that a child should ever die in the custody of the state. It should surely be one of the state's greatest duties, when anyone—let alone a child—is committed to its custody that they are kept safe. There is a remarkable and regrettable lack of public debate, or even public information, when a child dies in custody. I cannot imagine what would happen to social workers if a child died in a children's home. We know what happens to social workers in cases in the community, where children die at the hands of parents or carers, but it seems that there is little concern about children who have committed offences who die in our prisons.

I suppose that such people are not children at all; we insulate ourselves from the fact that they are children. Anyone under 18, of course, is a child, but we insulate ourselves from that fact by referring to them as "juveniles" or "offenders", and the prisons where they live as the "secure estate". The Government properly and gloriously tell us that every child matters, but perhaps juvenile offenders do not; in fact, we know that they do not. The Children Act 1989 states:

> "When a court determines any question with respect to . . . the upbringing of a child"—

for example, where that child will live, for however long—

> "the child's welfare shall be the court's paramount consideration."

That does not, however, apply to a child older than 10 who expresses his or her abuse, neglect, disturbance, illness, lack of parental guidance, inadequate education, learning difficulties, naivety, immaturity, or poor choice of friends through the commission of a criminal offence. As is regularly stated by the Government and the Youth Justice Board, the principal aim of the youth justice system is to prevent offending by young people. Having regard to a child's welfare is a secondary aim of the system.

It is good that those in charge of custodial institutions have been brought within the remit of the Children Act 2004. Under section 11, they are bound by a duty to safeguard and promote the well-being of children in their custody, but that duty does not apply to those who sentence children to custody, or to those on the Youth Justice Board who decide where in the secure estate

*[Mr. Hilton Dawson]*

children should be placed. Such crucial decisions are often taken on the spur of the moment, with a degree of surprise; they often need to be taken quickly, perhaps at the end of a long day in court, having had little opportunity to weigh up the particular needs of a child, who may be hundreds of miles away from home, who is wondering where he or she is going.

As I said, the overarching principal aim of the youth justice system is to prevent offending by young people. That is the first note of humour that I have introduced to the debate. However, the offending rates are lamentable. Home Office figures show that in 2001, 70.4 per cent. of children who received a custodial sentence reoffended within 12 months. In 2002, that figure marginally improved to 68.3 per cent. Those are the most recent figures, but even if the situation carries on improving it would be a fair bet that about two thirds of the 2,500 or so children who are currently in prison will have reoffended by this time next year.

Prison does not work. Let no one accuse me, or anyone else who agrees that there should be no children in prison, of being soft on crime. Prison is a generator of crime, and confirms young people, and adults, in a criminal identity. It introduces young people to others who are more criminal and to the means to carry out further criminal offences of which they were not aware. It is lamentable, under a Government who have been so good for children, that children can be publicly identified and have their pictures all over the front pages of local newspapers, so that their families, friends, neighbours and everyone in their communities can identify and label them for a long time.

**Matthew Green** (Ludlow) (LD): Does the hon. Gentleman agree that the situation is often worse than that? When children leave jail after serving a short sentence, their status is often raised among their peers. Naming and shaming young people in the newspapers gives them status among other young people and raises the possibility of their behaviour being copied by other youngsters.

**Mr. Dawson:** I agree. The hon. Gentleman makes a fair point: some young people misguidedly relish their appearances on the front page. Some look to the day when an antisocial behaviour order will be imposed on them. The introduction of such legislation and such a means of dealing with young people shows a complete misunderstanding of their psychology.

As much as anyone, I have seen the way in which crime and the fear of crime can blight people's lives and wreck communities, and I want an effective response to crime. Just as much as anyone in Parliament—perhaps more than many others—I am committed to tackling crime and antisocial behaviour. However, to tackle the offending and offensive behaviour of young people effectively, we must deal with all the factors underpinning that behaviour. We must understand that we are dealing with human beings at a stage at which they can grow and mature through their difficulties, and we must recognise that the way in which we treat them can make their behaviour far worse, compound their problems and put them in danger.

I advocate a much longer period of intervention for many young people than they receive in prison. In large part, I would support such intervention taking place in the community, integrated with all the other systems of support for every other child in the community. I am certainly not averse to children being looked after in the care system for much longer than they serve under a detention and training order. I am in favour of young people who are a danger to the community being looked after for much longer in a local authority secure children's home than they would serve in a young offenders' institution. It is essential that we address some of the very serious issues underlying criminal and antisocial behaviour, many of which are long-standing. Many issues relate to abuse and neglect over years, and it will take years of work, therapy, support and consistency to help young people through those issues.

Prisons complain to me that they do not have the young people long enough to enable them to do decent work. There are good people in prisons who tell me that some young people there are experiencing the positive influences of people for the first time in their lives, albeit within the horrendous confines of a prison institution, but that they are not there long enough. Programmes are not long enough and not developed enough.

None of the work needs to take place within the confines of a prison, however. The philosopher Foucault said that prison is dangerous when it is not useless. It is a horrible place to put a child. I thought that on my most recent visit to Lancaster Farms. Ironically, that is probably the best young offenders' institution in the country, but I thought, "What a horrible place for a child", when I looked around at the walls, the wire, the uniforms, the keys and the disgusting little cells with their huge locked doors. We owe young people far more and should do far better by them than that.

We also owe the public much more than useless rhetoric about the fact that prison somehow works, or a lot of stuff about the amelioration of conditions in prisons. I know that more money is being spent on prisons, that education authorities now work there and that primary care trusts are going to be much more involved; and I know that, following the Munby judgment, there will be more child protection and more advocacy for young people in prisons. However, we should compare the average annual cost of a place in a young offenders' institution with that of one in a local authority secure children's home. The former is £50,800 and the latter—where children are looked after properly—is £185,780. If we are to lock children up, we should be prepared to pay the proper cost. We should pay for appropriate ratios of staff to children. With three to six staff serving 40 to 60 very needy children in prison, compared with one to six staff for two to eight very needy children in local authority secure care, it is obvious where they will be better cared for, even before we consider the rules and regulations, the inspection regime and the fact that local authority children's homes are required to be child-centred in ways that young offenders' institutions cannot be.

The Government have been good for children, and I take my hat off to my hon. Friend the Minister, who is an excellent Minister. So why does it need an organisation such as the Howard League on Penal Reform to take the Government to judicial review to establish the principle that the Children Act applies to

children in prison, in order for them to have child protection workers and children's advocates? Why on earth does that same excellent organisation have to establish its own independent inquiry under Lord Carlile into the use of physical restraint, solitary confinement and strip-searching of children? Those are outrageous things to do to children.

The chief inspector of prisons recently said that there are a number of areas in which prison service orders are simply inappropriate for children, and do not reflect child protection principles. However, the Youth Justice Board has an aspirational strategy, whatever that is—every Saturday evening, I aspire to win the national lottery, but I have not managed it yet—which is supposed to cover constraint, confinement and strip-searching. Why do we need an independent organisation to search out what is going on in the institutions of state? What have the Government done to respond to the 11,500 cases of physical restraint of children in three secure training centres in five years; to the 200 injuries to children in 11 months resulting from restraint in prisons; and to the ghastly fact that one young man died while being restrained in a secure training centre last April?

Why does another fine organisation, Inquest, have to campaign for the public inquiry into sentencing policy that was recommended to the Home Secretary by the coroner at the inquest into the appalling death of 16-year-old Joseph Scholes? Joseph Scholes died nine days into a two-year sentence for stealing a mobile phone. A victim of sexual abuse, a disturbed, self-harming child—he slashed his face just before his appearance in court—he was in prison, in virtual isolation, and in a bizarre form of canvas-strip clothing, until he hanged himself. Why can we not have a public inquiry into sentencing policy and the death of Joseph Scholes? We need an inquiry to tell us all what is going on in young offenders' institutions.

Why is there so little support for the bereaved families of Joseph Scholes and the two other young people who recently died in secure training centres? One of them was a young man aged 14 who, last August, became the most horrifying statistic of all: the youngest person in modern penal history to die in a prison in this country. Why are there delays of up to two years in holding inquests? Why is there no central monitoring of inquests and recommendations? Where is the effective attempt to learn the lessons from all these tragedies?

I have been to my local young offenders' institution, Lancaster Farms, on many occasions, and, sadly, I have made two visits already this year. The first was routine. Members of the Prison Officers Association backed up their pension claim by telling me that they were involved in 10 or 12 violent incidents between children every day. That makes Lancaster Farms a dangerous place for children to be. I have been involved for a long time in inspecting places where difficult young people have been looked after, and that sort of bullying would simply not have been countenanced.

Later on that first visit, the governor and staff introduced me to the case—again, my hon. Friend the Minister has responded promptly to it—of a mentally ill, hallucinating and possibly psychotic child who had been refusing food. No one thought that he should be there—not the governor, the staff or anyone who was looking after him, and certainly not members of his family, who were visiting. Later that day, the staff gave me more examples of children who they thought should not be there, because the offences that they committed were *nowhere near* serious enough to merit a custodial sentence.

On my second visit this year, I met young people in the prison's hospital wing, who were there for various reasons: they were suffering from mental illness, their offending was such that they were thought to be at risk from other young people in the prison, they were victims of bullying or they were simply afraid.

The Prison Reform Trust tells us that 90 per cent. of young people in prison have a recognisable mental disorder and that 10 per cent. suffer from a severe psychotic illness. The 10 per cent. figure is interesting, because the Youth Justice Board tells us that it is seeking to reduce the population of children in prison by 10 per cent. over the next two years. That is a paltry ambition, although I am not even sure that the board will be able to achieve it, given the increasing number of children in prison who have breached antisocial behaviour orders. Given the rate at which children are dying, there will have been four more deaths in that two-year time scale.

Frankly, I am critical of the Youth Justice Board. It is the body that placed 3,337 children who were officially recognised as vulnerable in Prison Service custody in 2003–04, even though 24 per cent. of children in custody report being assaulted and one third report feeling unsafe, according to the inspector of prisons. It is the body that glosses over so many issues. Its recent consultation document on its strategy for the secure estate describes child deaths as "serious incidents". It selectively quotes the Children's Rights Alliance for England to say that it has made miraculous improvements in the Prison Service without giving us the next sentence, which says that a number of institutions

"were so bad—were guilty of such gross violations of human rights—that even when improved they still fall short of adequate."

The Youth Justice Board estimates that there are 200 to 300 people whose needs it cannot meet, who today could be in just as much despair as the young people who died. There could be another death in the prison system today, such is the need, scarcity of resource and ineffectual nature of the establishments in getting to grips with some of the most troubled and disturbed young people in the land. We need to do much better, and we should have the principle and guts to face the situation.

All we need to do is take the lead from the magnificent children's policy that the Government are supposed to be developing and from the UN convention on the rights of the child, from which lamentably the Government have secured an opt-out in respect of children in prison. Let us treat all needy children as children. Let us have regard to what other countries do. Let us look at what we tried to do in this country in 1969, for goodness' sake. If we believe that every child matters, we should have the guts and principles to raise the age of criminal responsibility way above the age of 10 to 16. We should ensure that any child over 16 sentenced to custody for offences that endanger the public—some young people do need to be removed from our society—goes to secure care rather than a prison and to somewhere run according to the principles of the Children Act.

*[Mr. Dawson]*

What we have in this country—and the reason that I am leaving this place—is a fantastic opportunity to transform children's services and the lives of all children. We are faced with the prospect of leaving thousands of children outside those services and in the inadequacies of the prison system. If we raised the age of criminal responsibility, it would ensure that all the new agencies and integrated services would have to respond at length and with real skill to all the neglected, abused, needy, challenging, difficult, ill, naïve and immature young people who cause society problems. They would have to respond to them in terms of those services, the children's needs and the Children Act, not criminal justice legislation.

Using all the resources that we have at our disposal and all the children's legislation, young people could be managed, via Sure Start, extended schools and the range of integrated community resources coming on stream. Excellent workers—people in the youth offending teams, youth inclusion programmes, and intensive supervision and surveillance programmes, and workers in young offenders' institutions who genuinely want to work with children—could be brought out of those institutions and better trained to work with children in the community and the care system. They could work with children in local authority secure care, but do so according to Children Act principles and having been trained properly. They could work with children across the gamut of health, education and social care policy, bringing integrated services together and locating their work largely in the communities from which they come.

That solution applies to many countries and could have applied in this country for the past 30-odd years. It would address offending far more effectively than we do via the current system. It would also address the needs of children as effectively as possible and would help them to grow to maturity—growing up is the best antidote to youth offending—in their own communities but away from the negative influences of a prison culture. It would also keep children safe. I commend that approach to all hon. Members. If we have the principles, we need the political will to carry something like that through. If it were put properly to the people of this country, it would command an enormous amount of support.

2.36 pm

**Matthew Green** (Ludlow) (LD): The hon. Member for Lancaster and Wyre (Mr. Dawson) made a powerful and passionate speech, which comes as no surprise to those of us who are aware of his role as one of the few champions in the House of young people. It is a great shame that he has decided to stand down, because that will mean that there is one less of us who think that young people receive far too negative a press. There are those of us who think that that issue should be addressed in a more positive light.

I am surprised that more hon. Members are not present because this is an area where the Government cannot be proud. The Government have been subject to criticism by the UN Committee on the Rights of the Child, in reports by Her Majesty's inspectorate of prisons, and most recently by the Joint Committee on Human Rights.

How can it be that in the United Kingdom there are currently 2,665 young people in prison, yet in Italy there is none? How is it that the Italians can manage the system so differently from us? Are the young people in Italy all angels? If that is the reason, we must be breeding an awful group of young people. Of course that is not the reason; it is the way in which they are treated.

Most other European countries have, at most, a few dozen young people—perhaps the severest of cases—in custody. Yet we lead the way in Europe in the number of young people that we lock up. The UK cannot be proud of that record.

We heard from the hon. Member for Lancaster and Wyre about the number of deaths in custody. I do not want to cover again that ground, about which he spoke so well. However, I would like to speak about the incidence of self-harm among young people in custody. We know, from the Government's own figures, that in 2001–03 there were 414 incidents of self-harm by young people. That is a far higher rate of self-harm than among adults in prison, and is a sign of the underlying problems.

It is also clear that when those young people are put into segregation, the rate increases further. Over a five-year period—1999 to 2004—117 incidents of self-harm occurred in segregation. That includes attempted suicide, which is classed as self-harm. The number of deaths in prison could have been substantially higher if some of those suicide attempts had been successful. The figures are appalling, and the fact that the last young person to die was only 14 is a shocking indictment of the country's attitude to young people in prison.

One of my concerns is that—perhaps to placate the mass media or, in some cases, the public's perception—the Government and the Conservative party seem to be trying to outbid each other on who can sound the toughest about how many people should be locked up. It is a matter of shame that politics should compete on that territory; the Government and the Opposition should see fit to argue that keeping large numbers of young people in prison is nothing to be proud of in the 21st century.

Of even more concern is the fact that prison does not work for young people. The social exclusion unit published a report in 2002 called "Reducing Reoffending by Ex-Prisoners". It found that 84 per cent. of juveniles released from prison in 1997 were reconvicted within two years. Prison cannot be working if the reconviction rate is 84 per cent. For those aged 14 to 21, the reconviction rate was 80 per cent. Of those who served a short sentence of less than 12 months, which is typical for young people, 92 per cent. were reconvicted within two years.

Short sentences do not work; they do not give people time to work with the prisoners. Young persons in prison for less than 12 months are not likely to have their behaviour addressed before being released, and they are likely to be reconvicted. Those are exactly the people for whom we need to find different routes, different ways of dealing with them—perhaps in ways suggested by the hon. Member for Lancaster and Wyre.

One of the problems with young offenders' institutions is that, because they are few in number and located in different parts of the country, offenders are often a long way from their families. One of the things

that helps to prevent reconviction is for young people to stay connected with their families and the local environment. It is all about making sure that they feel that they have something positive to come out to.

Her Majesty's inspectorate of prisons reported on juveniles in custody in April 2004. It was found that only 30 per cent. of boys and 23 per cent. of girls in custody said that it was easy for their families to visit. They were held too far from their homes, and contact with their families was not easy. Contact with the family must be one of the more important things for young people. The Government's approach to locking up young people is making it more difficult to keep such links.

Some disturbing figures are given in various Government reports. The social exclusion unit found that of those locked up, 25 per cent. of males suffered violence at home; and 85 per cent. of them exhibited signs of personality disorder. Those people need treatment and help. Yet they are often locked up in an environment where they receive no help. Not only are we failing young people; we are failing society, because those young people come out with their behaviour unchanged and their ways unaltered. As a result, they are far more likely to be criminals. That is a problem not only for the individual; it is a problem for society.

The staffing ratio in young offenders' institutions averages between three staff to 40 young offenders and six to 60. It is the lowest staff-client ratio of any child placement of any kind in any sector. It is no surprise that we are failing those children if they are being put in places where they have the least chance of being helped, yet that seems to be the preferred route.

Under section 98 of the Crime and Disorder Act 1998, if the youth offending team deems 15 or 16-year-old males to be too vulnerable for prison placement, the courts may direct them to be held in remand in a local authority secure unit or a secure training centre. The problem with that is that the order can be made only if placements are available on the day on which the remand decision is taken. The availability of placements in secure accommodation is the critical factor, regardless of the vulnerability assessment. The randomness of the availability of places cannot be in the best interests of the individual or society and cannot be the best way of placing these children. That is why some children who have been assessed as vulnerable continue to be sent to young offenders' institutions.

The Government should consider expanding that sector as an alternative to young offenders' institutions, even as a first step and simply to meet the needs of the assessments which the Crime and Disorder Act has allowed to be taken into account. They have set up a system that should help, but the lack of places is helping to create the problem. They have opened the door to a solution, but they have not created the resource that will provide the answer and produce the end result.

I support the call for a public inquiry into the death of Joseph Scholes, not only because his death was sad and tragic, but because it might open the way for the country as a whole to realise that the situation in this country is scandalous and that other countries deal with youth remand better than we do. We need to learn from other countries and to find a way of solving this problem. The Labour Government cannot be proud of these figures. I am sure that they would criticise them if they were in Opposition.

I am sure that the Minister wants to reduce the number of young people in prison. If he does want to reduce them, he should examine the experience of other countries and find ways of expanding the number of secure children's homes and secure training centres run by local authorities, as they are a substantial improvement on young offenders' institutions. They offer a way forward, but this issue does not appear to be a priority for the Government.

2.47 pm

**Mr. Humfrey Malins** (Woking) (Con): I congratulate the hon. Member for Lancaster and Wyre (Mr. Dawson) on securing the debate and on the thoughtful and constructive way in which he has always approached these issues. I sense today, and I am sure the Minister will agree, that the debate is not party political but is being conducted by parliamentarians with an interest in the subject, and I hope that they can say something constructive.

I am also grateful to the hon. Member for Ludlow (Matthew Green) for his well chosen words. I declare an interest in that I am a former stipendiary magistrate, I sit as a district judge, and I am a recorder of the Crown court, so I am involved with juveniles in my very part-time professional life, which I hope will not become full time before long.

There is no particular theme to what I want to say today, but I have several observations to make which I hope will be a constructive contribution to the debate on young persons in custody. How does one deal with them? Here is a passing thought, which was echoed in an earlier comment: where it is essential for young people to be in custody, it is my experience and that of many other district judges that nothing can be achieved by a short sentence. There is little point in putting someone behind bars for four, five, six or seven weeks, because nothing is achieved. If one has to put young people in custody, there is a strong argument for a sentence of sufficient length to enable something useful to be done.

The problem has been illustrated already: there are vast numbers of young people in custody. A couple of months ago there were more than 10,000 under 21-year-olds in prison in England and Wales and, as has been said, 2,500 under 18-year-olds in custody. The striking thing is that certain features are common to an extremely high percentage of the under 18-year-olds. A huge percentage have low literacy and numeracy levels, have a history of being in care or social services or have some form of personality disorder or psychotic illness. A huge percentage, therefore, come from a background that is hardly likely to encourage a secure and stable life.

Young people today also face some problems that I do not think you and I, Mr. Deputy Speaker, faced when we were young. They are the twin problems of drink and drugs, which drive so many people to crime and therefore into custody. Young people are no exception. It is a sorry state of affairs that in today's community binge drinking is not limited to those of a greater age, but is prevalent among both 18 and 19-year-olds and, regularly, 15 and 16-year-olds, who get fake ID cards and believe that it is sensible to behave like mad people on drink. That leads to crime. Many youngsters who commit crime and go into custody have been fuelled by drink, which is much more readily available nowadays.

*[Mr. Humfrey Malins]*

As for drugs, I might not even have heard of heroin or crack cocaine when I was 17—in fact, I cannot remember. Certainly the prevalence of drugs and the easy access to the killer drugs, which turn youngsters into criminals, did not exist 20 or 30 years ago. Youngsters are growing up in a much more difficult society, where much less is set in concrete than was the case 20 or 30 years ago.

I want to make a couple of points about sentencing and what works with youngsters. I am not a fan of the drug treatment and testing order, under which youngsters on drugs are told by the court that they are on the order for six months, which means that they have to return to the court every month and that they will be tested from time to time, to see how they are getting on. The results are mixed. Imagine if there were such a thing as a smoking treatment and testing order, whereby one was told to go away and stop smoking, and be tested now and again. My point is that the drug treatment and testing order lacks the element of compulsion that could make it work.

On the other hand, when I was considering the literally dozens of available sentences for young people, I came across one that has, over the past year or so, been—I do not like the term—"rolled out". I am referring to the intensive supervision and surveillance programme, which is one of the orders that a court can serve a young person.

Such orders at least get to grips with the young person, usually a prolific young offender, who for 12 months will be under the supervision of the probation service. During that time there will be intensive work on education and training, family support, skills and restorative justice. The young person will try positively to change offending behaviour. Help will be given with accommodation and drug treatment problems. There will be a minimum of five hours of educational activities each week day, even for youngsters who have truanted from school, and evening and weekend contact with a relevant worker. There is a huge emphasis on jobs, and a continuing emphasis on contact, through tracking, policing and tagging. Such orders are intensive and work extremely well—not all do, and the courts struggle hard.

I shall move off sideways because something has occurred to me. I went to a judicial sentencing seminar the other day, and we had to pass sentence according to the following set of facts. Three boys aged 12, 12 and 11 go up to another boy in the playground and say, "Give me £1 or we'll thump you." Later in the day, they go up to another boy and say, "Give me your drink or we'll hit you." The astonishing thing is that that was a judicial sentencing exercise in which the charge was robbery. I thought it strange that we were dealing with 12-year-olds behaving as 12-year-olds always have, and they were going through the court system and I had to think of a sentence. What is going on in the school and at home when someone cannot get a grip of 12-year-olds and say, "Come on, let's do better"? That was just a passing thought, and is a sad reflection on 2005.

I shall now discuss a couple of things that work. We are not talking about party policy today; I am of the view that nobody should be in custody unless there is no alternative. Terrific emphasis should be placed on young people and problems at an early age to try to keep them out of custody. I went to the young offenders' institution and remand centre at Feltham a couple of years ago and heard an astonishing story. "What are you doing here?" I said to somebody. "I was driving while disqualified for the third time." "Any other convictions?" "No, I just drive while disqualified." "Why do you drive while disqualified? What's the problem?" I asked. "Well", he said, "I can't pass the written and theory tests because I can't read and I can't write. But I'm a damn good driver and I've never done anything else wrong in my life." "Well how are you getting on with reading and writing now?" "Not at all well, nothing's happening." One despairs.

The Minister will have heard of Trailblazers, which is a good scheme originating from Feltham for one-to-one mentoring. Youngsters in the last few months of their sentence at Feltham are visited by mentors. If you were my mentor, Mr. Deputy Speaker, you would be there twice a week seeing me for a couple of hours and continually thereafter, telling me about life, meeting me two or three times a week and helping me to get a job. The mentors might have a criminal background themselves, which is all the more reason why they will be useful in that respect. Trailblazers at Feltham is committed to improving the lives of young offenders and has some extraordinarily good statistical rates for lack of reconvictions.

What about custody? A young friend of mine, Tom Rogan, was at St. John's school in Leatherhead. Older children at that school had almost a mentoring relationship with younger and similar aged people in the Leatherhead area with problems. Some of them had attention deficit disorder, some had domestic problems and others turned to crime. They used to talk to them to try to find out what was going on and whether they could help. Tom said that they all thought, as 17 and 18-year-olds, that there was a place for custody, and I agree that there is. The point was made earlier that some young offenders glory in going to prison, but on the other hand, as Tom said, incarceration takes the cool out of crime. He went on to say that they were convinced, as 17 and 18-year-olds, that what those young people from disadvantaged backgrounds lacked were the skills to make their own way in the community, family support, training, education and confidence. They felt that there was much more work to do on that.

Finally, I want to refer to a new programme, which I think is called the intensive fostering programme. The Home Office will know about the scheme, which is to be used instead of custody. Effectively, there is a supervision order to the youth offending team requiring the offender to reside for one year with a professional carer. In cases where the family background of the young person is absolutely chaotic and dismal, there may be a requirement to live with professional fosterers, who have to be very decent and good families to give the love and care to a youngster who is going off the rails that they have so sadly missed in the past. I do not intend to sound soppy when I say that love, care, discipline, a good education and a secure background are extremely important. If we are to get more youngsters out of custody and get them off the conveyor belt to crime, as my right hon. Friend the Member for West Dorset (Mr. Letwin) said on one occasion, that is the way that we must move.

Those are a few passing thoughts. They come from someone who does not talk party politically today and who recognises the problems in the system. I believe that drink and drugs are greatly involved in some of today's problems. Many more drug rehabilitation places are necessary.

**Mr. Dawson:** The hon. Gentleman speaks from huge experience as a judge and stipendiary magistrate. He has expressed his support for all the positive programmes that have been introduced. However, there is no reason why any of them could not be carried on with young people within the care system, as an attachment to supervision orders in care proceedings. There is surely no reason why any of these measures have to be taken with young people who have been through the criminal justice system.

**Mr. Malins:** The hon. Gentleman is right. One of the problems with all these courses is funding. Many are extremely expensive. Many of these courses exist outside the criminal justice system, but they are linked with it in many ways. I suspect that our successors will be sitting here in 30 years asking what on earth can be done about young people and crime and the large numbers in custody. This is one area of policy where there are serious contributions to be made from men and women of good will in every political party. We all share the same objective: more young people with constructive and good lives and fewer, if possible, in custody.

3.3 pm

**The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins):** It has been excellent debate. We have heard three superb speeches from the hon. Members for Woking (Mr. Malins) and for Ludlow (Matthew Green) and from my hon. Friend the Member for Lancaster and Wyre (Mr. Dawson). I congratulate my hon. Friend on securing this important debate. It is a difficult subject, but I, as the Minister, do not shy away from it. I am glad to have the opportunity to discuss it with him and other colleagues.

My hon. Friend has, as usual, spoken with great passion, understanding and experience. His experience goes back beyond 1997, when he entered this House, to his former professional career. In some ways I was pleased that there were fewer speeches than there might have been this afternoon as it gave him a superb opportunity to lay out in full his beliefs and views on the issue. I am sure that in years to come when people ask what he stood for here, we can point them in the direction of his speech today. It summed up everything. My hon. Friend was candid enough to admit that of the letters in his postbag, half support his views and the other half oppose them. But that does not deter him from trying to strike the right balance. Nor does it deter me, even though we may strike it in a slightly different position.

We have been grappling with two basic questions. First, is custody ever an appropriate response to offending by young people? Secondly, if it can be justified, how can we make a positive intervention in a young person's life that can help them to turn away from offending? On the first question I want to make the Government's view absolutely clear: custody should only be used as a last resort. The vast majority of young people who get into trouble can be steered away from offending without the need for custody. Indeed, we have given statutory backing to that requirement in the Crime and Disorder Act 1998 and the Powers of Criminal Courts (Sentencing) Act 2000.

The statistics show that by and large those who go into custody have committed a serious offence for which there is no realistic alternative sentence, pose a danger to the public or are persistent offenders for whom other options have not worked.

Every year, about 190,000 young people get into trouble with the police. About half are dealt with outside the court system by means of reprimands or final warnings, and most of them stay out of trouble after such intervention. Of those who go to court and are convicted, the overwhelming majority get either a low-level disposal or a community sentence, such as action plan orders, supervision orders, or community rehabilitation orders. Only about 4 per cent. go into custody each year, and they are mostly young people who have failed to respond to non-custodial sentences.

Reference has been made to antisocial behaviour, but young people are not sent to custody for one-off acts of antisocial behaviour. Reprehensible as they are and urgently though they need to be dealt with, we are talking about young people committing serious crimes or having a long-standing record of repeat serious offending.

**Mr. Dawson:** There is a serious, new but growing problem of young people being sentenced to custody because they are in breach of antisocial behaviour orders. They are often young people without substantial criminal records, but we have opened up a new avenue for custody.

**Paul Goggins:** My hon. Friend raises what I know has been an issue of public debate, and because of that and my responsibilities, I have carefully examined the figures. The numbers of young people going into custody due to a breach of an antisocial behaviour order are very small. People are served with ASBOs not for dropping litter in the street, for example, but for very serious behaviour that can destroy the lives of individuals and families. It is a serious matter, although I reassure my hon. Friend that the numbers are small.

When a young person is sent into custody, it is important that it is not seen as a stand-alone initiative. If we have learned nothing else, it is that periods of custody must be followed with intensive supervision in the community. The hon. Member for Woking quoted the example of Trailblazers, and was quite right: part of that ongoing supervision and support is often provided by mentors who can provide the personal support to young people that is often necessary to sustain the change that we all want to see.

**Matthew Green:** The Minister is arguing that young people who end up in custody are often repeat offenders whose behaviour other systems have failed to address. However, 84 per cent. of young offenders who go to prison reoffend within two years. They are being sent into a system that is almost guaranteed to fail them as well.

**Paul Goggins:** I know that the hon. Gentleman and my hon. Friend both raised the issue of reoffending

*[Paul Goggins]*

rates, and I share their concern about the high levels of reoffending. I am determined to do everything that we can to reduce those levels, although they indicate that individuals going into custody are young people who are already showing an embedded pattern of crime in their behaviour, which regrettably often recurs after their release from prison. We must, at the very least, reduce the rate and seriousness of reoffending. I assure the House that the Government will do everything possible, working in partnership with the Youth Justice Board, to do that.

In everything that I am saying, I do not wish for one minute to appear complacent about the current situation; nobody should be, and we intend to do more. The hon. Member for Woking mentioned the intensive supervision and surveillance programme, which combines challenging, purposeful activity with intensive surveillance, and can include electronic tagging. From a standing start in July 2001 to the end of November last year, there were 1,346 young people on ISSP schemes. Those young people would otherwise have run a serious risk of being in custody, but we can sustain them in the community under that intensive supervision.

**Mr. Malins:** If I did not say so earlier, let me tell the Minister that the district judges' bench was not happy about these orders in the early days, but the more time goes by, the more it believes that they are beginning to work and could be a success.

**Paul Goggins:** That is very encouraging. We have had other feedback from sentencers and professionals in the field to support that view. That is why the draft youth justice Bill, which was announced in the Queen's Speech, will contain proposals for further measures. These will include an intensive supervision and surveillance order, turning the packaged support that we have been discussing into a substantial provision, which the courts will be able to use as a clear alternative to a custodial sentence. We will also be making the statutory criteria for custodial sentences tighter still.

The hon. Gentleman mentioned intensive fostering, and that is also something that we want to see develop. Clearly, if a young person has been deprived of decent, normal relationships, that may in some way be behind their offending behaviour. If we can get them that experience of family life and put them back on track, that will send a sensible and positive message.

I am sorry that the hon. Gentleman was rather critical of the drug testing and treatment order. It is true that there were relatively high levels of reoffending in the early pilots, although, again, those who were subject to DTTOs were high-level offenders and chaotic drug users. The evidence is that if we can get people through these programmes, many of them will stop committing offences. Reporting back to sentencers is an important aspect of the order; it is an additional responsibility for sentencers, but my experience is that offenders who know that they must go back and have their progress reported directly to sentencers have an added incentive. Indeed, those who go back to the sentencer, having managed to stay off drugs and free from crime—this would apply to young people, too—get a massive boost when the sentencer can, for once, say something positive about them, rather than repeat the usual negative message. However, we shall no doubt return to the issue in due course.

We have discussed the state of the juvenile secure estate and the regimes for young people who are placed in custody. I acknowledge that criticisms of it have been made here and elsewhere, and there is certainly scope for improvement; I do not deny that for a second. However, it is worth spelling out some of the improvements that have been made in provision for under-18s over recent years.

Until 2000, there was no separate secure estate for under-18s. In that year, we took the major step of giving the Youth Justice Board responsibility for purchasing and commissioning juvenile secure places. We saw that as a key step in raising standards and improving the conditions in which juveniles are kept. We have invested heavily in improving custodial provision. In 2003–04—the last year for which we have audited accounts—the Youth Justice Board spent £225 million on the secure estate, which was a 20 per cent. increase over 2000–01.

That investment has clearly brought results. The Youth Justice Board has established an entirely separate juvenile estate for boys, and I am delighted to be able to confirm that it has achieved the goal of removing all 15 and 16-year-old girls from Prison Service accommodation. It has also set up a national system for placing offenders, and it is worth saying that boys under 15 and all girls under 17 are held in secure training centres or local authority secure children's homes. I know that my hon. Friend the Member for Lancaster and Wyre feels strongly about the number of local authority secure children's home places that are available, and it is true that the number of such places has fallen in recent years from 297 to 235. At the same time, however, we have developed the secure training centre places, which were not there in the past. Between them, those two areas of provision now offer accommodation and supervision for the younger boys and for most of the girls who come into the custodial system. They provide 509 places, considerably more than there used to be.

**Mr. Dawson:** I did not say much about secure training centres. However, would the Minister confirm that in their staffing ratios, the quality of life that they offer and the training of the staff whom they employ, they do not meet the standards and principles of residential care for children?

**Paul Goggins:** I can see that there are differences. However, I think that some of the differences that appear to my hon. Friend to be negative are positive. Secure training centres offer greater scope for education, more space, and more opportunity to do certain activities and, by and large—from what I have seen—they are safe and do constructive work with young people. It is sometimes argued that we developed them because they are cheap. They are a little—not much—cheaper than local authority secure children's homes. The average annual cost of a place in a secure children's home is about £185,000, and one in a secure training centre is £164,000. They are not cheap; they are

expensive, and we are right to make that investment. I take extremely seriously the safety of children in secure training centres.

**Mr. Dawson:** I accept that my hon. Friend takes the safety of children in secure training centres extremely seriously. However, there have recently been two deaths in such centres, one during an incident of restraint. I gave some statistics about the thousands of times in which restraint has been used in secure training centres. What has the Home Office done to investigate the methods of restraint used by staff in those establishments?

**Paul Goggins:** If my hon. Friend will forgive me, I will come to that a little later. I hope that he will allow me to conclude the part of my speech that emphasises the improvements that we have made in provision for young people in custody. The increase in educational funding has been substantial, and a young person in custody now has an average of 24 hours' education and training every week. Some might think that that is not remarkable; that that should be our standard. I agree. However, it was not achieved in the past, and we are achieving it now. That is wholly positive.

Of course, hon. Members are right to press for further improvements. I am sure that more needs to be done, and we should all consider what might be possible. However, it is also fair to acknowledge the improvement in standards. My hon. Friend the Member for Lancaster and Wyre pointed out that a rather partial quotation from the Children's Rights Alliance was used in the recent the Youth Justice Board publication. None the less, it acknowledged that improvement had occurred, as did the Audit Commission, which regards our youth justice system as a massive improvement over what there was before.

A matter of particular concern to my hon. Friend the Member for Lancaster and Wyre, and to hon. Members of all parties, is the serious and pressing issue of suicide and self-harm. The recent death of Gareth Price at Lancaster Farms YOI, like all deaths in custody, was a terrible tragedy, and I send my deepest sympathy to Gareth's family, and to the staff at Lancaster Farms. My hon. Friend mentioned earlier that he and I went together to Lancaster Farms just a few days ago and met the member of staff who tried to save that young boy's life. We should never forget the efforts that staff make, and the care that they show the vulnerable young people in our custodial system. I pay tribute to them for that, and am grateful that my hon. Friend has joined me in doing so.

We take such deaths extremely seriously. First, there is a police investigation whenever there is a death in custody. That is quite right because, depending on the circumstances, there might be grounds for a prosecution. Certainly, there is a need for a report to the coroner. Of course, the coroner carries out an inquest into all deaths that occur in custody. There is also the chapter 8 review, using the Department of Health guidelines, which is conducted by the local authority for the area in which the young person resided ordinarily. As the prisons and probation ombudsman has been given the responsibility for investigating all deaths in custody, including, now, those of juveniles, there is also the investigation that he carries out with support from the Youth Justice Board. So a rigorous and comprehensive view is taken of any death in custody, and rightly so.

Shortly—before the end of February, I hope—the Home Office will be able to respond to the Joint Committee on Human Rights, which published before Christmas an extensive and important report on deaths in custody. I hope that the House will see from our response that we take these issues seriously.

**Mr. Dawson:** Will my hon. Friend tell me why the Home Office turned down the recommendation from the coroner at the Joseph Scholes inquest that there should be a public inquiry? I know that he has taken a great deal of action in this regard, but surely there is a good case for a public inquiry.

**Paul Goggins:** The case for a public inquiry has been put by hon. Members. The coroner who conducted the inquest into Joseph Scholes's death wrote to my right hon. Friend the Home Secretary to urge him to consider a public inquiry, and we considered the arguments for such an inquiry very seriously. It was of great concern to us to ensure that we responded to the concerns that the coroner expressed, which were in three areas. First, he was concerned about the sentencing issues to which Joseph's case gave rise, particularly as regards sentencing for robbery. It seemed to us that it was appropriate to refer that matter to the Sentencing Guidelines Council, which will draw up sentencing guidelines in respect of robbery. We want the council to consider carefully the case of Joseph Scholes as it draws up its guidance.

Secondly, a number of operational issues arose from Joseph's case. We asked David Lambert, a former assistant chief inspector for the social services inspectorate, to undertake a review of all the operational issues and to report back to the Home Office his findings. I anticipate that his report will be with me very soon. We shall certainly want to learn from any operational issues that he deals with and makes recommendations on in his report.

The third strand of concern relates to the provision of custodial places. As the Youth Justice Board is conducting a review of the secure estate—my hon. Friend the Member for Lancaster and Wyre referred to the document that it published—it was timely that we asked the board to incorporate questions about Joseph Scholes's case in its consideration. My hon. Friend and others will note from the document that that is one of the specific requirements that I have placed on the Youth Justice Board as it carries out its review.

We have sought to break down the concerns into those three strands and to deal with them urgently, so that we can learn from Joseph's tragic death. We let Joseph Scholes down terribly, and there is no hiding from that. We have to learn from his case. The fact that we do not agree that a public inquiry is needed should not lead anyone to think that we do not regard this as a most serious matter, but we are seeking to develop responses as quickly and comprehensively as possible in the way that I have outlined, rather than through a public inquiry.

**Matthew Green:** The Minister has mentioned in relation to two of the concerns that he has outlined that

*[Matthew Green]*

there will be reports. Will he reassure the House that those reports will be published in full, with all relevant details? One reason for the demand for a public inquiry is the concern that somehow the system will sweep this matter under the carpet. It would go some way towards meeting people's concerns if all the reports were published in full as a result.

**Paul Goggins:** On reports by the prisons and probation ombudsman, which do not apply to the case of Joseph Scholes because he did not have the responsibility at the time, there are sometimes difficulties in publishing reports in full because of personal details. However, in relation to the three issues that I have outlined, it will, I hope, be apparent from the Sentencing Guidelines Council report that the case of Joseph Scholes has been taken into account. Any recommendations made by David Lambert will be made public, and I see no problem in publishing all of his report. Subject to further clarification, I can give the Chamber that assurance.

It is apparent in the Youth Justice Board's document that it is taking account of the case of Joseph Scholes in its review, and I am sure that we will look to its eventual proposal, following the consultation period, to see that it has taken account of that tragic case in its future plans. I am a firm believer in transparency in most things, and certainly in this area, and I assure the hon. Gentleman that we will seek to make it plain what lessons have been learned and how recommendations will be put into effect.

New policies and practices have been introduced by the Prison Service and the Youth Justice Board since 2001. They include counselling, support groups, specialised psychological interventions and measures to improve general health. It is worth emphasising that from April almost all prisons will have their health services commissioned by the local primary care trust. In other words, the national health service will take over all health provision in our prisons, and in most of them that will be from this April. That is leading to substantial new investment in health, and it will inevitably lead to improvements in the quality and standards of health care that is provided. That is a wholly good thing.

We now have in place suicide prevention co-ordinators in all our establishments, and the Youth Justice Board has funded dedicated juvenile outreach teams. Further measures are being put in place, and more action is planned to improve regimes. We are putting in place first-night and reception facilities, better systems for recognising vulnerability, child protection training, mental health nursing, counselling and peer support. We also want to minimise the use of segregation.

It is important to remember that young people in custody often have very serious problems that form a major part of the background to their offending—for example, family histories or a history of substance misuse. Looking after and safeguarding such damaged young people will never be an easy task. Identifying which young people are most at risk is critical, and although a significant number of young people in custody are assessed as vulnerable, many can be safely accommodated in a juvenile young offender institution with the right help. Others who are more vulnerable may be better placed in a secure training centre or local authority children's home.

Hon. Members—and my hon. Friend the Member for Lancaster and Wyre in particular—raised concerns about the use of restraint, especially since the death of Gareth Myatt in Rainsbrook secure training centre in April last year. Investigations and inquiries into Gareth's death are still in progress, so I am not in a position to say much about the particular circumstances of the case. However, I can confirm that the Youth Justice Board is reviewing the safety of restraint techniques in secure training centres and considering how better behaviour management practices could help to minimise the need for restraint. It is vital that all establishments are safe for young people.

In November, the Youth Justice Board issued a consultation document, "Strategy for the Secure Estate for Juveniles", which has been mentioned several times. It sets out in detail some of the achievements that I have referred to, explains the assumptions and principles underlying the board's approach to custody, and outlines plans for the period 2005–06 to 2007–08. The consultation period ends on 28 February. I shall refer the *Hansard* report of this debate to that review—it is important that our views are known—and I assure the Chamber that we will continue to ensure that wherever young people are kept in custodial care, that is done as safely as possible.

## Classroom Discipline

3.30 pm

**Huw Irranca-Davies** (Ogmore) (Lab): I am grateful for having secured this important and timely debate on classroom discipline, and in advance I thank the Under-Secretary of State for Education and Skills, my hon. Friend the Member for Halton (Derek Twigg), for taking the time to respond. He will know that our right hon. Friend the Secretary of State for Education and Skills made a speech at the Secondary Heads Association conference in Blackpool on 1 February, in which she set out proposals to improve classroom behaviour. In her closing statement, she said:

"I have set out today my approach to this vital issue. Now I want to hear from you."

So as we build on the emergent tradition in this excellent facility of Westminster Hall, I offer the Minister some thoughts, which I am sure he will take away and build on.

I have already been asked why a Welsh Member of Parliament should sally forth on an issue that has been devolved to Wales. There are two reasons. First, to define me or any of my Welsh colleagues as purely Welsh MPs is to miss the fact that we are also Members of the British Parliament. Proud as I am of being Welsh and of representing the fine constituency of Ogmore in south Wales, I have a role to play in all legislation and policy that passes through this House, so I boldly set foot on such territory.

Secondly, and perhaps more importantly, the issue of classroom discipline reads across geopolitical boundaries in the United Kingdom, as our educational systems in Wales and England have developed together over a long period and still have fundamentally similar approaches. So a discussion in Westminster Hall has reverberations in the debating Chamber at Cardiff bay. Every parent and teacher in London, Llanelli, Bridgend or Birmingham has concerns about classroom behaviour.

At the outset, it is important to note that although the tabloids will rage about this issue, our classrooms are not in anarchy. However, the Ofsted report shows that 10 per cent. of secondary schools have unsatisfactory levels of behaviour. We should deplore that, but we should strongly applaud the seven in 10 schools whose pupils' behaviour is deemed good or better, and we should encourage the two in 10 schools that are deemed satisfactory to build on their success and to improve.

Hon. Members must be concerned that one in 10 schools have unsatisfactory standards of pupil behaviour. We must ask where those schools are located. What are their catchments? I am willing to hazard a guess that a disproportionate number are in communities that face the greatest social, cultural and economic challenges. The Minister might want to correct my assumption, but it is a pretty wise guess. If I am correct, there is an added imperative to tackle disruptive behaviour, because the children, teachers, head teachers, governors and parents whom we are failing in the most challenging communities will be the ones whom we most want to help.

The Government have singly pioneered the cause of social inclusion. Year after year and in so many ways, we have proved that we are bold enough to offer radical solutions to creating people's life opportunities. We have acknowledged that the debate has changed. We have put that on record and changed the debate, so that everyone now acknowledges that a good education in early years through to secondary school is of paramount importance to improving life chances. However, that good education can be marred by classroom indiscipline, and the life chances of any child thus diminished.

Just as we have come to recognise the corrosive effect of low-level antisocial behaviour in our communities, there has been recognition, at least in the Labour party, of the destructive power of low-level indiscipline in our classrooms. What might have been termed "having an attitude" a few years ago can be seen in many ways, such as arriving late to class—I warn anyone who might wander in late to this debate that that will be an indication of their classroom tendencies. There is chatting while the teacher talks, of which Mr. Deputy Speaker might also take notice; leaving the school grounds without authority; answering back; abusive language; and annoying and distracting other pupils.

Those might seem minor and relatively unimportant issues on their own—some might say that they are hardly worth bothering about—but they are highly important, as they systematically undermine teachers and support staff; and they destroy the classroom experience for the majority of pupils, who want to learn, and for the majority of parents, who want to see their children benefit from the school experience. We do not want every pupil to be the teacher's pet presenting a shiny new apple every day. However, if some children are themselves the bad apples, the whole barrel can rot from within.

My right hon. Friend the Secretary of State recently argued for zero tolerance of classroom indiscipline. That caused some controversy: the phrase "zero tolerance" caused some to go into a spin. The zero tolerance approach to education in the United States was pioneered in response to acts of violence that often involved firearms and knives, but can we really apply zero tolerance to low-level misbehaviour of the sort that I have described?

Critics argue that the concept of zero tolerance in the classroom is singularly unhelpful. It suggests punishments for minor infringements of behaviour that are far too severe. It implies a draconian approach to classroom discipline. It smacks of a clampdown. It treats all offences equally severely, and it does not recognise different levels of indiscipline. Importantly, it does not recognise that solutions should be tailored to the individual needs of the child. Yet I strongly believe that the concept and language of zero tolerance have a significant role to play—and it does not have to be to the exclusion of other complementary approaches.

Saying that all types of classroom misbehaviour, no matter how severe or minor, are not to be tolerated and will be dealt with is not incompatible with saying that the response to different types of misbehaviour will differ in scale and complexity. Zero tolerance and a flexible, tailor-made response to each pupil's needs are not incompatible.

That approach could and should build on the good work already being done in the best local education authority areas and among the best schools, which share

*[Huw Irranca-Davies]*

good practice. Solutions to misbehaviour should involve flexible discipline plans, formulated with the help of teachers, parents and pupils. They should involve excellent in-school, on-site support, to avoid the possibility of exclusion. We know too well the slippery slope that leads from school exclusion to a more fundamental social exclusion, and on to criminality. It is far too obvious to be ignored. Not taking steps to avoid exclusion also has costs. We should encourage schools to work together to develop active, engaged pupil referral units—units that work intensively with schools to re-engage the pupils with mainstream education.

All of those approaches are essential; and without them, talk of zero tolerance is meaningless. With them, however, zero tolerance takes on a new life. It sends out the clear message that we are on the side of teachers and of children. We should have zero tolerance not only of violence and abuse in the classroom but of low-level indiscipline by the few, which can disrupt the class and destroy the learning experience for others.

The message of zero tolerance signals that the Government believe that authority should be invested in the teachers, that classroom discipline is with the teachers, and that we trust the teachers to carry out that important role. The political signal is crucial but, as stated, it has to be backed by a parallel policy of co-ordinated, flexible support for the child and sometimes for the parents, to ensure that exclusion is avoided whenever possible.

Let us be clear, however, that exclusions have a role. We cannot do as Opposition spokesmen suggest and take away review panels and exclusions. Just as head teachers must have the backing of politicians to exclude pupils as a last resort to protect their staff, other children and the learning experience and ethos of the school, so should the child and the parents have the fundamental right to challenge the decision of a schoolteacher and a board of governors to exclude. In that way, on the rare occasions—and they are rare occasions—when the decision to exclude is questionable, it can be challenged and overturned if necessary.

Currently, the Opposition parties claim that the exclusions policy is in disarray owing to successful challenges. They would argue that every successful challenge diminishes the authority of the teacher, the head teacher and the governors, and also diminishes the culture of discipline in the school. If I were a teacher, and a pupil of mine were to argue that in an essay entitled, "The standards in our schools and the youth of today", my response would be to summon that individual to my office, order them to do extra homework and more research, and tell their parents those dreaded words, "Could do better."

In fact, as the Opposition know full well, only one in 50 appeals against exclusions is successful. Putting on my maths teacher hat, that means that 98 per cent. of exclusion decisions are deemed valid and appropriate. That is not an exclusions policy in chaos. Exclusions have a vital role to play. Would any MP seriously tell the parents in their constituency that, when their darling son or daughter is threatened with exclusion, there is no recourse to appeal, and that that is only natural justice? I hope not, but I suspect that over the next few months my hopes are likely to be dashed.

Zero tolerance is a message not only for children and teachers but for parents. I know the implications of that all too well. I have three boys in primary school; they will grow up into teenagers and, if they are anything like me, heaven help us. I have triple the potential for disciplinary slip-ups as time goes on, especially when they get into comprehensive school and discover girls and parties. I therefore do not say what I am about to say lightly, but it needs to be said. Parents must take responsibility for the education of their own children as much as teachers do—in fact more so. By their own words and actions, parents can either reinforce or tear down the school's approach to discipline.

One day, in a school in my constituency—a school that has a very good track record on discipline and behaviour—I watched in amazement as a parent charged into the reception area while I was waiting for a meeting, towing behind him quite roughly a clearly distraught child who was in tears. The child was embarrassed and humiliated. He watched his father launching a tirade of abuse against the school secretary—abuse that would not have been out of place after the 9 o'clock watershed. He issued threats and accusations over a relatively minor issue that could easily have been sorted out. A teacher then came out to deal with him, and again I was amazed at the abuse and vitriol that he hurled at teaching staff in a public place.

I can understand a parent who comes to school with valid concerns and raises them—we try to encourage that—or someone who argues on behalf of their child with the teachers or the head teacher. However, what message would a child witnessing such an exchange take away about the authority of the school and the status of the teachers and school staff? What strategies did that child learn about how to tackle issues? He might himself want to challenge the teacher at some point, having learned that the appropriate way was to shout and harangue—not to listen, but to hurl abuse and invective, and not to show respect, but to denigrate those who should have some authority within the school. That is why I am adamant that, as well as the soft approaches of support for children and parents, and the harder measures to deal with children, such as exclusion, there must be similar packages to deal with parents.

We face a mixture of challenges. Some parents do not have the appropriate skills to parent effectively, and they do not know how to instil discipline in their own children or how to set boundaries for them. Such parents can and should be offered support and active intervention to help them to develop those skills. We should make much more use of parenting programmes. I know that the Government are committed to that. Parenting programmes are a classic example of something for which we are accused of being a nanny state and intervening, but they work very well, helping parents to turn around their approach to their children and to parenting.

Such softer support mechanisms have to be reinforced with firmer measures. They should include sanctions and penalties. It is no good pretending that support measures, coupled with the good will of the school and agencies, will be sufficient to convince every parent of the need for discipline and of the role that they have to play. I applaud the Government's commitment to further the use of stronger measures. Those have to

include, as a last resort, parenting orders administered through the courts and penalty notices for truancy. There has to be more willingness to use those measures.

It is right that teachers demand of the Government and politicians at all levels that we put appropriate mechanisms in place to assist with classroom discipline, and that we put ourselves firmly on the side of teachers and children. We must support teachers and give them the message that we trust them to get on with using the measures, flexibly and with autonomy, to meet the needs in their schools. However, zero tolerance is an important message in setting that agenda and the benchmark of the type of discipline that we expect.

We have a right to expect that those approaches should be used. Schools and local education authorities should be allowed flexibility and autonomy but they should not be allowed to leave any appropriate tool unused in the toolbox. The adage that a bad workman blames his tools could be rephrased as a bad workman is bad because he does not use the proper tools at the appropriate time. We can innovate; we have seen it already in schools across England and Wales. There is the yellow card system, for example, and the idea that boundaries for behaviour are clearly set for children. It is not a simple knee-jerk reaction, with one penalty fitting all. There is a warning system that shows that children are stepping over the line.

Crucially, while we talk about zero tolerance, we must recognise that children face different challenges. Some have emotional needs; they need help and support. Some are not getting the parental support that they need. Some, quite frankly, do not know what the boundaries of acceptable behaviour are. All of those approaches have to be available in that toolbox and used.

How do we make progress? Further support for teachers in the classroom is undoubtedly necessary, as is support on school sites, so that children are not excluded too readily and we can try to turn the situation around and keep them within mainstream education. Learning support units, which the Government are pushing strongly, are to be welcomed. They need to be used more frequently in more local education authority areas. Schools should be encouraged to exclude where appropriate as a last resort, and backing should be given to head teachers and governors to do so. There is good practice in pupil referral units in England, as there is in Wales, but it is not consistent. We need to push much harder to ensure that, if local education authorities are not developing the resources and expertise, schools work together as consortiums to try to do so. Parental support and parental penalties are also important.

This approach needs some holistic thinking, using all the measures available. The Government and politicians should be unafraid to say not only that bringing weaponry into school and the physical abuse of teachers will not be tolerated, but that boundaries will be set for low-level misbehaviour in class. That will undoubtedly improve the life chances of the children concerned. Correspondingly, if we fail to do that and if schools fail to play their part, they will fail the children in their charge.

I look forward to the Minister's response. This issue is of fundamental importance, and should be considered as such by the Labour Government, who have been so good at tackling social inclusion issues. If we get things right, especially from a grass-roots level, with schools and LEAs consistently taking part, we will deliver a major service, particularly to our most disadvantaged communities, whose schools face the greatest challenges.

3.50 pm

**The Parliamentary Under-Secretary of State for Education and Skills (Derek Twigg):** I congratulate my hon. Friend the Member for Ogmore (Huw Irranca-Davies) on securing this important debate on what is a crucial area of education. He expressed well his concern, interest and knowledge of the subject.

We take behaviour in schools seriously, and we are the first Government to do so. We have invested a great deal of money in improving behaviour, because we believe that every child has the right to the best possible education, to enjoy learning in a positive environment, to achieve, and to make the best of their life. That applies to every child, not just a few.

Everyone thinks that they know what to do about behaviour, and a lot of ill-informed comments are made and simplistic solutions suggested. Many suggest that most children are disorderly, even out of control, and that behaviour is getting worse all the time. That simply is not true. Ofsted tells us that more than 90 per cent. of behaviour in secondary schools is just satisfactory or better. Schools are often the most secure and stable environment in the communities that they serve.

We know that there is a long way to go. So far, we have taken a two-pronged approach to the issue. First, we have addressed the most challenging areas through the behaviour improvement programme—involving about 1,500 schools that face serious behaviour challenges—through which we provide intensive support in the form of extra learning mentors, learning support units, behaviour and education support teams, and police in schools. The programme will be extended to a further 500 schools later this month.

As my hon. Friend said, there are issues of social disadvantage in relation to behaviour, but that should not be an excuse. Many schools are achieving against serious odds. Brinkburn school draws most of its 920 pupils—one third of whom are entitled to free school meals—from surrounding housing estates in an area of high unemployment and deprivation. It is part of the excellence in cities initiative and the behaviour improvement programme, and has suffered the usual range of behaviour-related problems, which led to a high rate of exclusion. However, the latest Ofsted inspection rated the behaviour of pupils at Brinkburn school as "very good". It stated:

"Relationships are very good and collaboration is a strong feature of the school".

It went on to say:

"Enthusiasm for the school by the majority of pupils is very high."

Improvements in behaviour are reflected in the reduced number of exclusions. In 1998–99, a total of 178 pupils had fixed-term exclusions and 11 were permanently excluded. Those figures have steadily fallen. In 2003–04, 108 pupils had fixed-term exclusions and three were permanently excluded. In the current year, so far only nine pupils have had fixed-term

*[Derek Twigg]*

exclusions and only one has been permanently excluded. Those figures effectively represent half-yearly results and put the school on course to far exceed the BIP targets for the year, which are 70 fixed-term and three permanent exclusions.

The professionals, who are the real experts, tell us that their top priority is to continue the support to end low-level classroom disruption, to which my hon. Friend referred. Therefore, the second part of our strategy is to provide all secondary schools with training, materials and extra expert support to tackle the behaviour issues that schools identify as their top priorities. Schools can deal with the great majority of behaviour problems through good teaching, and good behaviour policies and procedures. We are giving them the tools to do so and to improve things.

As my right hon. Friend the Secretary of State said last week, there are things that we just cannot tolerate: we cannot let pupils arrive at classes with the wrong attitude; we do not want pupils whose thoughts are elsewhere when they should be on their lessons; and we cannot accept such pupils disrupting teaching by annoying their classmates. Every pupil and teacher has the right to expect a safe, secure and orderly classroom, so that teaching and learning can flourish.

My hon. Friend talked about zero tolerance. I am talking about a zero tolerance policy under which any incident and any level of bad behaviour is dealt with promptly and appropriately. Zero tolerance is about creating a climate in a school where everyone—pupils and staff—shows respect for each other and for each other's work. That does not mean excluding more pupils. Schools that involve parents and the whole school community in creating their behaviour policy are less likely to have to exclude pupils. Zero tolerance means zero tolerance of the behaviours that disrupt pupils' learning, not of pupils themselves. That is why my right hon. Friend the Secretary of State announced the additional things that we will do.

The great majority of schools are effective in this respect; they have agreed a clear behaviour policy, which is respected and supported by the whole school community and developed with parental and pupil involvement. For secondary schools where Ofsted finds behaviour unsatisfactory, we are working with local authorities to ensure that schools develop plans to improve the situation as a matter of urgency, and to ensure that specialist help for improving behaviour is channelled to those schools straight away.

It is not a job just for schools; we must all offer our full support to head teachers, who are striving to promote good behaviour. It is imperative that parents support the school's behaviour policy and do not automatically assume that when their child is punished he or she must be in the right and the school in the wrong. Above all, it means parents taking responsibility for their children's behaviour.

It is not easy for some parents to manage their children's behaviour and there is help and support available to help parents to do that more effectively. Schools and local authorities are being encouraged to engage with parents and to guide them towards sources of help when their children persistently misbehave in school, using home-school agreements and, in cases of exclusion, the parenting contracts that we have introduced. When parents are unwilling to engage, it is right that we take action to ensure that they do so, through parenting orders administered by the courts.

We want every secondary school to have access to a wide range of high-quality support in and out of school. In the classroom, most teachers can manage most forms of poor behaviour and, as I said, we have done a great deal to help to develop those skills, through our key stage 3 behaviour and attendance materials, for example.

**Huw Irranca-Davies:** Will the Minister on behalf of the Secretary of State undertake to ensure that discussions take place with the Welsh Assembly, so that best practice can be disseminated on both sides of Offa's Dyke—not so that in Wales they follow what we are doing, but so that we can learn from each other's experience?

**Derek Twigg:** My hon. Friend knows that we are keen to promote best practice, and I shall come to why that is important.

Some children need more; for those at risk of exclusion, support needs to be available within the school but outside the classroom. Schools should have access to approaches such as learning support units, learning mentors and behaviour support teams, which have shown their value in helping young people with challenging behaviour and those at risk of exclusion. The support systems within schools have a vital role in helping head teachers to promote good behaviour, but sometimes they are not enough. We continue to support the right of head teachers to exclude children from school when they need to.

It has been suggested that the existence of appeals panels undermines the rights of heads to exclude; that is nonsense. Exclusion appeals panels provide a safety net for parents and, crucially, keep exclusion decisions out of court and avoid all the extra stress and bureaucracy that that would cause. Less than 2 per cent. of head teachers' decisions on exclusion are overturned by appeals panels ordering the reinstatement of the excluded pupil.

We want to provide quality education for every child, even those who have been excluded. We need a high quality of out-of-school provision that continues their education and deals with their behaviour issues. As part of the local authority-led reviews, local authorities and schools are looking at the adequacy of provision for excluded pupils provided in pupil referral units, for example, or by voluntary organisations. We expect groups of schools increasingly to act as the commissioner for such provisions, purchasing them from local authorities or from the voluntary sector. By exercising their collective buying power, groups of schools will be able to use customer pressure to drive up the quality of provision outside schools and for challenging pupils.

The aim for excluded pupils is that they can eventually return to the classroom when their behavioural problems have been addressed. We remain convinced that schools collectively taking responsibility for such pupils is the right thing to do. It is completely

unfair when weaker schools, which are unpopular and have spare places, are required to take all the hard-to-place pupils in an area, which makes it even more difficult for them to bring about the improvements that they need to make. It is also unfair if vulnerable children, such as looked-after children, are denied access to better schools—

**Mr. Deputy Speaker:** Order. We come now to the final debate this afternoon.

## Jeremy Bamber

4 pm

**Mr. Andrew Hunter** (Basingstoke) (DUP): At 7.35 on the morning of 7 August 1985, officers of the Essex constabulary forcibly entered White House farm, Tolleshunt D'Arcy, Essex. After a search of half an hour, they had found five bodies; those of Neville Bamber, his wife, June, their adopted 28-year-old daughter, Sheila Cafell, and her twin six-year-old sons. At approximately 3.15 that morning, the Bambers' 24-year-old adopted son, Jeremy, who lived in a neighbouring village, had called the local police informing them that he had heard from his father saying that his sister, Sheila, had gone crazy and had a gun. Jeremy Bamber met the police at the farm at about 3.40 am. The police initially believed that Sheila, who had a history of mental illness, had committed four murders before shooting herself, but members of the extended Bamber family soon started trying to convince the police that Jeremy was responsible. In due course, he was arrested, charged and convicted.

The trial was unusual. The judge ruled that only Sheila or Jeremy could have committed the murders. Consequently, a major thrust of the prosecution case was to demonstrate that Sheila could not have been responsible and that Jeremy was therefore guilty. It was a near-run thing; the jury convicted Bamber on a 10:2 majority vote. If just one of 10 jurors had wavered, Bamber would have walked away a free man. Instead, he has been incarcerated for 19 years, consistently protesting his innocence. Subsequent developments, particularly during the past 12 months, have given rise to grave concern that Bamber's conviction may be another of the great miscarriages of justice, to be bracketed with the Bridgewater Three, the Birmingham Six, the Guildford Four and others.

With the Bamber case, the key issue has been, and remains, the non-disclosure of evidence to the defence. Early in 2004, Bamber's new defence team looked at the evidence again, and exhibit 29 caught their attention in particular. It was a document listing some radio messages from the scene of the crime. The defence wondered whether it might be the first page of a longer document rather than a complete document in itself, so they sought clarification. Essex constabulary was adamant that exhibit 29 was a whole document and had been available to the defence for the trial. Unconvinced, Bamber's defence team took the matter to court in March 2004. It was successful, and the police produced the entire document. Exhibit 29, it transpired, was not a single-page document, and Bamber's solicitors received by fax a 24-page summary of radio communications. They then took the unusual step of writing to both the trial judge and the chief prosecution counsel, inquiring if either had known at the time of the trial of the existence of the lengthier log of radio messages. Both replied that they had not.

On receiving the 24 pages, the defence immediately noticed that the first two pages had not only been re-written on different paper from the rest, but had been edited. A comparison with police witness statements revealed that several key radio messages that were made had been left out. Why? The defence therefore asked for the original document so that it could be sent for electrostatic document analysis testing, but Essex

*[Mr. Andrew Hunter]*

constabulary refused. The request has been repeated many times, and on each occasion the constabulary has refused.

The disclosure of the radio message log was not the only dramatic development last March. Bamber's defence had requested only one document. However, perhaps inadvertently, the police also provided evidence that had not been requested—pages from a contemporaneous telephone log and from a contemporaneous incident report. The defence had not known that either existed. It was immediately apparent that the two logs and the incident report that the police had withheld contained details that were entirely inconsistent with the case put by the prosecution at Bamber's trial. I will give just two examples; others might be used by Bamber's defence on another occasion.

First, at 5.25 am, officers in police car call sign Charlie-Alpha 7—the same officers who had met Bamber at White House farm and spent much of the time with him—relayed a message from the tactical firearms team to incident headquarters. The firearms team was in conversation with a person inside the farm. If the police were in conversation with somebody inside the farm at 5.25 am, the case against Bamber collapses. He could not have murdered everybody in the farmhouse before 3 am if at 5.25 am the police were talking to one of his supposed victims. If, on the other hand, the police were in conversation with a third party inside the farmhouse, the judge's ruling that either Jeremy or Sheila and nobody else could have committed the crimes is blatantly wrong. However, neither trial judge nor prosecution or defence had any opportunity to evaluate the 5.25 am entry, because the police had withheld it.

Secondly, four entries in the logs and incident report flatly contradict the prosecution's account that Neville Bamber's body was found downstairs in the kitchen and the other four bodies upstairs. An entry in the radio message log, which the police withheld for nearly 19 years, reads:

"0737: one dead male and one dead female in kitchen".

The telephone message log, which the police withheld for nearly 19 years, records:

"0738: one dead male and one dead female found on entry",

and at 7.40 am, the incident log, again withheld by the police for nearly 19 years, records a message from a Detective Inspector "IR"—we know only his initials—which. said:

"Police entered premises. One male dead, one female dead".

We know from their witness statements that at 7.40 am the police had not yet gone upstairs and searched the back of the house, where the other bodies were found. Finally, after they had eventually searched that part of the house and finished their task, they reported:

"House now thoroughly searched by firearms team. Now confirmed a further 3 bodies found".

So, almost immediately on entering the farmhouse, the police had found two bodies downstairs in the kitchen, and later three more bodies had been found upstairs. Most emphatically, that is not what the prosecution said during the trial.

The defence team believes that it probably now knows what happened. It believes that the body of Sheila Cafell, which the police insist that they found upstairs, had first been seen downstairs in the kitchen. Of course, dead bodies do not move. The proposition that Sheila Cafell was still alive when the police thought that she was dead in the kitchen might be dismissed as entirely fanciful if there were not supporting photographic evidence—photographic evidence that was not disclosed until 2001. Unfortunately, Bamber's previous defence did not recognise its significance before his 2002 appeal.

Before the trial in 1986, Bamber's defence had access to a large bundle of scene of crime photographs, which included photographs of the dead bodies. In the cases of June and Neville Bamber, rigor mortis is evident, as is skin discoloration, and the blood is congealed. The defence wrongly assumed that the first bundle contained all the photographs that had been taken. Before the 2002 appeal, however, the defence team was shown another, smaller bundle of 80 to 100 photographs that had previously been withheld.

At Bamber's trial, the prosecution argued that if Sheila had committed the murders and then killed herself, she would have trodden in blood as she moved about the house; but no trace of blood was found on her feet. Interestingly, no photographic evidence was produced at the trial to support that assertion. Curiously, the first bundle of photographs contained no pictures of Sheila's feet. That is not so with the second bundle of photographs, which were withheld. In that bundle were photographs, which were not available at the time of the trial, clearly showing blood on Sheila's feet.

The withheld second bundle contains even more dramatic evidence. There are several photographs of Sheila—there is no rigor mortis, the skin is not discoloured and the blood from her wounds has not yet congealed. Bamber's defence team have shown those photographs to leading pathologists. Independently, they have concluded that Sheila could not have died much more than one and a half hours before the photographs were taken. However, the police photographer did not arrive until a little after 9 o'clock. According to the pathologists, therefore, Sheila died at about the time the police entered White House farm, and Bamber could not have murdered her.

The points that I have made—I could make many others if we had more time—give rise to grave concern about Bamber's conviction. Their common theme is the non-disclosure of evidence by the police. Nearly 16 years after the White House farm murders, the defence first saw the second bundle of photographs. After nearly 19 years, the defence team discovered that there was a full radio log, a telephone log and an incident report, of which it had previously been unaware. It is the understatement of all understatements to say that such non-disclosure is deeply worrying. Even worse, it is still going on.

Bamber's defence team has repeatedly asked for access to the following: first, the notebooks and other papers of Inspector Jones, who headed the initial investigation and firmly believed in Bamber's innocence; secondly, the findings of the coroner who inquired into Inspector Jones's sudden death, which have never been made public; thirdly, the audio recordings of all telephone and radio messages from White House farm; fourthly, the audio recordings describing the scene of the crime; fifthly, the video

recordings of the scene of the crime; and sixthly, the original radio and telephone messages log and incident report. All are still being withheld from the defence. On every occasion on which the defence team has asked for them, Essex constabulary has refused to provide them. I put it directly to the Minister—and ask her to respond—that that is surely an intolerable state of affairs.

In December I tabled a written question asking the Home Secretary to instruct Essex constabulary to give Mr. Bamber's solicitors all audio tapes relating to events at White House farm. The Minister for Crime Reduction, Policing and Community Safety replied:

"The disclosure of information held by Essex Constabulary is a matter for the Chief Officer of the force".

Unfortunately, the chief constable has made his position clear: he will not co-operate. One wonders why not. The Minister also stated in her reply:

"If the information requested is available under the access provisions of the Data Protection Act 1998 or the Freedom of Information Act, then Mr. Bamber may have his own rights to gain access to such information under this legislation."—[*Official Report, House of Commons*, 21 December 2004; Vol. 428, c. 1556W.]

Those possible rights have been explored, but appear not to exist. It is now time for the Home Office to take matters seriously, and consider carefully not only the few points that I have made, but the whole Bamber affair. In particular, it should look at the issue of non-disclosure and the behaviour and attitude of Essex constabulary. It is also time for the Criminal Cases Review Commission to expedite matters so that the case of Mr. Jeremy Bamber is not left in judicial limbo. Such action is necessary to avoid perpetuating what a growing number of people fear may be one of the greatest miscarriages of justice of our times.

4.16 pm

**The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart):** I thank the hon. Member for Basingstoke (Mr. Hunter) and congratulate him on securing this debate on the important and, in many ways, sensational case of Jeremy Bamber, who is currently serving a life sentence for the murder of his adopted parents and sister and her twin sons.

The hon. Gentleman has stated that he believes that the Home Office should look closely at the Bamber affair, and in particular at the issue of non-disclosure and the behaviour and attitude of Essex constabulary. I shall begin by saying that, on previous occasions, the Home Office has looked closely at the Bamber affair, as have the constabulary and the City of London police, following a complaint by Mr. Bamber to the Police Complaints Authority under the previous system. Its 14-month study did not uphold Mr. Bamber's complaint. Since then, there have been reforms to the Police Complaints Authority, and I do not know whether Mr. Bamber has made a further complaint to the new Independent Police Complaints Commission. Perhaps, however, it would help if I explained the recent handling of requests to review cases such as Mr. Bamber's, because that is relevant to the points raised by the hon. Gentleman.

The 1993 royal commission on criminal justice recommended that the responsibility for re-opening cases of suspected miscarriages of justice should be

"removed from the Home Secretary, and transferred to a body independent of Government."

Parliament agreed with that when it passed the Criminal Appeal Act 1995, setting up the Criminal Cases Review Commission. Accordingly, the Home Secretary's powers to consider alleged miscarriages of justice ended on 31 March 1997, and were replaced by new powers vested in an independent body, the CCRC. It has the power to review and supervise investigations into possible miscarriages of justice in England, Wales and Northern Ireland; to approve the appointment of investigating officers; to gain access—I emphasise this—to documents and other material that may be relevant to its investigations; and to refer any cases when there is a real possibility that the conviction or sentence will not be upheld to the appropriate court, which will treat the referral as a new appeal.

The Home Secretary is answerable to Parliament for the work of the commission, but as it is operationally independent, he cannot intervene in its determination of a particular case. That being so, in many ways, it is not within the Home Secretary's remit to examine Mr. Bamber's case. I recognise that the hon. Gentleman is asking not for a general re-examination of the case, but for a particular investigation of the role of Essex constabulary. Further allegations of non-disclosure by the Essex constabulary are a matter for the CCRC, rather than for the Home Office, because non-disclosure can be a ground for the CCRC to refer a case back to the Court of Appeal. The commission referred Mr. Bamber's case to the Court of Appeal in 2001, following an earlier investigation, but those grounds were not based on non-disclosure. Mr. Bamber's solicitor added a number of non-disclosure arguments at the appeal hearing, although they were dismissed by the full court.

I understand that the commission has recently been asked to investigate the new allegations, and I can confirm that under section 17 of the Criminal Appeal Act it has the power to gain access to documents and any other material that may be relevant to its investigations. I have been told that there are something like 4 million items of material in this case, so there is a large range of matters that the commission needs to investigate. If it has not already done so as part of its earlier review of the case, which resulted in the unsuccessful appeal in 2002, it may, if it believes it appropriate, obtain the material to which the hon. Gentleman has referred.

It would be inappropriate for the Home Secretary to become involved in this or any other alleged wrongful conviction. The safety of the conviction is a matter for the courts rather than the Home Secretary. Accusations about the Essex police are a matter for the chief constable of the force or the new Independent Police Complaints Commission. There is an important public policy reason why both the Criminal Cases Review Commission and the Independent Police Complaints Commission are independent of the Home Office: to create public confidence in those authorities.

Mr. Bamber is of course aware of the Criminal Cases Review Commission's remit, as his second appeal in October 2002 followed its reviewing his case and

*[Fiona Mactaggart]*

referring it back to the Court of Appeal on 23 March 2001. In that case, the Court of Appeal did not find that there were sufficient grounds for finding the conviction to be unsafe. In its judgment, the court went so far as to say:

"It should be understood that it is not the function of this court to decide whether or not the jury was right in reaching its verdicts. That is a task that is wholly impossible in virtually every case because this court does not have the advantage of hearing and seeing the witnesses give evidence, and deciding which of the witnesses are trying to tell the truth and which of those who are trying to do so are accurate in their recollection. Our system trusts the judgment of a group of 12 ordinary people to make such assessments and it is not for the Court of Appeal to try to interfere with their assessment unless the verdicts are manifestly wrong, or something has gone wrong in the process leading up to or at trial so as to deprive the jury of a fair opportunity to make their assessment of the case, or unless fresh evidence has emerged that the jury never had an opportunity to consider.

We have found no evidence of anything that occurred which might unfairly have affected the fairness of the trial. We do not believe that the fresh evidence that has been placed before us would have had any significant impact upon the jury's conclusions if it had been available at trial. Finally the jury's verdicts were, in our judgment, ones that they were plainly entitled to reach on the evidence. We should perhaps add in fairness to the jury that the deeper we have delved into the available evidence the more likely it has seemed to us that the jury were right, but our views do not matter in this regard, it is the views of the jury that are paramount."

It is open to anyone to re-apply to the Criminal Cases Review Commission if they can present an argument or evidence not raised in previous court hearings or demonstrate that the case would, exceptionally, otherwise merit a reference back to the Court of Appeal. I am informed that Mr. Bamber's solicitor reapplied to the commission in March 2004. I understand that the commission reached a provisional decision but that his solicitor has since provided further material that will take time to investigate. I am confident that the commission is dealing with the further application both fairly and thoroughly.

It is neither in my remit nor in that of the Home Secretary to consider the said to be newly discovered police logs or any other new evidence that may have been made available to the commission. However, the commission can ask for that material and assess whether it demonstrates that the concern expressed by the hon. Gentleman that there has not been a fair trial is sufficient to merit re-referring the case to the Court of Appeal.

I believe that it is at best premature to discuss a call for a further inquiry into the suggested withholding of information by the Essex constabulary. At the second appeal, the court found no evidence to support Mr. Bamber's allegations of serious wrongdoing, including deliberate non-disclosure, by the police; nor did the results of the internal inquiry and the 14-month investigation of Mr. Bamber's complaints by the City of London police confirm that there was any justification to Mr. Bamber's allegations.

I understand that there is no current recorded complaint to the new Independent Police Complaints Commission. If there is a complaint that the police are deliberately withholding material, that is the proper authority to deal with the matter. Only if a third appeal contradicted the earlier findings of the re-referral and of the previous court might it be reasonable to consider whether an inquiry was needed into how the matter had come to that pass.

Before us is a concern that evidence has not properly been made available to the body that is rightly charged with judging it. There is an independent body, which is sifting through that evidence and which has the powers, given to it by Parliament, to call for that evidence if it believes that it is in any way relevant to the case for a re-hearing by the Court of Appeal. It is doing that job. I urge the hon. Gentleman to depend on that process. The Criminal Cases Review Commission has been pretty efficient at dealing with the matters before it.

**Mr. Hunter:** Is not the point that the CCRC may be evaluating submissions from Mr. Bamber's solicitor and has the power to request evidence, but the defence does not? The defence's submission to the CCRC is the weaker, because it does not have access, or powers to gain access, to the evidence that the police are allegedly denying it.

**Fiona Mactaggart:** The hon. Gentleman points out that these are allegations. The record of the CCRC in its independent role is good. It has referred a number of cases back to court. I do not have the figures before me, but I think that, to date, there have been more than 60 cases in which the judgments of previous courts have been overturned as a result of its work. The CCRC is not anybody's patsy. It has the power to require the material. It is the mechanism that has the power to ensure reconsideration if a case merits reconsideration. We have established a powerful independent way to deal with miscarriages of justice. If the concern is that there has in this case been a miscarriage of justice, that body must have the opportunity to do its job and to ensure that that matter is dealt with effectively.

*Question put and agreed to.*

*Adjourned accordingly at twenty-nine minutes past Four o'clock.*

# Westminster Hall

*Thursday 10 February 2005*

[SIR NICHOLAS WINTERTON *in the Chair*]

## Obesity

*[Relevant documents: Department of Health White Paper, Choosing Health: Making healthy choices easier (Cm 6374); and Obesity, third report from the Health Committee, Session 2003–04, HC 23, and the Government's response thereto (Cm 6438).]*

*Motion made, and Question proposed,* That the sitting be now adjourned.—*[Miss Melanie Johnson.]*

**Mr. Deputy Speaker (Sir Nicholas Winterton):** I ask the robust Chairman of the Health Committee, the hon. Member for Wakefield (Mr. Hinchliffe), to open our proceedings.

2.30 pm

**Mr. David Hinchliffe** (Wakefield) (Lab): Thank you for that build-up, Mr. Deputy Speaker.

I want to express my gratitude and that of the Health Committee for the opportunity to debate the report, which was produced some time ago; there have been many developments since. I also want to apologise for the length of my speech; a good deal of mischief occurred in connection with the publication of our report, and I want to deal with the relevant matters in detail. I appreciate, too, that there is likely to be a Division in the House in less than 50 minutes.

**Mr. Deputy Speaker:** Perhaps I can be of assistance. I understand that a further Division in the main Chamber will take place at 2.45 pm.

**Mr. Hinchliffe:** I begin with the usual thanks to a range of individuals who were involved in the inquiry. First, I thank everyone who submitted written evidence or gave oral evidence to the Committee; that was helpful and much appreciated. The Committee also appreciated the efforts of those who arranged our visits during the inquiry and contributed to our discussions. I record particular thanks to our specialist advisers for the inquiry, Dr. Laurel Edmunds, Professor Ken Fox, Professor Gerard Hastings, Professor Phil James and Professor Tim Lang. They gave the Committee excellent support and advice.

I want to thank the Clerk's Department scrutiny unit, too, for its analysis of the economic costs of obesity. The unit's support for the Committee and its thorough work are much appreciated; it is a relatively new development and its work is helpful in our deliberations.

I also thank the excellent Health Committee staff; we are well served by a tremendous group of individuals who provide us with excellent back-up. I want to make particular mention of Dr. John Benger, who, at the time of the inquiry, was the Clerk to the Committee but has since moved to another post in the House. I am particularly grateful for his support on the inquiry and on many others over several years. I know that my colleagues on the Committee want me to pass on their good wishes for his career.

The Committee's report inadvertently confused the responsibilities of the Advertising Standards Authority and the Independent Television Commission. The reference in paragraph 111 to the ASA's approval of an advertising campaign for Wotsits should have been a reference to the ITC's approval. The ITC has now been subsumed into Ofcom, and I have written to the ASA about the matter on the Committee's behalf.

Shortly after publication of the Health Committee report on obesity in May the sketch writer of *The Guardian* described me as the

"less than svelte Chairman of the Commons Health Committee".

As svelte is not a word commonly used in the west riding of Yorkshire, I sought advice about its meaning from my constituency secretary, who is multilingual, having been born in Belgium. She advised me that svelte is a term commonly used to describe the waistlines of French women. I took some comfort from that.

The *Daily Mail* sketch writer subsequently described me as "a chip butty man", and matters took a marked turn for the worse towards the end of last year when the sketch writer for *The Times* described me as

"the human equivalent of the Gruffalo",

on account of being

"gruff, hairy and 16 stone".

For one or two members of the Health Committee, our lengthy obesity inquiry was a challenging and painful journey. One member, who is here today, lost the best part of 2 stone and described the process as life-changing. For the tubbies on the Committee, perhaps the only crumb of comfort from that traumatic journey was the ability to measure our body mass index and to proclaim that none of us was obese—well, not quite.

The fact that some of us are horizontally challenged was one factor that led to the Committee's decision to conduct an inquiry. There was also the overall concern that, until quite recently, the public health agenda has to some extent been confined to the political back burner, with what some would describe as side-show events—such as foundation trusts and choice directives—taking centre stage. In the past couple of years, the apparent message from a cross-party perspective has been that the modernisation and refinement of our curative acute hospital sector is the way forward in health, rather than returning to a preventive approach rooted in a radical and vigorous public health policy.

The fact that politicians are usually happier in the comfort zone of hospital sector activity might have led to most of us failing to notice the gradual development of what the chief medical officer described not long ago as the "health time bomb" of obesity. Although the health of the nation targets in 1992 were for fewer than 6 per cent. of men and 8 per cent. of women to be obese by 2005, Department of Health evidence to our inquiry showed that, by 2002, just under 23 per cent. of men and 25 per cent. of women were obese.

**Dr. Howard Stoate** (Dartford) (Lab): It is fair to say—and it is certainly the belief of a friend of mine, David Haslam, who chairs the National Obesity Forum—that the obesity time bomb has already gone off. We are now

*[Dr. Howard Stoate]*

waiting for subsequent bombs: a huge explosion in diabetes and heart disease, and the lives of many sufferers of obesity being shortened by up to nine years. That is of great concern to us all.

**Mr. Hinchliffe:** My hon. Friend is absolutely right, and I shall return to that point in a moment. I pay tribute to the work that he does in the House on a range of health issues. We have a joke that he is the chairman of the all-party group on all-party groups because he is involved in so many, dealing with some very important issues. I wish that he was back on the Health Committee, because he was an excellent member of it.

In addition to the figures that I just quoted, the Department of Health's evidence to our inquiry showed that by 2002, some 43 per cent. of men and 33 per cent. of women were overweight. The same evidence from the 2002 health survey for England showed that one in 20 boys and one in 15 girls were obese, and that one in five boys and one in four girls were overweight or obese. Witnesses to our inquiry said that current trends suggest that about one third of adults will be obese by 2020. If the rapid acceleration of childhood obesity in the past decade is taken into account, the prevalence of obesity in children is predicted to be more than 50 per cent. by 2020.

At least two—probably three—Members present can articulate better than I can the health risks of obesity; indeed, that might form part of certain contributions today. I do not intend to expand on the detailed evidence to the Committee on the various factors that contribute to an average reduction in life expectancy of nine years, but I will underline the Health Committee's estimates of the economic costs, which are worthy of consideration.

With the help of the Clerk's Department scrutiny unit, we established that the direct cost of treating obesity in England in 2002 was between £46 million and £49 million. The cost of treating the consequences of obesity was between £945 million and £1,075 million. The indirect costs of obesity were £1 billion to £1.1 billion for premature mortality, and £1.3 billion to £1.45 billion for sickness absence. The total estimated cost of obesity in 2002 was between £3.3 billion and £3.7 billion. Our report cautions that that should still be regarded as an underestimate.

Our report noted that the analyses were of the 20 per cent. of the population who were already obese. It states:

> "If in crude terms the costs of being overweight are on average only half of those of being obese then, with more than twice as many overweight as obese men and women, these costs would double. This would yield an overall cost estimate for overweight and obesity of £6.6–7.4 billion per year."

Regardless of the health implications for the individual, the economic consequences of the obesity epidemic are frankly staggering. Some have argued that they pose a direct threat to the future viability of our entire health care system.

Against that background—and in view of the seriousness and importance of our key messages—it was a matter of great regret that the comprehensive analysis of causes and solutions that our report offers was narrowed down in some sections of the media to a controversy over our reference to the evidence received from Dr. Sheila McKenzie, the consultant responsible for an obesity service for children at Royal London hospital. Our report faithfully and accurately records her written evidence when it states:

> "Despite only being in existence for three years, her service had an eleven-month waiting list. Over the last two years, she had witnessed a child of three dying from heart failure where extreme obesity was a contributory factor. Four of the children in the care of her unit were being managed at home with non-invasive ventilatory assistance for sleep apnoea: as she put it, 'in other words, they are choking on their own fat.'"

I want to deal in some detail with the circumstances that led to one sentence of Dr. McKenzie's evidence—concerning the three-year-old girl—being taken out of context and being used by certain vested interests to attack me, other members of the Committee and our staff and advisers, and to rubbish our overall conclusions. In making these remarks, I have no desire whatever to add to the distress already caused to the family of that child, but I believe that they ought to be aware of exactly who has used their daughter's sad circumstances and for what purpose.

I want to go back to events surrounding the date of publication of our report. Members of the Committee will recall that it was due to be published on 27 May last year. On 25 May, at about 10 pm, I was telephoned by a journalist from the BBC Radio 4 "Today" programme, who informed me that he had obtained a draft copy of the report and that his programme intended to run it as the lead item the following morning. My strong appeals for him to respect the embargo fell on deaf ears, and I obviously refused his invitation to participate in the programme the next day. However, on 27 May—the date of the report's publication—I made clear my views on the "Today" programme's total disregard for our embargo to the interviewer, Mr. John Humphrys.

During the following week, I was again interviewed by Mr. Humphrys to answer allegations, made in a "Today" programme report, to the effect that the Health Committee had been wrong to refer to the case of the three-year-old, who had allegedly died from a genetic disorder and not from heart failure where extreme obesity was a contributory factor, as we had been told by Dr. McKenzie.

Interestingly, less than an hour after that interview was broadcast, I was telephoned at the Commons by a prominent journalist from the "Today" programme who had detailed knowledge of the background to that morning's story. He wanted me to know that he strongly wished to dissociate himself from the story. At his request, I am not referring to him by name, but I did share his identity in confidence with other members of the Committee at its next meeting.

Anyone who has been around the House long enough will be aware that "Today" programme stories are frequently picked up by other media outlets, and this one ran—

2.45 pm

*Sitting suspended for a Division in the House.*

2.55 pm

*On resuming—*

**Mr. Hinchliffe:** I was saying that anyone who has been around this place long enough is aware that the "Today"

programme's stories are frequently picked up by other media outlets. The story that we are discussing was run by numerous other radio and TV programmes and newspapers—in several instances uncritically. I believed then what I believe now: I was right to state that while I regretted any distress to the girl's family, the Committee had faithfully recorded the evidence that was given. Perhaps my mistake was not to reveal publicly until now the fact that the "Today" programme item was not even believed by one of its journalists, who was privy to the background detail of the story.

I do not have time today to refer to many of the newspaper articles that followed on from the "Today" programme piece, but some are worthy of particular note. The *Daily Mail*, on 10 June, described me as a liar and said:

"The surest sign that a New Labour politician is in trouble is when he blames the media."

I am not sure which is more inaccurate—calling me new Labour or calling me a liar.

It is particularly worth noting that that piece, like those in other, more respected papers such as *The Independent*, states that the Committee claimed the three-year-old "had died of obesity". We did not claim that. We referred to Dr. McKenzie's written evidence, which stated that the girl died from heart failure, where extreme obesity was a contributory factor.

The following weekend, on 13 June, *The Mail on Sunday* ran a lengthy article on our report. It was written by Tom Sanders, who apparently is a professor of nutrition and dietetics at the university of London and head of the research division of nutritional sciences at King's college, London. He is the central figure of this affair and I understand that he was a key source for the "Today" programme story. His article accuses the Committee of

"the deliberate use of a dead child to spark sensationalist tabloid headlines".

To suggest, as Mr. Sanders does, that we made deliberate use of the girl to obtain publicity for the report is utterly disgraceful. Such was the media interest throughout the inquiry that our concern for much of the time was how to avoid press coverage of our deliberations. At one point, we had a formal inquiry on leaks to the press from the Committee. Significantly, the Committee's media release accompanying the publication of the report made absolutely no mention of this girl's case and, as I recall, neither did my introductory statement at our press conference.

Mr. Sanders went on to write that the girl

"died of a rare genetic condition rather than bad parenting, lack of exercise and the promotion of junk food, as the All-Party Committee, chaired by Labour Backbencher David Hinchliffe seemed to imply".

We implied nothing of the sort; we made no comment on the case. He said that we

"had failed to get to the nub of what is really a pretty simple solution: be more active and eat less".

That left me with the opinion that his copy of our report must have had several pages missing; we covered that point in great detail.

Surprisingly, on 19 June the *British Medical Journal* carried a similar piece by Mr. Sanders in which he also implied that the overall direction of our report was somehow influenced by the pharmaceutical industry. His critique of our report in *The Mail on Sunday* article and in the piece for the BBC website is incredibly unfair and flawed. It has no evidence to substantiate the claim that the Committee had been

"covertly duped by the drug companies".

When a member of the Committee staff telephoned Mr. Sanders to ask what his evidence was to support that wild assertion, he stated that the International Obesity Task Force, of which one of our advisers, Professor Phil James, is chair, receives some funding from drug companies. Mr. Sanders seems to have entirely ignored the fact that the Committee's recommendations on drug treatments for obesity are very cautious and occupy only a tiny proportion of the report.

Bearing in mind the fact that, by then, the Health Committee had already determined that the influence of the pharmaceutical industry would be the subject of its next major inquiry, I imagine that the drug companies were as surprised and bemused as we were by that assertion.

Mr. Sanders' general analysis that the Committee focused too much on food and not enough on passive activity levels is absolute nonsense: they are given equal prominence. The fact that he disputes our scepticism about the reliability of food survey data suggesting reductions in calorie intake shows how far removed he is from the scientific consensus.

Given that Mr. Sanders obviously felt strongly about our deliberations, and certainly knew about the inquiry, why did he fail to submit any evidence? Having failed to make any submission, why was he then so determined to rubbish and undermine our report in various ways? In his article in *The Mail on Sunday*, he is particularly critical of the advice obtained by the Committee in the inquiry, implying that its members had almost been led by the nose in the wrong direction.

It is a great pity that Mr. Sanders nowhere refers in his various published criticisms of me, the Committee, its advisers and our report to his real reasons for being so vigorous in his attacks. First, I am confident that part of his motivation was professional pique at not having been re-employed by the Committee as an adviser, coupled with a personal animus against other advisers, especially Professor Tim Lang, whom he attacks in one of his pieces. Secondly, and more importantly, Tom Sanders acts as an adviser and consultant to the food industry, and was obviously wheeled out to do a hatchet job on its behalf. It is a great pity that the journalists and media outlets who peddled his line did not take the trouble to check on his pecuniary interests first.

I apologise, Mr. Deputy Speaker, for dealing with this matter at such length, but in nearly eight years of chairing the Health Committee I have never experienced such a deplorable attempt to undermine our work and integrity.

I turn to the Government's response to the report, as it is appropriate to comment on how long it took them to respond. Obviously, the Committee was well aware that, following the publication of our report, discussions on the public health White Paper would result in some delay to the usual two-month response time, but it was some considerable time after the November publication of the White Paper that we finally received the specific response to the report.

*[Mr. Hinchliffe]*

Having said that, I welcome the fact that the Government have listened to several of our key concerns. Colleagues will recall that at paragraph 181 of the report the Committee recommends that the Government should not only concentrate on informing choice, but "make healthier choices easier". That key tenet of the Committee's report was used by the Government as a subtitle to its White Paper, "Choosing Health: Making healthier choices easier".

The Government response acknowledges that the Committee's report was central to their White Paper, which identifies the reduction of obesity as one of their six priority areas. Important recommendations accepted by the Government include a cross-Government campaign to raise awareness of obesity; a review of the marketing and promotion of food, with the possibility of introducing tighter legislation if voluntary agreements do not work; and—one that I strongly welcome—the introduction of a standardised food labelling system.

We, across the Committee, welcome the Government's commitment to improving food labels and to introducing a simple coding system, which, as is noted in the new public health White Paper, would be promoted by the UK as a European Union scheme during its presidency. The excellent work already undertaken by the Food Standards Agency on nutritional profiling and the need for a simple "traffic light" system of labelling are to be commended and are in keeping with our recommendations.

Will the Minister assure us that the public interest in and demand for a simple traffic light scheme with integrated messages on the nutritional profile of all packaged foods will be the basis for action, even if, as now, major sections of the food and drink industry attempt to block or refute the validity and usefulness of that approach?

Having referred to Tom Sanders' tactics, I should mention something that I know is going on. It is important that the Minister is at least aware of it, and it should perhaps be addressed. Inside sources—people of credibility in the food industry—have told me of concerns that elements in the industry plan to target Mr. Jonathan Back over this issue. He was the FSA's originator of the profiling work, but he has now transferred to DG Sanco. I understand that elements in the food industry have decided to negate his work and to denigrate him personally as a key part of their strategy to have labelling fudged and to allow any old health claim to be accepted under the labelling scheme.

The one thing that I have learned from the inquiry is that there are lots of interested parties—lots of people with a lot of money—and some tactics have been underhand. I hope that the Minister will look into concerns about that, because we—I am genuinely speaking on behalf of the Committee—want the Government to be able to proceed in the way we discussed in the report.

**Mr. Colin Challen** (Morley and Rothwell) (Lab): The Committee's recommendations on food labelling are quite positive, but does my hon. Friend agree that there should be no loss of information and that existing information should be made clearer, not replaced by the traffic light system?

**Mr. Hinchliffe:** I certainly agree. The Committee's concern was that the size of the labels—never mind their complexity—makes them virtually useless to those of us who are middle aged and who cannot find their glasses halfway round the supermarket.

We need to address the fact that most people do not have the same detailed knowledge as my hon. Friend the Member for Morley and Rothwell (Mr. Challen) and one or two others, which allows them to understand the significance of the various components. It is quite possible for there to be a traffic light system, as well as more detailed information for those who want it, and many companies would accept that approach. The current arrangements, however, are meaningless.

The approach that we saw in Finland was accepted by the food industry and the consumer, and it appeared to work. I know that the Government are aware of what other countries have done. I hope that we can take account of the concerns that I mentioned about the tactics that will be employed against such an arrangement. I also hope that the Government make progress, and I genuinely commend the fact that they have gone along with this idea.

The Government have also made recommendations to ensure that efforts to reduce obesity are reinforced across the Government. That is a key point in our report, and we mention a Cabinet-level public health committee and health impact assessments of relevant policies, including non-health interventions. I warmly welcome the Department's acceptance of the broad thrust of our recommendations, as well as its acceptance of the idea that each primary care trust area will need a specialist obesity service.

The issue of childhood obesity was particularly important for the Committee, and we are pleased that the Government are carrying out a review of school meal standards. Indeed, I believe that the Department for Education and Skills has made an announcement on the issue. We warmly welcome that, because the issue is most important.

However, I must express some disappointment that the Government have not accepted our recommendation to increase the amount of physical activity that children do at school from two hours a week to three. We felt that our recommendation was very modest, and I hope that the Government will look at the initiative that is under way in the Brent area of London, which tries to ensure that children have an hour of activity of some sort or another at the end of every day. I warmly commend that scheme; it is a brave effort. The Under-Secretary of State for Northern Ireland, my hon. Friend the Member for Brent, North (Mr. Gardiner), has been heavily involved in pioneering the project and gave evidence to the Committee.

**Dr. Ian Gibson** (Norwich, North) (Lab): Let me say, as one Chairman to another, that this excellent report is welcomed by hon. Members on both sides of the Chamber and by people throughout society. However, what does my hon. Friend think about the issue of

exercise as against over-consumption of food? Does he agree that they are of equal importance in tackling the dreadful problem of obesity?

**Mr. Hinchliffe:** If I display my pedometer, Mr. Deputy Speaker, my hon. Friend will see that I have taken nearly 13,000 steps so far today. He will also note that I am on the hefty side. We need to address the balance between the two areas he has mentioned. One problem—I might refer to it again in a moment—is that things can be overstated. For instance, one hears things like, "If you wear one of these, you can lose a lot of weight." I exercise at length every day, and I walk miles and miles at the weekend, but I probably need to address other aspects of my personal life to get back to how I was before I entered the House of Commons.

**Mr. Keith Bradley** (Manchester, Withington) (Lab): Think what you would be like if you did no exercise!

**Mr. Hinchliffe:** Yes, indeed.

I return to the Government's response. We were pleased at the introduction of a public service agreement target to reduce childhood obesity—our report stressed the importance of introducing targets on obesity—but we feel that the target chosen, which was to

"halt the year on year rise in obesity among children under 11 by 2010 in the context of a broader strategy to tackle obesity in the population as a whole",

is hardly ambitious.

The Clerk's Department scrutiny unit prepared some background material on that target as part of an analysis of the Department of Health PSA targets, carried out for the recent public expenditure inquiry sessions. It pointed out that the target, rather than calling for a reversal of trends, simply calls for a plateau at 2010 levels. Between 1995 and 2002, the average annual increase was 0.8 per cent. The way the target is constructed means that childhood obesity could increase at that rate for another four years and then plateau, but the target would still be met. If the current rate of increase continued, it would result in a childhood obesity rate of about 19 per cent. Obesity rates could increase faster, and even level off at a higher rate, and the target would still be met.

The situation facing today's children was brought home to me on two occasions last year by events in my constituency. As part of the healthy schools initiative, I was asked to present various play items during a primary school assembly. They included skipping ropes, but I was told that girls were having to be taught how to use them. Some children had requested seats to be provided in the playground; they appeared to have lost the ability to participate in active play.

On another occasion, I was asked to speak at an event drawing together various schools activities under the healthy schools initiative. As part of my contribution, I asked the children present, who were in the year 7 age group, to describe what they did when they returned home from school each day. The message was clear and totally consistent: "I go on my Playstation, I watch TV, I go on my computer, I text my friends or I have something to eat." When I pressed them further, I found that "something to eat" was usually crisps, chocolate or biscuits.

Interestingly, Dr. Rory O'Conor, from the public health directorate at Eastern Wakefield PCT, considered the weight status of pre-school children in Wakefield between 1988 and 2004, and concluded that there is an increasing problem with obesity and being overweight, even with children as young as five years.

**Dr. Gibson:** Does my hon. Friend agree that this is not just a problem of overeating and indulging? Because of the obsession with the body, slimming and eating disorders—this is eating disorders awareness week—are a phenomenon often correlated with obesity. The social pressures on people to lose weight by dieting can lead to anorexia and bulimia.

**Mr. Hinchliffe:** In the work that I did before I came to the House, I had contact with young women who were a good illustration of that. In many respects, those pressures have worsened during the past 20 or so years, so my hon. Friend makes a valid point. Similarly, in a previous inquiry on mental health, the Committee drew attention to the gross lack of facilities available to take account of the problems that women have—young women, in particular—as a result of support being so variable in different parts of the country.

The comments made by the children whom I met last year confirmed so much of what was at the heart of our obesity inquiry. Alongside increasing physical inactivity, we have over the past 20 years seen significant changes not only in what people eat but in how they eat, with snacking and regular fast-food treats becoming commonplace. Wider societal changes, with both partners usually working, mean considerably more eating out and a much greater reliance on convenience food.

We were struck by the fact that we seem gradually to have lost the skill to prepare meals, and by the fact that healthy eating messages are totally swamped by the massive amount of advertising and promotion of energy-dense food, much of which is aimed at children. Given these profound and worrying trends, what can we do?

**Mr. David Drew** (Stroud) (Lab/Co-op): Paragraph 174 of the report deals with the healthy schools initiative. I am particularly interested in the local food chain element and reviving the idea that we can get food locally. We should try to get schools to think about the food chain once again. Many authorities still have their own county farms estates, but they never provide for the county councils or local authorities. If we could get schools to think about the food chain, we would be able to re-educate people so that they would get cooking. Does my hon. Friend agree that that is the way forward?

**Mr. Hinchliffe:** I fully agree. I remember visiting two schools during the inquiry, one of which was a primary school in my area that was part of the healthy schools initiative. The school had started gardening in the school grounds, and some children saw for the first time what vegetables look like when they are growing. Those children had never seen them before. The knock-on effect was a demand from the children for their parents to buy the fresh vegetables that they had become aware of, and in some instances a desire to grow their own food.

*[Mr. Hinchliffe]*

I also went to a secondary school in Boston Spa near Leeds, which is one of the Government's sports colleges and which had transformed the attitude of its pupils to eating. It had, as I recall, made a connection with local food producers, as suggested by my hon. Friend the Member for Stroud (Mr. Drew), so that the youngsters could learn about the entire process of food production, rather than just seeing what was produced in the school canteen.

Concern has been expressed about school tuck shops selling food such as crisps and chocolates. Something else that struck me about Boston Spa was the sight of children queuing for a tuck shop that supplied only fruit—in other words, entirely healthy food. So, the idea that children do not want healthy food is simply not true. If it is available, they consume it. I was very impressed by that school.

To the Government's credit, there are tremendous examples of progress being made through the healthy schools initiative and other initiatives. We need to learn lessons from those examples throughout the country and apply them, because we can do much more. Much good work is being done, which is commendable.

I shall conclude by suggesting where we go now. My first and perhaps most important point, and arguably the most difficult to achieve, is that we must restore public health to the engine room of Government health policy. I hope that we are starting to do that with the public health White Paper. We must shift public health from its position on the margins back to the mainstream. I do not want to ramble on about what happened before 1974, but one or two of us remember public health committees and medical health officers who drove forward health initiatives in local government. We lost a lot when those people were sidelined in health authorities in 1974.

I do not underestimate how politically difficult all this is, because the success of public health measures can take many years to become apparent to the electorate. The benefit brought by current measures might well be reaped by a Government of a different party. I suspect not, but that could happen—many years from now. Spanking new hospitals are a much more noticeable manifestation of so-called progress in health, but it is not easy to convince the public that expenditure on the hard slog of preventive measures is a much better use of taxpayers' money, particularly when such measures are often portrayed as a politically damaging arm of the growing nanny state, as they often are in certain newspapers.

The problem of obesity is undoubtedly a key challenge for the Government in taking forward the public health White Paper, perhaps because more than any other health issue it requires many other Departments to include important public health considerations in their policies.

We pointed to the need to incorporate physical activity into everyone's daily life. We can all wear our pedometers, but our ability to achieve our 10,000 steps a day would be enhanced if the Department for Transport gave the pedestrian more priority than the motorist on occasion. If people could get across roads safely in some of our cities, that would help to encourage walking.

Underlying my point about the resurrection of a public health strategy is an assumption that such a strategy must have at its core the ability to join up policy making. Our proposed Cabinet committee on public heath would, for example, ensure that the Department of Health had a strategic input to transport policy. We need to put an end to the embarrassing contradictions, such as when ministerial blessings are given to children's consumption of energy-dense products in return for the producer's donation of some sports or computer equipment to their schools.

In short, all Departments need to be singing from the same hymn sheet and developing their coherence in individual departmental policy, which is not always there at the moment. We need politically to make the obvious connection between wider global environmental issues and our individual lifestyle choices in terms of car use, for example, which has a bearing on our health and well-being.

There are considerable challenges to be faced in addressing obesity. The biggest is recognising that public health is not just an occasional add-on and should be the central driver of our entire health care system. If the Government fully recognise that following the White Paper, the time we spent on the obesity inquiry will not have been wasted.

3.21 pm

**Mr. David Amess** (Southend, West) (Con): Since I first became a Member of Parliament, the power, influence and importance of Select Committees has grown tremendously. I note that the second paragraph of the Government's response to the Health Committee's report on obesity says:

"We welcome the Committee's thorough and comprehensive investigation of the issues surrounding the growing problem of obesity. It complemented and directly contributed to the consultation and ongoing debate on Choosing Health? and made an important contribution to the development of proposals for action on obesity set out in the Choosing Health–Making healthy choices easier White Paper that we published on 16 November."

The reality is that if it had not been for the Health Committee's inquiry into obesity, today's national and international discussion of the subject would not have taken place.

I choose this moment to pay tribute to the Chairman of our Health Committee, the hon. Member for Wakefield (Mr. Hinchliffe). I regret very much that he is retiring from Parliament, although I understand his reasons for choosing to do so. He has given the Committee great leadership, and it and Parliament will be the poorer for his retiring. I also echo his remarks on the value of the support that we got from our advisors; Dr. John Benger was a superb Clerk to the Health Committee. I entirely endorse our Chairman's views on the leaking of the report, which was regrettable.

The delay in the Government's response to our report was unacceptable and had much more to do with media management than with their duty to respond. I am sure that it was a nuisance for the Department of Health that the Government felt that they should make all manner of announcements. However, their failure to respond in the way that they should have was a discourtesy to the Committee.

A number of individuals and organisations have tried to take ownership of the obesity problem, but there is no quick fix to it. It has not been invented only now or in the past few years; it has been a growing problem. When the history of health care comes to be written, the Health Committee's report on obesity will be seen as having made a fundamental and vital contribution to the health of our nation. I do not believe that it would have been produced were it not for Sue Diebelius and Jackie Cox, from the Obesity Awareness and Solutions Trust, to whose work I shall turn in due course.

The hon. Member for Wakefield has already given the facts and figures on the dangers of obesity, but as I said, there is no quick fix to the problem; we are looking at a 10 or 20-year programme. However, in the light of the Government's response to the Select Committee report, we need to embark on action, and to do so now.

A few weeks ago, the Minister had to listen to my good self during a debate on obesity in young people. She will be relieved to know that I shall not discuss all the issues that I raised then in great detail, but I do want to pick out some of them. I am delighted that all sorts of TV programmes are jumping on the bandwagon, but I hope that the Government keep in close contact with them. For instance, if the BBC "Fat Nation—The Big Challenge" programme is to continue for two years, it would be useful to research its findings in Birmingham.

All Members, I think, will have received a letter from the organisation Breakthrough Breast Cancer. We are advised that being overweight after the menopause increases the risk of breast cancer—an issue that we should not take lightly.

An important part of our report is that dealing with education. The Committee felt that educating our young people on the dangers of obesity was all-important. A few weeks ago, the Minister heard me talk about Sally Lawrence of Outloud Productions and her pioneering programme on getting young people interested in the dangers of eating too much. When we took evidence, there was an interesting exchange involving the Secretary of State for Culture, Media and Sport and an education Minister. I am not sure how convinced the Committee was about the existence of joined-up government, and in the light of the Government's response to our report, I am not entirely convinced that they take this matter sufficiently seriously.

It is a sheer coincidence that, today, there has been an announcement about school meals, and I want to know why the Government have failed to take on board our recommendations 38 and 39, on food at schools, which are very important. The real solution to combating obesity is not physical exercise; rather, the emphasis should be on what we eat and drink.

During the Health Committee's inquiry into obesity, we visited America and saw first hand how the vested interests are in complete denial about how serious the problem is. Only this week, there was a disgusting TV programme on very late at night—I could have turned it off but my older children and their friends were watching—about the fad for making people very fat. One lady has reached 54 stone and another 60 stone. That sick fashion for making people fat says it all. Having listened to Coca-Cola and McDonald's in America, I can easily see how that happens.

It is also obviously sheer coincidence that those minded to take part in this afternoon's debate will have had a letter from Coca-Cola, telling us about all the virtues of Diet Coke. I salute that, but the reality is that if it had not been for the Select Committee report on obesity, the food and drinks industry would not have taken the action that it seems to be taking. The level of salt, sugar and fat in what we eat and drink is all-important in combating obesity.

Last year, I had an exchange with the then Under-Secretary of State with responsibility for schools about the dispensing of snacks and drinks in schools. I hope that the Minister here today will have something to say about progress on that issue. I am sure that curbing the sale of junk foods will encourage youngsters to find healthier alternatives. As I told the Minister a few weeks ago, Southend schools are leading the way in that regard, although I am sure that similar things are happening throughout the country. I fully accept that we should not live under a nanny state, and that it is up to schools' governing bodies to determine their priorities.

In that context, I turn to recommendation 14, which states:

> "Parents, teachers and school governors must all be fully engaged in tackling obesity, which should command a high priority on school board agendas."

I must admit that when the Committee was agreeing our report, I thought "school board" a rather old-fashioned term, but never mind—as long as we get action from our school governing bodies, I shall be delighted.

Southend is leading the way in encouraging young people to lead healthier lifestyles. We have had a walking buses initiative since 1999, and an obesity conference is due to take place at Southend United football club. I will be joining forces with the chairman, Mr. Ron Martin, and a range of sporting celebrities will also be present, as will—I hope—representatives of the food and drink industry. The Obesity Awareness and Solutions Trust—and, coincidentally, a couple of my constituents—have come up with the wonderful idea of an obesity telephone helpline. That is an excellent proposal and I hope that the Government will do their best to encourage it.

I hate the expression "traffic light labelling" but we are stuck with it, so I suppose that I shall have to continue using it. I am pleased that the Government have taken the Committee's recommendation seriously and aim to introduce by the middle of 2005 a system that can be used as a standard basis for signposting food, building on the "five-a-day" logo for fruit and vegetables. As the Chairman of our Committee said—he mentioned glasses and food labelling—we need something quickly that people can recognise as a way to a healthier lifestyle.

Given that many Members wish to speak, I shall draw my remarks to a conclusion. It is an absolute disgrace that TOAST's funding has been withdrawn under section 64 of the Health Services and Public Health Act 1968. The usual ministerial response to letters setting out good ideas is to refer people to the primary care trust. The Government's announcement yesterday gave the impression that huge amounts of money are being given to every PCT in the country. However, I speak from experience when I say that there simply is not

*[Mr. David Amess]*

enough money for the PCT in my area to deliver on all the duties that the Government are increasingly imposing on it. TOAST had plans to build a centre of excellence, run a mobile drop-in centre and produce the *TOAST Bites* journal to help people who, despite dieting and other measures, cannot lost weight and need help badly.

I am proud to have been a member of the Committee, but there is no earthly good in any Select Committee's producing a report, only for the Government of the day to pay it lip service. It is so easy to be swept up in gesture politics—a photo opportunity, a sponsored tea on the Terrace, a public meeting, a letter. What we need from the Government—whoever the Government of the day might be—is serious action on this issue not only this year, but over the next 10 to 20 years. It was not the Government who suddenly discovered that obesity is a problem, but it is they who hold all the cards in terms of power and media manipulation.

I ask the Minister not only to give us a considered response today to the Health Committee's report, but to encourage her colleagues consistently to follow up the Committee's recommendations on obesity.

**Several hon. Members** *rose—*

**Mr. Deputy Speaker:** Order. Before I call the next speaker, I advise Members that we have a fraction over two hours' debating time to go, and I urge them to allow the Minister adequate time to respond. I am referring not only to Back-Bench contributors, but to Front-Bench ones from the Liberal Democrats and the Conservative Opposition.

3.36 pm

**Dr. Ian Gibson** (Norwich, North) (Lab): I can be ultra-brief, because I am a cuckoo in the nest; I am not a member of the Health Committee. However, its Chairman, my hon. Friend the Member for Wakefield (Mr. Hinchliffe) and I work together—and with you, Mr. Deputy Speaker—on the Liaison Committee, and I sympathise with what my hon. Friend says about the media pressures put on his Committee. We have had that in the Science and Technology Committee, too, and perhaps the Liaison Committee can try to do something about it, as good work and excellence emanates from all our Committees.

I will be brief, because I have had the opportunity to ask a couple of questions, and also because I want to give hon. Members who have done much more work on this subject a chance to contribute. I want to talk about diet, which often comes up in discussions, and about the pressures that are put on young people in particular when obesity enters their lives—the social pressures that they are put under by glossy magazines and other sources, and the disgust that they have for their bodies. That kind of pressure is particularly felt by young women, and we must resist it. Doing that involves working with the media, and we have a lot of educating to do there.

I am interested in dietary solutions, because if I had to go on a diet, I would not know which one to pick, and I can understand that neither would many young persons and other people. There is the Atkins diet, low glycemic diets, and many issues to do with matters such as low calories. I should declare an interest now; I am a non-executive director of the Institute of Food Research in Norwich, where lots of work is being done on different types of food and its influence on health, people's bodies and recovery from diseases such as cancer. We need some randomised trial research in this area to see whether there is such a thing as a good diet, because my information is that as soon as somebody goes on a diet, they lose weight but it returns because of the conditions imposed on them when they are forced into the avenue of having to undertake a diet. It is not long before they are again having food walloped down on plates for them in grub pubs and elsewhere. I must hold my hand up and admit that I indulge in that occasionally, too.

I particularly want to flag up one issue that I have already raised in a question. Some young people are put under pressure at school and elsewhere because they are called fatties and, under that social pressure, they have to take up certain types of behavioural patterns. That often leads them on a difficult journey down a road of restricting their intake of food, vomiting it up, preventing themselves from following proper diets and so on. The pressure on them is amazing. I do not know about the correlations in this regard; figures are quoted by the Eating Disorders Association, but I say, not in a one-upmanship way, that a Committee such as this one does not have the time to address every issue that is correlated with this. It has done a sterling task.

I want to raise this matter, particularly in this awareness week. People are pushed into trying to shape their bodies into the way that society demands—to get the right size and weight loss, and so forth. That is often associated with psychiatric pressures, which are a real problem. That is important, not just among women, where anorexia and bulimia occur, but among young men, because they are now being pulled in as well. I would not want to look like David Beckham nor would I like to play football like him, but many people see those role models as being of the perfect shape.

The problems faced by young people with eating disorders often lead to other health problems, such as kidney diseases and osteoporosis, and to absences from school and a reduction in academic achievement. As my hon. Friend the Member for Wakefield says, such disorders could be an increasing problem in young people and we have to correlate that with the issues raised. It is difficult for such people to form and sustain friendships with peers, for example. The low esteem that people feel about food and how they ought to look—whether they should be thin, sporty or less plump—is an amazing pressure. If people survive that in our society, they are very lucky.

This week has been important for engaging young people on the issue of eating disorders and for talking to general practitioners, few of whom understand the problems, spot the diagnosis early or do much about it. When we talk about obesity, we should also consider the situation where people think that they have a funny body mass index. I do not understand BIMs. [HON. MEMBERS: "BMIs."] What did I say—BIMs? As long as I did not say BMW—but that is how little I understand them. Such figures are, I think, suspect. Nevertheless, we know that we can be over-plump and want to lose weight.

We have to be careful about the knowledge we have, the pressures we put on people and the figures that come through from the medical people about where one should try to be. It is an amazing pressure, and I am sure that people here feel it. When one looks round the Chamber of the House of Commons, one does not get the impression that any attention has been paid to that knowledge whatsoever: about 1 per cent. of people must have the right BMI. I say well done to my hon. Friend the Member for Wakefield and his Committee, who have done excellent work. There is a lot to do, and other Committees will take the issue up over the next five or 10 years.

3.42 pm

**Dr. Richard Taylor** (Wyre Forest) (Ind): May I start by adding my tribute to the hon. Member for Wakefield (Mr. Hinchliffe) and his skill in chairing the Committee with great tact and amazing humour at the same time? It is a unique combination that will be difficult to follow. I knew that he was on the same side as me—I can say this as I am sure that he does not mind a straw what the Whips think of him now—on one of our very early visits to a hospital in the north somewhere. We all introduced ourselves around the table, and I said that I was an Independent MP, and immediately after that he said, "I am a fairly independent Labour MP." That says a lot.

I would also like to pay tribute to our advisers. We have found them especially helpful on occasions when, at their own expense, they have found themselves in, or have come out to, the same foreign country as us. At some of the meetings that we have had on such visits, our advisers have been able to chip in with useful comments and have steered the discussion. At one point in the meeting this morning, which the Minister will remember, a contribution from an adviser might have been helpful. I wonder whether other quarters could take on the idea that, because of the value that the advisers provide, perhaps there could be some method of arranging funding for at least one to come with the Health Committee on visits to parts of England or abroad.

The report and the Government's response made us all very aware of our own body shape and size. I am sure that we all worked out our BMI fairly quickly. I was absolutely horrified to find that although I have always thought of myself as pretty slim, I creep in to the overweight category.

As a junior doctor, I did an extraordinarily difficult house job not more than half a mile from here, where I had an extremely irascible chief. He took it out on his housemen all the time. A friend said to me that when one is really being got at by someone who is irascible and very fat, one should imagine what he looks like in the bath. That immediately cured it. The problem is that I have looked at myself in a full-length mirror from the side after a shower and it is not as good a sight as one would have hoped.

3.45 pm

*Sitting suspended for Divisions in the House.*

4.10 pm

*On resuming—*

**Mr. Deputy Speaker:** I think that I was right to break for 15 minutes. I was not sure that there would be a second Division, but I was fairly confident that there would be.

**Dr. Taylor:** I come now to the slightly more serious part of my contribution. The Chairman of the Select Committee gave me the cue to talk a little about the risks to health of obesity. I can do no better than refer to table 3 on page 17 of our report, which lists them with lurid clarity. There is a greatly increased risk of type 2 diabetes, gallbladder disease, lipid abnormalities, breathlessness and sleep apnoea. There is a moderately increased risk of coronary heart disease, hypertension, wear-and-tear arthritis of the knees and, of course, gout.

Many of us learned—I certainly did; I am ashamed to say that I did not know it before—that associated with obesity is a slightly increased risk of certain forms of cancer, particularly breast cancer in post-menopausal women, endometrial cancer, colon cancer and other more obvious conditions such as low back ache and anaesthetic risks. On the same page of the report, reference is drawn to the alarming fact that the relative risk of death for someone with a slightly raised BMI, such as me, is 1.3. Even for a moderately raised BMI—and long before the definition of obesity is reached—the relative risk is 1.6 and, just before reaching the official definition of obesity, the relative risk of death is 2.1. Even being a slight degree overweight is bad.

I intend to pick up on only a few matters from the report and the response. I refer to children and schools because that is important. We sampled the healthy lunch that was given to all children, without choice in one of the Scandinavian countries. It was well taken up and very edible. Some mention has been made already of vending machines. Several of us know that it is possible for vending machines to contain low-fat crisps and low-calorie drinks. There is often talk of nanny states, but someone should dictate to schools and parent-governor committees and say that it is easy to put healthier items in vending machines and make it clear how essential such action is.

Most of us here, certainly those above a certain age, will remember being weighed and measured at school. At paragraph 369, we say:

> "We recommend that throughout their time at school, children should have their Body Mass Index measured annually at school, perhaps by the school nurse, a health visitor, or other appropriate health professional."

To avoid the stigmatisation that is one of the objections to such action, we went on to say:

> "The results should be sent home in confidence to their parents".

We had evidence that parents of quite severely overweight children did not realise that there was a problem, so the only way in which the problem can be known about is to weigh and measure the children. That is crucial.

Yesterday, the meeting of the associate parliamentary health group on obesity was addressed by Sir Derek Wanless, Dr. Fiona Adshead, a representative from

*[Dr. Taylor]*

Dr. Foster and from the National Obesity Forum. The meeting was well attended. It was said repeatedly that there was lack of data and information about the problem. Weighing and measuring children is, to my mind, a first and easy essential, because there should not be a cost of even tens of pounds; it could be woven into the work of a school nurse, who, it is to be hoped, would be available. Even school teachers could surely weigh and measure, if they were allowed to touch children, which they probably are not. It does not strike me that expense should be a limiting factor.

I want to say a few words about physical activity. One of the recommendations in the White Paper is that it should be made possible—or children should be helped—to walk to school. It is a fact, and there are figures in the White Paper to prove it, that children on average burn up more calories walking to school than during their two hours of physical activity. It is so obvious: if it can be made safe for children to walk or cycle to school, they have to get there so they will burn up calories. I should very much like that to be made possible somehow. I know how difficult it is, but we visited a town in Denmark where virtually everyone cycles, so it is not impossible.

The hon. Member for Southend, West (Mr. Amess) mentioned walking buses. I shall be surprised if he has any in his constituency that have been going for a long time. Usually they depend on a small number of parents who start them. When they leave, no one else keeps them going.

I am of course wearing my pedometer. I am slightly puzzled by our Chairman's score of 13,000 today already, when I know that he was sitting absolutely still from 10 am to 12.30 pm. He must have walked six miles to work, or something like that. However, pedometers are superb for making one aware of what one is doing We heard how, in Colorado, children were fitted with them, and they were used in maths and even geography lessons to work out where the children had travelled. They can be a huge help.

We fear that prevention might not be a priority for primary care trusts and GPs. We were talking to the Minister this morning about local development plans for PCTs. I wonder whether there is any incentive for GPs to put prevention of obesity in their local development plans. That would be good to know.

Treatment requires vast amounts of new money. I am sure that we all welcomed yesterday's announcement of the money going to PCTs. I wonder whether there is enough for the all things that PCTs would ideally like to do. We had an example of the limitations that targets put on services during our inquiry, which was repeated at the meeting of the associate parliamentary health group on Wednesday, at which a GP from Nottingham, who ran an obesity specialist clinic, told us that when the waiting lists had got to 12 weeks, he went into discussions with the managers because they were going to go over target and the only answer was to suspend the clinic. That does not seem to be the right way to use targets.

I want to mention industry briefly. I have been approached since the inquiry by Burger King, PepsiCo, Coca-Cola and McDonald's to emphasise how they were trying to be part of the solution. If they have voluntarily become part of the solution, rather than having anything pushed on to them, that will be a good outcome of the inquiry..

I travelled home on the train a few weeks ago with another hon. Member—who I am glad is not here—and I was so hungry that I had the giant-sized Burger King bacon double cheeseburger. I must own up to that, but I had it only as an extreme luxury.

There is a sign that those companies are becoming involved. Coca-Cola tells me that Diet Coke accounts for more than 50 per cent. of its sales in the major supermarkets. That will make a huge difference, as Diet Coke contains about 0.4 kilocalories per 100 ml, compared with about 43 kilocalories in ordinary Coke. I would very much like to hear the Minister's comments on some of the points that I have raised.

4.21 pm

**Mr. Colin Challen** (Morley and Rothwell) (Lab): I wish to make a brief speech on the Committee's excellent report, which will, I hope, be lean and unsaturated. I begin by declaring an interest: I am a vice-chairman of the all-party weight watchers group, having been elevated to that post last year after losing 3 stone. It seems that the lighter one is, the higher one rises.

Last year—on the day this report was published, coincidentally—it became clear to me that I had to lose weight because I had a combination of high blood pressure, blood sugar, and cholesterol, which were all conspiring to do me permanent damage, which had become evident. I had an increased risk of stroke, diabetes, and possibly all the ailments listed in the helpful guide to diseases linked to obesity on page 126 of the report. The idea that, through my own inaction, I could suffer the fate of having to go on to permanent medication and treatment appalled me. Given that the cost of medical treatment for obesity set out in the report is calculated to exceed £1 billion, I am not inclined to add to that burden.

The report asks whether obesity should be blamed on gluttony, sloth, or both of those deadly sins. I should not like to own up to either of those lifestyle choices this close to a general election, but after my first year of working in this building it became apparent to me that there are many opportunities here for gluttony and sloth, as far as one's waistline is concerned. I got into the habit of always using the lifts, but now I never use them. Like other Members, I occasionally take the opportunity to go to a reception or two, but if I do so now, I have my diet in mind: I discovered that it is no rudeness to one's host if one does not hoover up the entire contents of the nibbles tray.

Exercise and a more structured approach to eating have helped me to attain a weight at which, according to the chart in the back of the report, I am no longer obese—I was just in that dark bracket—but slightly overweight. Many of my constituents sought my advice, and asked how I did it. Many people are concerned about their weight, but sometimes feel that losing weight takes too much effort. I recommend simply that one's approach to escaping obesity must be individualised: it must work for them at their pace and should be free of quick fixes and fads.

There are a few effortless ways in which one can lose weight. People should read food labels, and not be fooled by the fancy, healthy-sounding names that are

given to many food products nowadays, such as "Simply Good" or "Healthy Living". I discovered that those descriptions are always meaningless and misleading. Instead of using the lift, people should climb the stairs to the next floor at least, and then take the lift, until they can eventually climb to the top floor. That is useful advice when one is using Committee Room 20, which is on the Upper Committee Corridor, and there are lots of Divisions. I now look forward to Divisions, because they are an excuse for a bit of exercise. Generally, I beat Members who have taken the lift back to the Committee Room.

On the subject of pedometers, I too should be interested to know how my hon. Friend the Member for Wakefield (Mr. Hinchliffe) achieved the fantastic feat—

**Mr. Hinchliffe:** I have to confess that when I looked at it, I was rather surprised to see that I had done 12,000 steps today. I think that I forgot to turn it back last night. I do apologise.

**Mr. Challen:** Honest to the core. Over the past year or so, I, like many other hon. Members, have been sent pedometers by various companies. I received a very good one from the BBC, although the one from ITV told me that I was walking twice as far as before, even though I was doing the same number of steps. I also received one from a company that manufactures crisps, although I do not intend to wear it to find out how far I am walking. One recommendation that we should take up, therefore, is that there should be a clear standard for pedometers. These things are manufactured very cheaply, which is possibly a good thing, but if they are not made to a standard, how do we know that they are reliable? They could give people the wrong impression about the effort that they are putting in.

**Jim Dowd** (Lewisham, West) (Lab): I calculated that members of the Committee were each given about six pedometers over the course of the inquiry. I know that the Chairman distributed them liberally to most of his friends and family at Christmas, along with the umbrellas that he got at that hotel in Boston the year before. However, the real point about a pedometer is not whether it is accurate, but that it is a permanent reminder that we should walk when we can. Part of my fitness programme involves parking on the second floor of the underground car park and walking up. So, a pedometer does not need to be technically accurate.

**Mr. Challen:** I am grateful for that intervention. This is a serious point, and I certainly take my hon. Friend's comments on board, although it is also nice to know when we have walked 50 more steps—or 13,000 more steps—than we did yesterday. However, my hon. Friend raises an important point.

Another recommendation that I would make is that people should go food shopping only after they have had a meal. They will then buy less and reduce their impulse purchases. Having said that, buying more fruit is a good idea and drinking more water is important.

Of the suggestions, or effortless steps, that have been proposed, reading food labels is the most difficult. As the report says, these labels can be confusing or even meaningless to the lay reader. In that respect, I have the greatest admiration for the approach adopted by Weight Watchers; it may have been adopted by other groups, too, but Weight Watchers is referred to in the report. The organisation has simplified the essential information—chiefly the calories and the fat content—and put it in an understandable format, and that approach should be used more generally. Combining information in a single figure, which could be printed in a larger typeface and displayed on the packaging where one would usually see the weight of the product, would enable people quickly to understand what the product on the shelf contained.

I was positive about the traffic-light system, but I have one fear about it. The report suggests that manufacturers might be encouraged to change the content of their food slightly to move up to a better bracket. However, the change might be so slight that, although the food gets into a better bracket, the consumer will have no knowledge of it, other than a relative idea of the content of the food. As I said earlier, therefore, it is important that good, sound, absolutely concrete information is printed on the label on the back of products; otherwise, people will have no more than a relative idea of the food's content.

**Tim Loughton** (East Worthing and Shoreham) (Con): I very much appreciate the hon. Gentleman's point, and I think that there are problems with a simplistic version of the traffic lights, particularly when applied to what is called the avocado conundrum. An avocado can be good for people, but too many can be very fattening. I gather that it is also very good as a facial scrub. None the less, the system can be too simplistic: the question is not only what is an unhealthy food, but what is an unhealthy diet.

**Mr. Challen:** Indeed it is. I would urge the Government, when they commit themselves to these proposals, to see how the label on the back can be improved so that if someone looks at an avocado, and the label puts it in the middle or the bottom bracket, they will think, "That's a surprise. What does it say on the back?" The traffic lights might encourage more people to read the label, because there will be quite a few surprises. So, people need to be better educated about what they consume.

Many people think that the process of eating should end only when they feel full. In practice, that means that people overeat most of the time. I bet that that is especially true when they consume junk food, which has little nutritional value. The worse the food is, the more people feel that they must eat it in order to feel satisfied.

One of my constituents asked me whether it was necessary to feel hungry every day to lose weight; that is the other end of the scale. Thankfully, from my own experience, I know that it is not. The last two activities on my effortless list, which includes drinking water and eating more fruit, can address that problem.

Finally, I welcome the report's recommendations on active transport, particularly those on walking and cycling. The report suggests that the Department for Transport might be a bit embarrassed because of the ministry of silly walks reputation that it might get if it talks up walking too much. That leaves a bit of a deficit in the Government's approach to obesity. There has

*[Mr. Challen]*

been strategy after strategy to increase those activities, but targets are never met—not by a long chalk—even though Sustrans has achieved a much improved national cycle network. Perhaps there has been some improvement in recreational cycling.

4.31 pm

*Sitting suspended for a Division in the House.*

4.49 pm

*On resuming—*

**Mr. Challen:** I was finishing on the subject of the Committee's recommendations on active transport. As part of my diet and fitness regime, I have started cycling again. I have picked it up again after about 20 or 30 years, and the roads are just as inhospitable now as they were then. Very little seems to have been done to encourage cycling. A few white lines painted down the road does not protect us from cars, so we must consider innovative ways of tackling that problem. We must also ensure that train operating companies are obliged to take people's bikes, without cyclists having to jump through a range of hoops or encounter difficulties. Some companies are preventing commuters from taking their bikes on trains, and there is something seriously wrong with a system that allows that to happen.

It comes as no surprise that the Dutch have lower obesity levels than ours, because they have a dedicated urban and rural cycle network, and have had for decades. I have had the pleasure of using it, and one can cycle all day long in towns, cities, villages and open countryside and never come across a car. We should bear it in mind that our country is hillier than Holland, which is conveniently flat for cyclists, but even in places such as Leeds we must consider new ideas so that people are not worried about cycling up and down hills all the time. My constituency has quite a few hills in it.

Only yesterday in the *Yorkshire Evening Post*, there was an article about an idea for a new, elevated cycle expressway from a Leeds engineering consortium. That is the sort of imaginative idea we must consider, because only when we have imaginary ideas will people be tempted out of their cars and other sedentary transport options.

The report is imaginative; it should be required reading for all Departments. If the Committee will forgive the pun, it would be ideal if a slimmed-down version were available for wider public use. It contains a lot of information, presented with clarity and strength by Members, and if it were available in surgeries and other places, it would be an excellent contribution to the wider debate that will have to continue.

4.51 pm

**Jim Dowd** (Lewisham, West) (Lab): This afternoon has been so disrupted by events in the Chamber that I think we are running about 40 minutes behind schedule. I shall therefore keep my remarks brief and to the point.

I add my thanks and congratulations to the Chair of the Committee, my hon. Friend the Member for Wakefield (Mr. Hinchliffe). Others have already given theirs. He is always a genial and firm guide to our proceedings in the Select Committee. None of us knows what may happen in the next few weeks and months ahead, but it occurs to me that this could easily be the last time he introduces a report from the Committee to the House, so I place on record my thanks to him for all his work over the years and for his unswerving friendship. It has been a pleasure to serve on the Committee with him.

There is a difficulty with the report. The hon. Member for Southend, West (Mr. Amess), who unfortunately is not in his seat, said that the delay in the Government's response to the report was intolerable. I suspect that—in his own Southend, Basildon kind of way—he over-egged the pudding, but the delay makes life more difficult. We undertook our first evidence session well over 18 months ago, and that makes recalling the detail much more difficult. None the less, the inquiry was a fascinating and revelatory experience. I certainly learned a great deal from a variety of sources from a range of backgrounds.

Like the Chair of the Committee, I must mention the gross distortion that afflicted the report when it came out in May. The vilification of the Chair—that is what it was; it was very personal—was wholly and utterly inaccurate. One could understand it if some tabloids behaved that way, but it is a complete and utter travesty when a newspaper as self-regarding and allegedly serious as *The Independent* headlines a story, "How obesity report was undermined by the quest to grab public's attention".

The Chair has already outlined in detail the issue contained in the second paragraph of the introduction to the report. It occupied little more than a couple of hundred words and was not alluded to anywhere else in the report. The report, including appendices, comes to more than 500 paragraphs, so the idea that what was contained in that one paragraph skewed the whole publication is completely and utterly absurd. That is what happens when one is as self-important as *The Independent*, which also ran a leader article on 11 June saying that the Committee had acted recklessly in including that information "without checking its veracity". It continued:

> "More than that, the committee has gravely damaged efforts to make Britain wake up to its obesity crisis."

That is plain and utter nonsense.

All the reports that have been produced over the years by the Health Committee and our sister Committees are excellent pieces of work, but this one will stand the test of time because of its focus on several different issues and elements of the obesity crisis, as it is called.

The Committee also learned when taking evidence that the so-called obesity crisis is, like climate change, not universally accepted, even in the scientific community. One witness said that obesity was "a big fat lie" and suggested that we completely misunderstand the nature of the problem, but rather like the argument on climate change and global warming, I believe that that is very much a minority view, if not an idiosyncratic approach to the problem, because we got a similar message right across the piece, whether from people who were individually affected by it—there was a debate on whether one should call obese people sufferers—or from food manufacturers, retailers and advertising agencies.

There are other examples of how the press trivialise things. The problem with the other paragraph was that it was the second in the report. Of course, most journalists will read only to paragraph 3 or 4 at the most and assume that they have read the lot. If the press had read further into the report, I am sure that what happened would not have happened.

When we were in New York, a commissioner told us that, for the first time in history, the generation of children and young people in the city would have a lower life expectancy than their parents. Evidence from this country and Australia also suggests that, and we make the point in the summary, because it looks likely to be the case in the United Kingdom if the trend is allowed to go unchecked.

The tabloids got hold of that, and I remember reading one article—I have not got it with me—that said that the crisis was so serious that children would die before their parents. That is patently untrue. If that were the case, the human race would be extinct in little more than a generation. Children are not going to die before their parents; they simply will not live as long as their parents can reasonably be expected to live. As the report makes clear, obesity is the most serious threat to public health not only in this country, but in other countries in the developed world, such as Australia and the United States.

Astonishingly, the Committee even took evidence that suggested that signs of obesity are emerging in Africa, and certainly in South Africa, which is the most advanced part of that continent. That is happening for various reasons, including the fact that as people move towards cities and away from essentially agrarian economies, they not only tend to have sedentary jobs rather than do manual work, but have access to buses, trains and other public transport systems. In more rural areas, they would walk quite a lot, whereas in cities they ride around in cars and on public transport. Even people who are not particularly wealthy have access to those facilities, and South Africa has started to experience the same trends that we have experienced in the more advanced economies for many years.

There is no simple way through the problem—indeed, the report makes 60-odd recommendations across the piece. The evidence that people eat too much of the wrong things and do not take enough exercise in return is at the heart of the calories-in, calories-out argument.

To some degree, obesity is a problem of affluence. Paradoxically, however, the richer someone is, the less likely they are to suffer from obesity, which peaks on a kind of curve. Richer people tend to be the ones who drink mineral water, join gyms, have pedometers and so on. Past a certain point of prosperity, the curve starts to fall, although the vast majority of people are on the rising part of that curve, which is the challenge before us.

I will mention a couple of other things. The human body, like those of most species, has defensive mechanisms and tends not to indulge in risky behaviour that jeopardises the individual. I asked one of our witnesses why that is not true of how we eat. We like things that are bad for us. We do not like the things that are good for us and find it a trial to eat properly. She explained the issue in a graphic way, saying, "In stone age times, the whole tribe would gorge themselves when the tribe killed a mammoth, because life was so precarious that people did not know where the next meal was coming from."

We are many centuries away from that and hardly anyone in this country does not know where their next meal is coming from, although there may be a few at the margins who do not. However, we still behave in that stone age way and have a stone age psychology and physiology. In part, that makes dealing with the issue difficult, because it requires most people to behave counter-intuitively. Society has progressed much more rapidly than our approach to food and healthy eating.

I am delighted that the hon. Member for Southend, West mentioned the other thing that I want to talk about—the traffic light labelling model. I was not going to call it that, but when I discovered that he dislikes the term so much, I could hardly resist. I accept what others have said about how that model can be simplified and welcome what the Government are doing to try to reach agreement on it.

We have said that we will give the Government and the industry a chance to reach agreement, but that other steps should be taken if they do not, because food labelling as it is now is fact without information. It is just numbers on the side of a tin saying how many calories and kilojoules and how much sodium and so on the contents of the tin contain. While those numbers are factually accurate, they do not convey information to people in a useable form. If we were to move to a traffic light model or some variant of it, much would be generalised.

I accept what was said about the so-called avocado problem. Obviously a bag of sugar would have a red label on it under any circumstances because it has a lot of sugar in it, but as it is a bag of sugar that is hardly surprising. The same would be true of dairy products, which have large amounts of fat in them. However, I agree with the hon. Member for Southend, West strongly on the argument about healthy and unhealthy food, which emerged when we were putting the report together. Although we slipped into using such language occasionally in the report, my impression is that there is no unhealthy food. If we were trying to tell people living on 50 cents a day in sub-Saharan Africa that there were unhealthy foods, they would look at us askance. There are no unhealthy foods; there are unhealthy diets. We need to put in place a balance.

Of course, everyone likes a treat such as chocolate from time to time, but they should not have it all the time. People like McDonald's. The hon. Member for Wyre Forest (Dr. Taylor) admitted to that predilection. Once in a while such things are okay, but they must be part of a balanced diet and a more active lifestyle. That is patently obvious.

The other point that I want to mention is the one that the hon. Gentleman raised on recommendation 58: measuring the body mass index—BMI—of school children. I was pleased by the Secretary of State's announcement yesterday on funding. I was also pleased that every area will essentially have to restore the school nurse. I noticed last week that that is exactly what is to be done in the United States, although I cannot remember whether it will be in one state or by the federal authority. All schoolchildren will be weighed and

*[Jim Dowd]*

measured, and a confidential report sent home to their parents. I am delighted to hear about that and hope we can do the same here.

In conclusion, it was a pleasure to work on the report. There are a lot of things in it, some of which will be easier to do than others, but if it helps to focus on a major threat to public health, the Committee and the House will have done a public service. I broadly welcome the Government's response, but hope that they can be slightly more positive and reduce some time scales accordingly.

**Several hon. Members** *rose—*

**Mr. Deputy Speaker:** Order. Before I call the next speaker, I must tell the House that this sitting has to conclude at 6.23 pm and—I do not think I am saying something that hon. Members do not know already—that there will be a Division at 6 o'clock. We either continue after or conclude before then.

5.6 pm

**Mr. Keith Bradley** (Manchester, Withington) (Lab): Thank you, Mr. Deputy Speaker; I shall work towards the latter stricture.

I start by congratulating my hon. Friend the Member for Wakefield (Mr. Hinchliffe) on chairing the Health Committee and on doing such tremendous work on its behalf over many years. He and I were elected at the same time, 18 years ago. I will not say that we have grown fat together over those years or what the reasons for perhaps doing so were, but I am grateful for his friendship and he will be sorely missed by the Committee.

I reiterate one of the main points made by my hon. Friend in his opening remarks, which is the role of public health in the development of health policy. It is crucial that we return public health to the heart of our plans. I am concerned that primary care trusts, which now lead on public health at local level, still do not fully recognise the importance of the public health role; nor do they put the role of the director of public health as high up their development agenda as they should. Will the Minister ensure that all PCTs recognise the importance of that role, and that their public health plans are at the heart of all developments in the localities?

I want to concentrate on the "calories out" side of the argument. Given what I know of my local schools, I remain extremely concerned about the amount of physical activity that takes place in schools and in the community generally. We must put even greater emphasis on the role of such activity in schools and ensure that we move rapidly towards the Committee's recommendation of three hours' physical activity a day. Such activity need not be formal sport. Some children find it difficult to engage in sporting activities, and the report highlights a range of other activities in which they can engage, such as dance, aerobics and other useful activities that contribute towards "calories out". We should aspire to the Committee's recommendation of three hours' physical activity a day, which is based on the European Heart Network recommendation.

I welcome the fact that the Government now intend that by 2008, at least 85 per cent. of children will exercise for two hours a day. However, that is still too little, and progress towards ensuring that such activity takes place in every school, to the benefit of all children, is still too slow.

We have to look carefully at the curriculum. The curriculum authority needs to be charged with the responsibility of developing a physical activity plan and Ofsted needs to monitor it. We must ensure as soon as possible that children get back into a range of physical activities, because as we have heard, they certainly do not engage in them at home. They sit in front of the telly or play their computer games, and I know from my own family experience exactly how that happens. We have to work with local sports clubs as well as schools, because it is not only schools that need to develop physical activity. Even if we do manage to get more sport back into schools, the links between schools and local community clubs have to be reinforced, so that young people can be involved in sport for many years to come and not lose impetus when they leave school at 16, and become inactive again.

I welcome the fact that in our capital programme, "Building schools for the future", the importance of sports facilities is recognised. Many schools do not have decent changing rooms or sports facilities, which is an impediment to children getting involved in sport. For children who are already overweight or obese, there is also a fear of bullying in school. If there are no decent facilities—if that problem is not tackled—we will not achieve the level of participation in sport that we so desperately need. The Government have recognised the importance of this issue by investing £1 billion in sporting activities, but I urge them to take the extra steps as soon as possible to engage all children in such activities.

I should like briefly to comment on a related issue, which is how children get to school and existing initiatives to provide safer routes for those who walk or cycle to school. We have already heard about our visit to Odense in Denmark, where we saw the excellent safe routes being developed throughout the town to enable children and parents to cycle and walk safely. Far more needs to be done in this country on safer routes. I know from my own experience that car upon car arrives at the school gate, dropping off and picking up children. This is mainly a safety issue. Parents are worried about their children walking or cycling to school, and we must do much more to plan safe routes for them.

In Denmark, we saw a good example of a computer programme that enabled children to identify for themselves particular points on the route that were dangerous. A plan could thereby be worked out, so that parents were comfortable with their children taking such routes to school. There is much to do on that issue in this country, and it is important that the Department for Transport, in conjunction with other Departments, gets involved in such programmes to ensure that walking and cycling again become the normal way to travel to school, as they were when I was at school.

I used to cycle or walk to school and did not even consider being dropped off by my parents in a car, because cycling or walking was the norm. We had huge cycle sheds at school, but they no longer exist because children are not encouraged—or even able—to get to

school in that way. A private Member's Bill was introduced last year, by my hon. Friend the Member for Carlisle (Mr. Martlew), on the use of helmets by children cycling to school. There were many arguments for and against that Bill, but if it would ensure that children can safely cycle to school, the Government should consider it again.

We noted in the report that it was, to say the least, "scandalous" that the Department for Transport had taken 10 years to develop a national walking strategy. I do not know how many years it will be before there is clear implementation of such a strategy. However, I hope that the Minister will, through the Department, encourage the healthy aspects of walking as a key part of the future strategy on public health.

Quite a few references have been made to pedometers today, and I was pleased to launch, in this House, the Granada Television "on the move" initiative. The fact that a wider range of organisations are now prepared to get involved in this debate is a testament to the Committee's work on the report. Granada Television continues to launch such initiatives regionally, in the north-west and nationally. It spoke to me only this week about the next phase in its programme. We have been able to engage key organisations—in industry, in the media or in government—to ensure that such initiatives are not one-off publicity exercises. There is a long-term commitment and a recognition of the problem. Such organisations want to engage continually to find new ways in which children and adults can become much more active, and be part of the solution to the "calories out" problem.

As a relatively new member of the Committee, I was amazed at the way in which we were able to be part of a massively growing debate on obesity. We helped to trigger that debate, and in that regard we can take some credit. I want to underline the point that the way in which the Chairman was vilified concerning the report's presentation was completely inappropriate; it did the media in question no credit, and it completely undermined the response that we received. However, we can now examine this important problem, which has massive health implications, put it seriously on the agenda and ensure that all participants work together to resolve it.

**Mr. Deputy Speaker:** Two further Back Benchers have indicated that they want to speak in this debate and then there will contributions from the two Opposition spokesmen and the Minister. I fear that we will not be able to complete everything by 6 o'clock. I call Dr. Doug Naysmith.

**Dr. Doug Naysmith** (Bristol, North-West) (Lab/Co-op): I have no wish to speak, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** I call Jane Griffiths.

**Jane Griffiths** (Reading, East) (Lab): I, too, do not wish to speak, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** Perhaps my comments about 6 o'clock had some extraordinarily magical effect.

5.18 pm

**Mr. Paul Burstow** (Sutton and Cheam) (LD): I thank the Chairman of the Select Committee for introducing the debate on this report and for the opportunity to take part in it. I had the chance to serve on the Committee for about a year during this inquiry and I found it one of the most rewarding parts of my parliamentary life so far. I will keep the experience of serving alongside the hon. Member for Wakefield (Mr. Hinchliffe) throughout my time here. He is an exemplary Select Committee Chairman and is a hard act to follow. I wish him well in what he does when he leaves this place—by his own choice—at the forthcoming general election. I thank him for everything that he has done in that capacity.

The hon. Member for Wakefield was right to be robust about dealing with the way in which the misreporting, distortion and dishonest tactics of certain individuals has, in some ways, obscured the incredible worth and merit, not only of the report, but of the massive number of contributions from people who came to give evidence to the Committee. They should be properly recorded. He was right to put what he did on the record.

I was reflecting on one of two of the comments that have been made during the debate so far. Perhaps there has been almost too much disclosure about personal body images. I am not going to add to that. I was also struck by the admission by the hon. Member for Wyre Forest (Dr. Taylor) about his beefburger experience. I hope that his admission of eating a super-size burger does not become a decisive factor in his constituency in the forthcoming general election.

Obesity poses a major public policy challenge. It is a challenge because, although it seems easy to deal with, it is one of those classic wicked problems. Some say, "Just eat less," and others say, "Just exercise more." Although both are right, both are in a sense being simplistic and superficial because both assume that obesity can be solved if we just get a grip on our lives. Of course, we all have a personal responsibility for our health and diet, for taking exercise and for our lifestyles, but, as the hon. Member for Lewisham, West (Jim Dowd) suggested, our 21st century lifestyles do not fit terribly well with our caveman instinct to binge in times of plenty and conserve that precious energy in the form of fat. The hon. Gentleman made an important point. We have designed out activity and designed in comfort eating, and our fast-paced lives have fuelled a fast-food culture.

As the Committee report makes clear, and as the hon. Members for Southend, West (Mr. Amess) and for Morley and Rothwell (Mr. Challen) rightly said, there is no single, quick-fix solution that will shed the pounds and save lives. As the report, with its many recommendations, clearly demonstrates, a whole host of actions is necessary if we are first to halt the rise and then to reverse the trends in obesity.

If the rapid acceleration in childhood obesity over the past 10 years, which we have heard about in the debate, continues unchecked, by 2020 more than half the nation's children will be obese. So, we have a vicious circle that works its way down the generations. Most overweight and obese children grow up to become overweight and obese adults, and overweight and obese adults are more likely to bring up overweight and obese children.

*[Mr. Paul Burstow]*

As a result of that, many children born today—I was listening to what the hon. Member for Lewisham, West said about this—could be among the first generation to die before their parents. He said that that could not be quite how it should be formulated, but that was certainly the lesson that I drew from some of the things that were said in the hearings of the Committee. Because today's children could, as a result of type 2 diabetes and other things, wind up dying in their 40s, it is quite conceivable that their parents could outlive them. In effect, we are seeing a century's worth of public health improvement wiped out by childhood obesity. No wonder the chief medical officer has described obesity as a health time bomb—and the ticking is getting louder.

The hon. Member for Wyre Forest mentioned the increased risks that are associated with even a moderate level of being overweight. Being overweight, and being obese in particular, can take nine years off a person's life expectancy. Every day, 80 people die of diseases triggered by obesity. The time bomb may well have gone off, but its consequences will be with us for a good deal of time into the future. In this country, in this century, children are being diagnosed with type 2 diabetes for the first time. During the inquiry, we heard that children as young as eight are being diagnosed. The outlook for those children is bleak. Before the age of 40, many will die of heart attacks. The rest face the prospect of a life stunted by chronic kidney disease, tied to a dialysis machine, waiting for a transplant.

Already locked into future health care costs in this country is the growing number of children with type 2 diabetes, diagnosed and undiagnosed. The costs of that and all the other associated costs have been well rehearsed by the Chairman already and I will not repeat them, save to say that the National Audit Office said that by 2010 the total combined cost would be £3.6 billion, but the Select Committee's conclusion was that the upper limit now was £3.7 billion. Six years ahead of schedule, we are already realising the costs to society that were feared and forecast by the NAO in its report in 2002.

What is driving all that? As has been said, in simple terms the energy equation has got out of balance; we gain weight when we consume more energy than we expend in our everyday lives. It is glib and unhelpful simply to say, "Eat less and exercise more"; it is essential that we tackle the forces behind poor diet and sedentary behaviour.'

The data on the calories in and the calories burned are very poor. For example, the last national diet survey found that adults report that they eat 82 g of sweets a week. However, the industry sales data that we were given during the Committee's inquiry suggests that 250 g are sold per person per week. That represents an awful lot of chocolate bars being stashed in cupboards around the country, and one wonders what is happening to them. That is why the Committee's recommendation that there should be a review of how the food survey is conducted is important. I hope that we can hear more about that at some point—if not today, then from further Government announcements.

What children, particularly young children, consume is particularly determined by parental choices and what we do as parents. Those choices are not made in a vacuum, but are shaped by commercial and societal pressures that push people towards unhealthy choices. During the inquiry, we heard a lot about the tactics of the food industry: commercials, product placements, celebrity promotions and toy collectables are just a few of the tools of the trade. Most of that advertising promotes sugared breakfast cereals, sweets, salty snacks, sugary drinks and fast-food outlets.

We were given one example that is in the report, but bears repetition. The "Microstars" campaign by McDonald's ran for five weeks and there were 20 toys to collect. To collect them for free, a child would need to eat an average of four "happy meals" a week, which would total 12,260 calories over the five-week promotion. The creative and client brief for the campaign described the aim as getting

"children to believe, 'I've got to have a Happy Meal so that I can have a toy' ".

The brief went on to state that that gave

"scope to increase frequency from light to heavy users".

Just how heavy does a six-year-old get from eating 12,260 calories in five weeks? When one considers such a promotion, it brings a whole new meaning to super-sizing. If the Committee's report does nothing else, it should shame the industry into never using such tactics again.

It would be a mistake simply to see diet as the beginning and end of the obesity epidemic. We have to consider the other side of the energy equation: energy out. Hon. Members who have spoken have outlined the deeply depressing documentary evidence about the levels of activity in our schools and our society more generally. I shall not go through all those now. However, the inactivity among children today and the negative attitudes towards sport and physical activity generally, are likely increasingly to turn them into the couch potatoes of tomorrow.

In a debate about childhood obesity in this Chamber a couple of weeks ago, I asked the Minister about the public service agreement targets. She set out the 2004 PSA target on childhood obesity, to which the hon. Member for Wakefield referred. It is to

"Halt the year-on-year rise in obesity among children under 11 by 2010 in the context of a broader strategy to tackle obesity in the population as a whole."

The hon. Gentleman posed an important question, to which I hope the Minister will be able to respond. Is that target really challenging? Does it really act as an adequate stretch for dealing with these issues? It calls for a plateau at 2010. As childhood obesity is already at 15 per cent., that would mean, at current rates of increase, that 19 per cent. of children could be obese and that the target would still be met. Is that target good enough to address the problems? Is the Minister telling us that the measure is adequate? Surely, we need something more ambitious. She should be able to tell us now to what extent the public policy measures already in place will cumulatively have the effect of reversing the trend. When do the Government expect the trend to reverse?

The Government ought to be prepared to use law and regulation to help people push against the commercial and societal pressures that drive obesity. It is not about being a nanny state; it is about the state being on the

citizen's side and ensuring that corporate interests do not harm the common good. A number of measures could help families in that regard.

The hon. Members for Lewisham, West and for Southend, West referred to the labelling scheme proposed by the Committee. That scheme could play an important part, particularly for packaged and processed foods. I hope that the Minister will be able to give us the assurances that were sought by the hon. Member for Wakefield on that subject, because it is a key part of moving the agenda forward.

Something that the Committee did not discuss, which is worth raising today, is the contribution that midwives and health visitors can make. Given that research points to the powerful role that parents play in shaping children's lifelong eating habits, those professionals have a key part to play.

This is a good time to ask the Minister to tell us precisely what is meant by a "cluster of schools" in respect of school nurses. It was said in yesterday's statement that there will be one school nurse for each cluster. It would help to know how many schools are in each cluster.

I have one or two more questions. On nutrition and school meals, the report recommended moving to a nutrition-based standard for school meals. Today, the Government made an interesting and eye-catching announcement about having tougher standards for school meals by 2006. Will the Minister elaborate on the Department's press release on school meal standards, and particularly what it means by saying that

"the use of nutrient-based standards will be strongly considered".

How can one "strongly consider" something, and how long does one need to strongly consider it for? I hope that the Minister will be able to answer that question.

We are at a point in our evolutionary history where our instincts are putting our lives at risk. Our instinct is to eat, often too much, and that is putting lives at risk because of the plentiful supply of food. Obesity may not be the cause of our extinction, but it confronts us with some key policy challenges. Those challenges require the Government to take on the vested interests of the kind that sought to rubbish the report; they should ensure that the public interest is served, not the commercial interest.

5.33 pm

**Tim Loughton** (East Worthing and Shoreham) (Con): To be on the safe side, I should declare an interest. On page 105 of the report, there is mention of some information from J.P. Morgan, and I have a registrable shareholding in J.P. Morgan Chase.

I welcome the debate. It has been good. I pay tribute to the chunky Chairman of the Select Committee, and to his stout chairmanship of the Committee over many years. The report raises some good points. I shall not repeat all the information that we have heard today, but I agree that obesity poses the biggest public health threat of this century. It is the single biggest health challenge, particularly with regard to young people, that any Government could face. It would be a false economy to do nothing about it, not only because of the financial figures that we heard about but because of its effect on people's lives and the fact that they will be shortened.

The report makes many interesting points with which I agree – the need for food surveys; the problems of pester power; the need to push the issue up the political agenda, perhaps through a Cabinet-level public health committee; the problems of simplistically seeking to introduce a fat tax or ban advertising; and the problem of moving the issue up the agenda for PCTs and giving them the resources to do something about it in a "largely sceptical NHS", a phrase that was used in the report. I certainly concur with the hon. Member for Wakefield (Mr. Hinchliffe) that we need to restore public health to the engine room of health policy, and that we need a joined-up policy.

A number of hon. Members made important points, not least about the influence of the report – something that my hon. Friend the Member for Southend, West (Mr. Amess) pointed out. It certainly had an enormous influence on the hon. Member for Morley and Rothwell (Mr. Challen) – so much so that, when it was published, he lost 3 stone.

Hon. Members mentioned Denmark. I remember going to Denmark with another Select Committee and meeting the Deputy Prime Minister, who was a larger than life character in many more ways than one. He had to leave our meeting early, whereupon he was not whisked away in a ministerial Jaguar, but got on his ministerial bicycle followed by a fleet of aides who were also riding bicycles and trying to keep up with him. That was a wonderful example to set, but I somehow fear that it might not catch on with our Deputy Prime Minister and his Department.

This subject has rightly had a much higher profile in the press of late; there are numerous groups to do with obesity and lots of sources of information on it. The problem is not a lack of information; it is clarity of the information and knowing which information to follow. Anybody will be blinded by a plethora of advice – what is in, what is out, what is good, what is not good – that changes from one week to another.

Lots of solutions for obesity have been put forward. I remember that Lord Digby wrote in a letter to *The Times* last year that the problem of obesity could be easily solved by designing teenage computers powered by pedal-driven generators but that in the modern nanny state the idea would undoubtedly be struck down by the European Court of Human Rights on the grounds of misuse of child labour. A study by the university of Maryland put obesity down to toddlers being strapped into pushchairs for too long after they were born. Professor Julian Peto suggests that there should be annual weigh-ins in schools and that fat reports should be sent home to parents. That has been mentioned today; it has some scientific basis.

One of the most worrying pieces of research was by Alison Jeffrey from the Peninsula medical school study. It revealed that only 25 per cent. of parents with overweight children recognised that they had a problem. No fathers recognised their sons as overweight, and 33 per cent. of mothers and 57 per cent. of fathers described their obese children as normal. There is a real problem if the families themselves do not recognise such problems.

There are all sorts of other theories for why we have this problem. One theory is that the decline in physical activity is to blame. Children today expend 600 kilocalories per day less than they did 50 years ago.

*[Tim Loughton]*

There are the problems of the lack of school sport and places for recreation, and two hours a week for 75 per cent. of our children is a woefully inadequate and unambitious target. In Sweden the target is 10 hours a week; we must raise our game in that regard. There are other problems to do with Chelsea tractors and the drive to school. We must do better in terms of designing safer routes to school. However, those safety issues are not only to do with traffic; parents also have other fears, such as child abduction. Our children lead very sedentary lifestyles. Up to the age of seven, a child will watch on average 10 hours of television a week, but a 13 to 15-year-old will watch an average of 17 hours of television a week, during which time they are doing no exercise.

There is also the fashion for new processed foods. People often have poor diets at home because they are subjected to increasing amounts of processed foods, largely because of the lifestyles of their parents—more parents going out to work and so forth. For every 25g of green vegetables a child now eats, they consume 100g of sweets and chocolates. That highlights the problem of school vending machines, and steps are being taken to deal with that. The Green Machine is a company that promotes healthy options in those machines. This is not just a problem in the UK or the US. It is also a problem in Europe. France is even catching up with us; it has 2 million members of Weight Watchers, and obesity has risen by 5 per cent. since 1997—and the 1,000th branch of McDonald's in that country has just been opened, I believe.

We have had a lot of reports and information, culminating in the recent public health White Paper. We must not tell people what not to do. We need to find a solution that people can easily identify with and go along with. Simply telling people that they must not go to Burger King or eat burgers and other junk food will not work. We are never going to persuade children not to eat and enjoy burgers, but we can hope to persuade them to eat fewer burgers as part of a better-balanced diet, and to persuade manufacturers to produce less unhealthy burgers and other similar fast-food options.

We need an integrated approach based on information, education and incentivisation. At the last count, a search using Google for healthy eating websites produced 1.76 million websites. We can get all the information we want on every single type of burger that is available across the entire North American continent, including its various ingredients and fat content. There is no lack of information. However, when someone goes into a supermarket, there is a four-second lag between taking an item off the shelf and putting it into a shopping trolley; in those circumstances, even the most committed mother or father who wants to choose healthy options for their children is completely bedazzled by the range of different labels and claims.

I tried an experiment with my children last year. I gave them each £10 when we were going round Tesco, and asked them to buy lots of stuff for the following day's meals. They came back with all the regular suspects: Frosties, which are 49 per cent. sugar, lots of chocolate and crisps. They did a fantastic job at getting two-for-one bargains—their money went a long way—but in terms of the healthiness of what attracted them and appealed to them in terms of presentation, it was a complete and utter disaster. They are not untypical, I am sure.

We need a better benchmark that is easily understandable for people who want to see better information that they can understand. We need to work with industry. Many people have said that the industry wants to and must be part of the solution. A joined-up solution must involve industry as well. For example, the salt action plan includes the Food and Drink Federation and is beginning to work. We need many more schemes like that.

Price is also a factor. Everyone has said that Coca-Cola now sells more Diet Coke than red, regular Coca-Cola. However, the price is the same. When unleaded fuel was brought in by a previous Government, it had a price advantage. If some of the big multinationals were serious, a price differential would promote the healthier options. That has not been tried. Those companies have the power to affect lifestyles, particularly of children.

The second aspect is education and promotion. We need to get people when they are young, with better education in schools. We have had the example of the five-a-day free fruit, which has had only a marginal impact. We need more nutritionists working in the health service and in schools. We need more school nurses—that has been cited as part of the solution several times. We need better advice from GPs, rather than a clutter of leaflets and, at the last count, only seven specialist obesity clinics in the United Kingdom. We need to teach better cooking and nutrition skills in schools. We need better GP training; a GP will typically receive only five hours of training on nutrition in a five-year course. PCTs receive poor funding to provide obesity conscious campaigns that will get them where they need to go.

We talked about school meal nutrition. That is important but many children—in my county, all children—have packed lunches. We have to get to the source of the problem. It is not just a question of what food we are providing them with in schools. I have mentioned vending machines and physical activity. Runnymede St. Edward's school in Liverpool, which I am sure is not untypical, banned fizzy drinks and instead installed water coolers in each classroom. In a short space of time, its test results improved. There are a lot of theories about hydration of the brain, which improves concentration and takes out the E-factors that we get in fast soft drinks.

We need to use advertising in a powerful way, as we did with HIV/AIDs in the 1980s. It should not just be a snapshot campaign; it needs to be an ongoing campaign that stays in people's minds, perhaps using shock tactics. The product—the fat—needs to be made into the enemy; not the consumer. That was the success of the anti-smoking campaigns in California and other parts of the United States. With fast food, it is no good merely to point the finger of blame at the fast food merchants—Burger King and McDonald's are always mentioned. McDonald's is now the largest retailer of fresh food in meals in the country. It has brought in salads, and as long as one does not completely drown them in the large sachet of dressing that comes with them, they are a healthy option. They are part of the solution.

The third aspect is incentivisation. We need to make healthy eating fun, cool, easy and mainstream. We need to have rewards for children who take healthier options so that they will use pester power when shopping. We need to use celebrities and cartoon characters to promote healthier foods. For example, the Lawn Tennis Association, in association with Ariel, ran a promotion where people collected tokens and got a free tennis lesson. That was enormously successful. A primary school in West Sussex awards points for each healthy option that a child brings into school in their lunchbox, which are then redeemable in local shops. Many imaginative measures can be adopted, but we need a multi-agency approach that must be realistic and able to change children's lifestyles. We cannot do that overnight.

The Government do not necessarily need to establish the benchmark. In the past, experience has shown that we need independent, credible benchmarks and endorsements that people can actually trust. The Government have a role as a co-ordinator and an enabler in such matters. With people in the industry, in the Government, in the health service and in education working together over the long term, hopefully we shall at last begin to deal with the serious time bomb that has already gone off.

**Mr. Deputy Speaker:** I thank the hon. Member for his co-operation.

5.45 pm

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):** The growth in obesity is a subject that has taken on an increasingly high profile over recent years and it now occupies a prominent place on our public health agenda. I therefore congratulate my hon. Friend the Member for Wakefield (Mr. Hinchliffe) and members of the Health Committee on their timely and comprehensive investigation into such a serious problem. We welcome the opportunity provided by the inquiry to set out our policy on the prevention and management of obesity. The Department submitted substantial written evidence to the Committee and I am grateful to my hon. Friend for saying that it was the best that the Committee had received and that it had proved helpful.

We obviously delayed our response to the White Paper, and I am grateful to members of the Committee for their tolerance in waiting for it. I wish to pick up quickly the point made about the delay; it was due simply to clearance by our domestic affairs committee of the response to the Select Committee's specific document, not to anything else. The speculation about the Government's intention in respect of the media has nothing to do with the matter. I assure the hon. Member for Southend, West (Mr. Amess) that he is barking up the wrong tree.

Before I move on to the report, I must say that my hon. Friend the Member for Wakefield will be much missed in the House. Ministers have greatly appreciated the contribution made by him and his Committee to the progress that we are making on health matters. The Committee's report was a valuable contribution to the debate on the topic and contributed to the development of our proposals, which we set out in the White Paper entitled "Choosing Health".

I wish to run through quickly some broader items. There is much more investment. There are key issues to be dealt with, such as prevention and health and equality issues. We want the service to be a health service, not only a sickness service. Indeed, public health must be at the centre of all that we are doing, and I agree with hon. Members who have been strongly arguing that point. It is also an area in which choices are important, as are information and support. We cannot make anyone do anything.

I might be disposing finally of the argument of the hon. Member for Southend, West. He seemed to be living on another planet when he said that all the cards were held by the Government. Very few cards on obesity are held directly by the Government. Indeed, many individuals have rights and responsibilities in such matters and many difficult issues have to be dealt with. I do not wish to simplify the problem. Perhaps the hon. Gentleman has found an intergalactic mammoth; the one that I am dealing with is definitely earthbound.

The Committee recognised that obesity is a complex, multi-factoral condition with a wide range of causes. I shall not spend time going into them, but the increase in weight and obesity and the increased energy intakes that are relative to needs is the key cause of obesity. Today, few children eat the recommended five-a-day portions of fruit and vegetables and three in 10 boys and four in 10 girls do not take the recommended hour of physical activity.

We need sound data to support delivery of the target. Several hon. Members have said that the target was not ambitious enough. I hope that it will not prove to be too ambitious. It is more difficult to halt the trend than hon. Members assume, not least because it is not only down to the Government to do something about it. We can do all that we can, but if people still choose to rush headlong towards the mammoth and put all of it in their mouths and not take much physical activity, we will not win quickly.

For the first time, the Department of Health has published requirements on strategic health authorities and PCTs to return local delivery plans and local monitoring data on the obesity status of adults registered with general practitioners from 2005 and the prevalence of obesity among children from 2006 or 2007. The new LDP lines will also back up the future action on obesity proposed in "Choosing Health". To support that, we are working closely with the Department for Education and Skills on appropriate systems for recording weight and height measurements among school children and the vexed question of body mass index. That is an important way forward.

There must be clear information that people trust for them to make healthy choices. Several hon. Members have sketched that out powerfully. We will press for simpler and mandatory EU labelling in 2005. There will also be nutrient criteria by mid-2005, followed by a signposting system that gives clear and consistent information about the nutritional content of food and the foods that should be eaten sparingly. Of course, all that work must go on with the industry, but we believe that healthier food should be the norm rather than the exception.

In the important area of promotion of food to children, Ofcom will consult on tighter rules for broadcast advertising, sponsorship and promotion. We

*[Miss Melanie Johnson]*

will also be working with industry to strengthen codes for non-broadcast advertising and promotion. To take that forward, the Department of Health is leading on the establishment of a new food and drink advertising and promotion forum to review, supplement, strengthen and bring together existing provisions. The first forum meeting is due to take place this spring. We will also consider new legislation if there is no suitable improvement in the nature and balance of food promotion by early 2007, although I expect we will make some progress in the meantime. We also intend to discuss with the food industry how it might contribute funding to national campaigns and other initiatives to promote positive health information and education, because it, too, has a role.

We welcome the recent comments from the new EU Commissioner Markos Kyprianou, about the promotion of food to children. Indeed, today he met the Secretary of State for Health in London. We intend to use the UK's presidency of the EU later this year to press ahead on the matters that we have discussed. Clear, simple labelling that people can read, in particular from the front of a packet, is important, although I take on board the remarks made by my hon. Friend the Member for Morley and Rothwell (Mr. Challen)—clear, simple labelling on the back of a packet that people can understand is a key issue. However, I fear that most of us are in too much of a hurry to read it. We leave our glasses behind or we have small children in tow in a supermarket, and in modern life it is just too difficult to go through all that detail, so front-of-packet labelling is important.

I turn in more detail to the question of physical activity. Physical education in school is part of the Ofsted regime. It is the overall evaluator of the PE school sport and club links programme. As part of the new inspection framework to be introduced in September, Ofsted will pick up physical development as part of its assessment of the school's contribution to children's well-being. That will include details of the extra-curricular activities and sport available. The physical activity and diet components of the national healthy schools programme will be part of the framework as well.

A physical activity plan will be published shortly as part of our delivery of the White Paper's proposals. In investing in opportunities to make lives more active, all schools in England will have active travel plans by 2010. Many schools, including several in my constituency, already have active travel plans, and I hope that many more will be developed. I entirely accept the point made by my right hon. Friend the Member for Manchester, Withington (Mr. Bradley) and others that we need more children walking and cycling to school. One main problem is people's concerns about safety, but that creates a vicious circle. With more traffic on the roads, one becomes more concerned.

We must bite the bullet and make those activities possible, because they link up with the points made by my hon. Friend the Member for Wakefield about how we must embed such behaviour in everyday life. It is not possible for sporting activity to form the main physical activity during the day; people need to be physically active as part of their everyday lives. Walking or cycling to and from school is a key activity for children; and to and from work it is a similarly key activity for adults.

We are making a massive investment in sport. Some £1.5 billion is going into PE and sport in the period from 2003 to 2008. Sport England announced allocations of £315 million of funding for sport only recently. We have discussed pedometers, and they have a huge motivational value. I have seen that myself, from wearing one and from the accounts of everybody I know who has one.

Schools are a key setting in which we can improve children's health. Our vision is that by 2009, all schools will be healthy schools that provide supportive environments, have policies on healthy and nutritious food, and have the time and facilities for physical activity and sport both in and beyond the curriculum.

We are committed to improving school food and drink not just at lunchtime but throughout the day. We are revising the school meal standards to reduce the consumption of fat, salt and sugar and to increase the consumption of fruit and vegetables. Indeed, we shall strongly consider introducing nutrient-based standards, as the Committee suggested. We are doing everything that we can to make that possible. A number of practical issues seemed to need resolution. I am confident that we will be able to cut through many of those issues and resolve them, but it is too early to give a cast-iron guarantee about that. It is certainly our intention to get as near to it as we can.

We will also extend the new standards so that they effectively address food throughout the school day, including vending machines and tuck shops. I was delighted that the hon. Member for East Worthing and Shoreham (Tim Loughton) advocated many of the things that we piloted, supported and encouraged in schools, such as green vending machines and the water initiatives. I disagree with him about the free school fruit and vegetable scheme, which is having a huge impact. I have been to schools where the scheme has transformed what goes on and has led to a much healthier consumption of food stuffs throughout the school day, with children acting as monitors for programmes. When they are not included in the scheme, the juniors are continuing to eat the fruit and vegetables that are supplied. It is built into the school day and the break-time. We want a lot more schools to do that, but schools can do a lot now.

We will give more support, to heads, governors and caterers to get the best meal service through, for example, training the caterers and giving them guidance on food procurement. We will also launch a toolkit that will guide, inspire and help schools to take the whole school approach to healthy eating. As I said, 2 million children benefit from the school fruit and vegetable scheme. Today, my right hon. Friend the Secretary of State for Education and Skills announced a package of measures that will make sure that considerable work is under way. We want parents to be empowered to make the change along with schools, and want them to be supported by an organisation that gives independent support and advice. We also want to introduce tougher standards on fat, salt and sugar.

I will briefly touch on two largely unrelated items that cropped up, which are both important. We are concerned about eating disorders, especially among

young people. We take them seriously. Anorexia, in particular, can have serious consequences for general health and has high rates of mortality. That is why we asked the National Institute for Clinical Excellence to publish guidelines on core interventions for those disorders as part of its second programme of work that was published last year. The national service framework for mental health also makes specific reference to people with eating disorders. I am sure that change will not happen overnight, but we hope that, through the record investment in mental health, we will make a real difference for people who suffer from eating disorders.

The subject of bullying and body image in schools also arose. We are concerned about it. Anti-bullying strategies are being used to make sure that we have an effective response. Guidance has gone out from the Department for Education and Skills that says that bullying must not be suffered in silence. That guidance is available to all schools. Those in schools need to make sure that all that guidance and support is in place and that children are appropriately supported, whether the bullying is because of obesity or another reason.

I would like to have addressed many matters at greater length, but the debate has been lengthy. The Government cannot do everything alone. Joined-up action is important across government, but delivery will also require concerted effort from industry, the voluntary sector, local government and so on. There is a huge need to join this up. A huge delivery agenda is ahead. The NHS needs to be transformed from the sickness service to the health service, so that prevention is given the high priority that we all agree it deserves. That is a key message that we set out in the NHS improvement plan.

All that is only a start. We need to learn much more about what further action to take. We will soon publish a delivery plan for the White Paper with discrete plans on nutrition and physical activity, showing how we will take the work forward. That will be important. The White Paper commitments are backed up by funding of £1 billion during the next three years. Halting the rise in obesity is a challenging goal, but one that we are fully committed to achieving. We shall lead, but we need others to play their part. We will build on the partnerships and example that the report gives us.

**Mr. Deputy Speaker:** I feel exhausted by the galloping pace at which the Minister attended to the winding-up speech. As a past Chairman of the Health Committee, I congratulate the hon. Member for Wakefield (Mr. Hinchliffe) on the leadership that he has provided to the Health Committee since he has been Chairman.

*Question put and agreed to.*

*Adjourned accordingly at Six o'clock.*